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

FORM 8-K

### CURRENT REPORT

Pursuant to Section 13 OR 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): June 6, 2023

AKERNA CORP. (Exact name of registrant as specified in its charter)				
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)		
1550 Larimer Street, #246, Denver, Colorado		80202		
(Address of principal executive offices)		(Zip Code)		
(Former name or former address, if changed since last report) Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions				
(see General Instruction A.2. below):				
☑ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)				
□ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)				
□ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))				
□ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))				

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered		
Common Stock, par value \$0.0001 per share	KERN	NASDAQ Capital Market		
Warrants to purchase Common Stock	KERNW	NASDAQ Capital Market		

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company  $\boxtimes$ 

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 13(a) of the Exchange Act.

#### Item 7.01. Regulation FD Disclosure.

As previously disclosed, on January 27, 2023, Akerna Corp., a Delaware corporation ("Akerna"), entered into the Agreement and Plan of Merger with Gryphon Digital Mining, Inc., a Delware corporation ("Gryphon") and Akerna Merger Co.. a Delaware corporation and wholly-owned subsidiary of Akerna (such transaction, the "Merger").

On June 6, 2023, Gryphon issued a press release announcing growth in its self-mining fleet A copy of this press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated by reference herein.

On June 6, 2023, Gryphon made a presentation at the LD Micro Conference. A copy of the presentation is furnished as Exhibit 99.2 to this Current Report on Form 8-K and is incorporated by reference herein.

The information in this Item 7.01, and Exhibit 99.1 attached hereto, is being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, regardless of any general incorporation language in such filing.

#### Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

The following exhibits are filed as part of this report:

Exhibit	
Number	Description
99.1	Press Release of Gryphon Digital dated June 6, 202

Cover Page Interactive Data File (embedded within the Inline XBRL document)

### Additional Information and Where to Find It

This Current Report on Form 8-K may be deemed to be solicitation material with respect to the proposed transactions between Akerna and Gryphon and between Akerna and MJ Acquisition Co. In connection with the proposed transactions, Akerna has filed relevant materials with the United States Securities and Exchange Commission, or the SEC, including a registration statement on Form S-4 that contains a prospectus and a proxy statement. Akerna will mail the proxy statement/prospectus to the Akerna stockholders, and the securities may not be sold or exchanged until the registration statement becomes effective. Investors and securityholders of Akerna and Gryphon are urged to read these materials because they will contain important information about Akerna, Gryphon and the proposed transactions. This Current Report on Form 8-K is not a substitute for the registration statement, definitive proxy statement/prospectus or any other documents that Akerna may file with the SEC or send to securityholders in connection with the proposed transactions. Investors and securityholders may obtain free copies of the documents filed with the SEC on Akerna's website at www.akerna.com, on the SEC's website at www.sec.gov or by directing a request to Akerna's Investor Relations at (516) 419-9915.

This Current Report on Form 8-K is not a proxy statement or a solicitation of a proxy, consent or authorization with respect to any securities or in respect of the proposed transactions, and shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

#### Participants in the Solicitation

Each of Akerna, Gryphon, MJ Acquisition Co. and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the stockholders of Akerna in connection with the proposed transactions. Information about the executive officers and directors of Akerna are set forth in Akerna's Definitive Proxy Statement on Schedule 14A relating to the 2022 Annual Meeting of Stockholders, filed with the SEC on April 19, 2022. Other information regarding the interests of such individuals, who may be deemed to be participants in the solicitation of proxies for the stockholders of Akerna, is set forth in the proxy statement/prospectus included in Akerna's registration statement on Form S-4. You may obtain free copies of these documents as described above.

