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): **February 8, 2024**

GRYPHON DIGITAL MINING, INC.
(Exact name of registrant as specified in its charter)

Delaware	**001-39096**	**83-2242651**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

1180 N. Town Center Drive, Suite 100, Las Vegas, NV	**89144**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (877) 646-3374

(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	GRYP	The Nasdaq Stock Market LLC

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 ☒

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 1.01 Entry into a Material Definitive Agreement.

Section 3(a)(9) Exchange Agreements

On February 8, 2024, Gryphon Digital Mining, Inc. (formerly known as Akerna Corp.), a Delaware corporation (the "Company"), entered into certain exchange agreements under Section 3(a)(9) of the United States Securities Act of 1933, as amended (the "Securities Act"), in relation to the exchange of the Company's issued and outstanding shares of Series C Preferred Stock ('Series C Shares") for shares of common stock, par value $0.0001 per share (the "Common Stock"), of the Company (the "3(a)(9) Exchange Agreements"). Pursuant to the Section 3(a)(9) Exchange Agreements, on February 9, 2024, all 3,244 Series C Shares with a face value of $1,000 per share were exchanged for 756,746 shares of Common Stock. The exchange of the Series C Shares for shares of Common Stock was made pursuant to the exemption from registration provided by Section 3(a)(9) under the Securities Act.

Amendment No. 2 to the Exchange Agreements

On February 8, 2024, the Company entered into amendment no. 2 ("Amendment No. 2") to those certain exchange agreements, dated as of January 27, 2023, as amended (the "Exchange Agreements"), by and among the Company and each of the holders of its senior secured convertible notes (the "Akerna Notes") issued pursuant to a securities purchase agreement dated October 5, 2021.

Pursuant to Amendment No. 2, the Company and the holders of the Akerna Notes amended the terms of the Exchange Agreements to (i) set the "Final Closing Date" under the Exchange Agreement to conduct the "Final Exchange" to take place immediately following the effective time of the Merger (as defined in Item 2.01 below), (ii) agree that the "Company Optional Redemption Price" of the Akerna Notes in relation to the "Cash Sweep" was $nil (iii) agree as to the principal amount of the Akerna Note remaining outstanding held by each holder of Akerna Notes following the payment of portion of the Akerna Note pursuant to the Cash Sweep and that such Akerna Note will be exchanged at the Final Closing into shares of Common Stock based on a per share price of $4.60 (being $0.23, as adjusted to reflect the 1-for-20 reverse stock split to be effected immediately prior to the Final Closing), (iv) agree that such number of shares of common stock will not exceed the "Maximum Percentage" and therefore there will be no "Abeyance Shares", and (