### **Cautionary Statements Regarding Forward-Looking Statements**

This Current Report on Form 8-K contains forward-looking statements based upon the current expectations of Gryphon and Akerna. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties, which include, without limitation: (i) the risk that the conditions to the closing of the proposed transactions are not satisfied, including the failure to timely obtain stockholder approval for the transactions, if at all; (ii) uncertainties as to the timing of the consummation of the proposed transactions and the ability of each of Akerna, Gryphon and MJ Acquisition Co. to consummate the proposed merger or asset sale, as applicable; (iii) risks related to Akerna's ability to manage its operating expenses and its expenses associated with the proposed transactions pending closing; (iv) risks related to the failure or delay in obtaining required approvals from any governmental or quasi-governmental entity necessary to consummate the proposed transactions; (v) the risk that as a result of adjustments to the exchange ratio, Akerna stockholders and Gryphon stockholders could own more or less of the combined company than is currently anticipated; (vi) risks related to the market price of Akerna's common stock relative to the exchange ratio; (vii) unexpected costs, charges or expenses resulting from either or both of the proposed transactions; (viii) potential adverse reactions or changes to business relationships resulting from the announcement or completion of the proposed transactions; (ix) risks related to the inability of the combined company to obtain sufficient additional capital to continue to advance its business plan; and (x) risks associated with the possible failure to realize certain anticipated benefits of the proposed transactions, including with respect to future financial and operating results. Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties. These and other risks and uncertainties are more fully described in periodic filings with the SEC, including the factors described in the section titled "Risk Factors" in Akerna's Annual Report on Form 10-K for the year ended December 31, 2022 and Quarterly Report on Form 10-Q for the quarter ended March 31, 2023, each filed with the SEC, and in other filings that Akerna makes and will make with the SEC in connection with the proposed transactions, including the proxy statement/prospectus described under "Additional Information and Where to Find It." You should not place undue reliance on these forward-looking statements, which are made only as of the date hereof or as of the dates indicated in the forward-looking statements. Except as required by law, Akerna and Gryphon expressly disclaim any obligation or undertaking to update or revise any forward-looking statements contained herein to reflect any change in its expectations with regard thereto or any change in events, conditions or circumstances on which any such statements are based

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#### SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

Dated: June 8, 2023

### AKERNA CORP.

By: /s/ Jessica Billingsley

Name: Jessica Billingsley Title: Chief Executive Officer





### Gryphon Digital Mining Grows its Self-Mining Fleet

### Gryphon acquires 105 PH/s of Bitcoin Mining Rigs

Las Vegas, NV — June 6, 2023-- <u>Gryphon Digital Mining</u>, ("Gryphon" or the "Company"), a leading net carbon-neutral bitcoin miner, is excited to announce the acquisition of 876 Bitmain S19j Pro+ miners, further strengthening its position in the cryptocurrency mining industry. This strategic investment is expected to significantly increase Gryphon's self-mining hashrate by 105 PH/s and drive the Company's attributable bitcoin mining hashrate to an estimated 1.2 exahash later this summer.

Delivery of the new mining machines is anticipated within the next few weeks, after which they will be swiftly deployed at Gryphon's hydro-powered hosted facility. The selection of the Bitmain S19j Pro+ model for this expansion is driven by its superior efficiency compared to its predecessor, the S19j Pro from the prior generation. With a remarkable energy consumption rate of 27.5 joules/TH, the S19j Pro+ offers enhanced operational efficiency when compared to the previous model's consumption rate of 30.5 joules/TH.

"Capital stewardship is an important value for Gryphon as we patiently waited for miner prices to fall to levels that we believe provide our investors with the best return on investment," noted CEO and Director Rob Chang. "With the acquisition of these new miner models, we expect to be able to grow our business at an enhanced efficiency and a reasonable price while deploying them in a carbon-neutral operation."

Gryphon Digital Mining remains committed to its sustainable approach to bitcoin mining, prioritizing environmentally friendly practices. By utilizing its hydro-powered hosted facility, the Company significantly reduces its carbon footprint while maintaining a competitive edge in the market. Gryphon's existing fleet of 750 PH/s, in combination with the anticipated 340 PH/s from its royalty with a third-party miner, is expected to further bolster its mining capacity and Gryphon's continued success in the evolving cryptocurrency landscape.

The Company looks forward to capitalizing on the expanded mining capacity, aligning with its long-term growth strategy and positioning Gryphon as a prominent player in the net carbon-neutral bitcoin mining sector.

Investors can learn more about Gryphon by visiting https://gryphondigitalmining.com/ and following it on Twitter @GryphonMining.

#### About Gryphon Digital Mining

Gryphon Digital Mining, Inc. is an innovative venture in the bitcoin space dedicated to helping bring digital assets onto the clean energy grid. With a talented leadership team coming from globally recognized brands, Gryphon is assembling thought leaders to improve digital asset network infrastructure. Its Bitcoin mining operation has a net carbon-negative strategy. More information is available on https://gryphondigitalmining.com/.

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This communication is not a proxy statement or a solicitation of a proxy, consent or authorization with respect to any securities or in respect of the proposed transactions, and shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. No offering of securities shall be made except by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933, as amended.

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**INVESTOR CONTACT:** 

Name: Rob Chang

**Company: Gryphon Digital Mining** 

Phone Number: (877) MINE-ESG (877) 646-3374

Email: invest@gryphonmining.com



# Disclaimer

This presentation ("Presentation") is being issued by Gryphon Digital Mining Inc. (the "Company", "Gryphon" or "Gryphon Digital Mining") for information purposes only. The content of this Presentation has not been approved by any securities regulatory authority. Reliance on this Presentation for the purpose of engaging in any investment activity may expose an individual to a significant risk of losing all of the property or other assets invested.

This Presentation is not an admission document, prospectus or an advertisement and is being provided for information purposes only and does not constitute or form part of, and should not be construed as, an offer or invitation to sell or any solicitation of any offer to purchase or subscribe for any securities of the Company in Canada, the United States or any other jurisdiction. Neither this Presentation, nor any part of it nor anything contained or referred to in it, nor the fact of its distribution, should form the basis of or be relied on in connection with or act as an inducement in relation to advesion to purchase or subscribe for or enter into any contract or make any other commitment whatsoever in relation to any securities of the Company. No representation or warranty, expressor implied, is given by or on behalf of the Company, its directors, officers and advisors or any other person as to the accuracy, sufficiency or completeness of the information or opinions contained or releving in connection therewith .

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# **Disclaimer** (Continued)

#### Forward -Looking Statements

Certain statements contained in this Presentation constitute "forward -looking information" or "forward -looking statements" (collectively, "forward -looking statements") within the meaning of applicable Canadian and United States securities laws relating to, without limitation, expectations, intentions, plans and beliefs, including information as to the future events, results of operations and the Company's future performance (both operational and financial) and business prospects. In certain cases, forward -looking statements can be identified by the use of words such as "expects", "estimates", "forecasts", "intends", "anticipates", "believes", "plans", "seeks", "projects" or variations of such words and phrases, or state that certain actions, events or results "may" or "will" be taken, occur or be achieved. Such forward -looking statements reflect the Company's beliefs, estimates and opinions regarding its future growth, results of operations, future performance (both operational and financial), and business prospects and opportunities at the time such statements are made, and the Company undertakes no obligation to update forward -looking statements if these beliefs, estimates and opinions or circumstances should change. Forward -looking statements are necessarily based upon a number of estimates and assumptions made by the Company that are inherently subject to significant business, economic, competitive, political and social uncertainties and contingencies. Forward -looking statements are not guarantees of future performance. In particular, this Presentation contains forward -looking statements are not guarantees of future performance. statements pertaining, but not limited, to: expectations regarding the price of bitcoin and sensitivity to changes in such prices industry conditions and outlook pertaining to the bitcoin and cryptocurrency market expectations respecting future competitive conditions ; expectations regarding future government regulation, industry activity levels; expectations about shareholder approval of the Company's pending merger with Akerna, beliefs about future power rates based upon historical rates, and the Company's objectives, strategies and competitive strengths

By their nature, forward -looking statements involve numerous current assumptions, known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of the Company to differ materially from those anticipated by the Company and described in the forward -looking statements. With respect to the forward -looking statements contained in this Presentation, assumptions have been made regarding, among other things: current and future prices for blictin; (tutre global economic and financial conditions; current and future regulatory and legal regimes, demand for bliction and the product mix of such demand and levels of activity in the cryptocurrency finance markets and in such other areas in which the Company may operate, and supply and the product mix of such othera areas in which the Company may operate, and supply and the product mix of such accuracy and versity of information and projections sourced from third parties respecting, among other things, current finance markets and proposed changes to those markets, supply and demand; and, where applicable, each of those assumptions set forth in the footnotes provided herein in respect of particular forward -looking statements

A number of factors, risks and uncertainties could cause results to differ materially from those anticipated and described herein including, among others :volatility in market prices and demand for bitcoin ;effects of competition and pricing pressures ;risks related to interest rate fluctuations and foreign exchange rate fluctuations ;changes in general economic, financial, market and business conditions in the industries in which bitcoin are used; alternatives methods to cryptocurrency ;increases in power rates and changing demand for bitcoin ;potential conflicts of interests ;actual results differing materially from management estimates and assumptions .the risk that the conditions to the closing of the proposed transactions are not satisfied, including the failure to timely obtain stockholder approval for the transactions, if at all; uncertainties as to the timing of the consummation of the proposed transactions and the ability of each of Akerna's ability to manage its operating expenses and its expenses associated with the proposed transactions pending closing ; risks related to the failure or delay in obtaining required approvals from any governmental or quasi-governmental entity necessary to consummate the proposed transactions ; the risk that as a proposed transactions perioding closing insist related to the failure of delay in obtaining required approvant from may governmental or quasi-governmental entity necessary to consummate the proposed transactions; ninks related to the failure of delay in obtaining required approvant from more or less of the combined company than is currently anticipated; risks related to the market proposed transactions; potential adverse reactions or changes to business relationships resulting from the announcement or completion of the proposed transaction; risks related to the inability of the combined company that Additional capital to continue to advance its business plan; and risks associated with the possible failure to realize certain anticipated in fiss second to future financial and operating results. These and other risks and uncertainties are more fully described in the social fillings with the SEC including the factors described in the social with the SEC in connection with the sproposed transaction, including the proposed transaction, including with the SEC in connection with the SEC in connection with the sproposed transaction and will make with the SEC in connection with the sproposed transaction, including the provide the data barried for each the data barried for the formed lander at the area of the data barried for each th place undue reliance on these forward -looking statements, which are made only as of the date hereof or as of the dates indicated in the forward -looking statements

Although the Company has attempted to identify important factors that could cause actual actions, events or results to differ materially from those described in its forward -looking statements, there may be other factors that cause actions, events or results not be as anticipated, estimated or intended. There can be no assurance that forward -looking statements will materially will materially will materially the statements and the statements are should not place undue reliance on forward -looking statements. The forward -looking statements are should not place undue reliance on forward -looking statements are should not place undue reliance on forward -looking statements. statements . These statements speak only as of the date of this Presentation . Except as may be required by law, the Company expressly disclaims any intention or obligation to revise or update any forward -looking statements or information whether as a result of new information, future events or otherwise





## – Akerna (Nasdaq: KERN) Proposed Merger

# Creating a leading carbon

-neutral bitcoin miner with top

CEO & Director, Rob Chang, previously

served as CFO of Riot Blockchain and

· Chairperson, Brittany Kaiser, globally

· Chief Technical Advisor, Chris Ensey, is

as MD at Cantor Fitzgerald

renowned expert in blockchain

the former CEO & COO of Riot

development of +100 MW mining

Blockchain and has overseen

operations

technology and digital assets

-tier efficiency

- All-stock transaction with Gryphon shareholders retaining 92.5% ownership of the combined company on a fully diluted basis
- Simultaneous with the merger, Akerna expects to sell its cannabis software business to create a pure -play, ESG-committed, net carbon neutral, bitcoin miner
- Both transactions are conditioned on the other closing. The merger and sale transaction are subject to the approval of Akerna's stockholders, and the merger is subject to the approval of Gryphon's stockholders
- Listing of the combined company is subject to . the approval of the Nasdaq Capital Market

\*Efficiency metrics discussed herein include information from both Gryphon and Royalty Partner



www.GryphonDigitalMining.com

# **Investment Highlights**

Creating an industry leader in bitcoin mining.

# Size & Scale

- · Up to 1.2 Exahash of combined hashrate
  - · 0.86 exahash of self mining
  - 0.34 exahash via a 22.5% gross profit royalty with third -party bitcoin miner
- Breakeven Cost per BTC ~\$14,712/BTC\*
  - · Expected to decline as royalty grows

\*Based on FY 2022 Am ong publicly reporting peers



- Leadership Team ESG
  - Net Carbon Neutral miner pursuing a negative carbon strategy with the acquisition of carbon offset credits and with mining operations that use carbon -neutral energy
  - Top -tier Bitcoin Efficiency of 90 BTC -equivalent per EH in April vs. 70 per EH peer average\*\*. Placed at or tied for 1st among peers in 9 out of the last 12-month period



# **Management Team**

# Industry leading management team



# **Board of Directors**

# **Unparalleled Pedigreed Leadership**



Steven Gutterman Independent Director

- CEO, Falcon International, one of the largest private cannabis companies in California
- Former COO & EVP, E\*Trade Bank and other senior roles at E\*Trade Financial
- Former President of Harvest Health & Recreation Inc., which was acquired for \$2.1 billion



Brittany Kaiser Chair of the Board

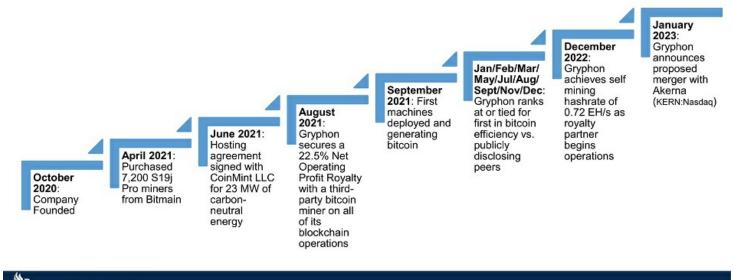
- Globally renowned blockchain thought-leader, having co-authored 22 laws in the US to promote and protect blockchain businesses
- Current Member of the Congressional Standing Committee on Blockchain, Fintech and Digital Innovation for Wyoming
- Keynote speaker on blockchain, data & privacy for governments, corporate training & universities



Heather Cox Independent Director

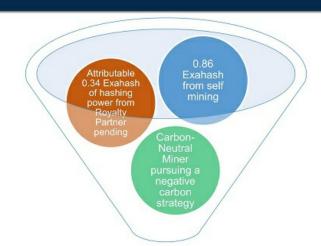
- Member of the Board of Directors, NRG Energy
- Form er Chief Digital Health and Analytics Officer, Hum ana
- Form er Chief Technology and Digital Officer, USAA
- Form er CEO of Citi Fin Tech, Citigroup

# Unparalleled Growth in Just Over 2 Short Years



# www.GryphonDigitalMining.com

Company Overview – Snapshot



1.2 Exahash of Carbon-Neutral Bitcoin Mining Power

# Location – 28 MW Hydro - Powered Energy

# Partnering with one of the largest digital currency data centers in the world

- Hydro -powered host in an economic opportunity zone
- Direct cost pass -through with profit sharing model
  - \$15,000/BTC cost in 2022
- Gryphon has secured 28 MW of power for its ~8,400 machines
- Hosting and share structure reduces
  capital investment and financial risk





www.GryphonDigitalMining.com

# Leading Bitcoin Efficiency

# Gryphon also outperforms peers in Bitcoin Efficiency\*

- Gryphon is an industry leader in Bitcoin Efficiency, posting a superior 90 BTC/EH in April 2023
- Peer average Bitcoin Efficiency of 70/EH in March 2023
- Gryphon has consistently placed at or near the top of these publicly available bitcoin efficiency scores
  - Top 3 efficiency among all peers since commencing operations
  - · At or tied for 1st in nine of the last 12months
- Superior performance driven by Gryphon's experienced mining team, fleet of efficient miners, and royalty stream
- Impact of royalty stream was minimal until Jan 2023 and expected to account for up to one-third of total bitcoin generated at full deployment

	Gryphon	Peer Average	age Peer Rank	
Sep-21	218	181	2	
Oct-21	199	165	3	
Nov-21	173	148	2	
Dec-21	166	151	3	
Jan-22	183	141	1	
Feb-22	134	118	1	
Mar-22	146	132	1	
Apr-22	136	121	2	
May-22	132	107	1	
Jun-22	129	108	2	
Jul-22	139	112	1	
Aug-22	141	118	1	
Sep-22	122	105	1	
Oct-22	115	105	2	
Nov-22	106	94	1	
Dec-22	115	96	1	
Jan-23	113	95	1	
Feb-23	94	81	1	
Mar-23	94	81	2	
Apr-23	90	70	1	

\*Bitcoin Efficiency is a measure of the number of bitcoin generated per exahash of hashing power deployed. Source: Company Reports

# **Industry Leader in Capital Efficiency**

# Gryphon outperforms peers in Invested Capital Efficiency\*

- Gryphon has spent only \$47/TH to build its entire operation (machines, hosting, management, etc.)
- Peer average Invested Capital Efficiency \$104/TH\*\*
- Superior performance driven by unique royalty stream with a third -party miner, resourceful capital raising, and asset light model



\*\*Invested Capital per terahash is defined as (Paid In Capital + Short - and Long - Term Debt + Short - and Long - Term Capital Leases - Liquid Assets) / Forecast hashrate that includes royalty stream \*\* Based on most recent FY company financial statements

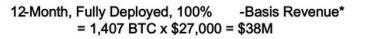
www.GryphonDigitalMining.com

## 13

# Key Success Factor: 22.5% MSA with Sphere 3D

# Royalty stream accounting for up to 1/3 of Gryphon's revenue profile

- Gryphon Digital Mining has an agreement to manage all of Sphere 3D's blockchain operations for an initial five -year period
- Gryphon earns 22.5% of gross operating profit from all of Sphere 3D's current and future blockchain operations
- Sphere 3D's fully deployed 15,000 miners are expected to have over 1.5 Exahash and generate 1,407 BTC on an annual basis based on current network hashrate\*
- Sphere expects "significant" deployment by end of May 2023





\*Based on 60 -day average network hashrate of 350 exahash as of May 30, 2023 and BTC price of US\$27,000



# Full Deployment Gross Profit Sensitivity Analysis\*

		BTC - USD				
		20,000	25,000	30,000	35,000	40,000
sh (s)	300,000,000	6,864,901	13,394,496	19,924,090	26,453,685	32,983,279
Global Hash Rate (TH/s)	325,000,000	4,855,795	10,883,113	16,910,431	22,937,749	28,965,067
	350,000,000	3,133,704	8,730,499	14,327,295	19,924,090	25,520,885
Glob Rate	375,000,000	1,833,398	6,864,901	12,088,577	17,312,252	22,535,928
0 1	400,000,000	897,042	5,232,502	10,129,698	15,026,894	19,924,090

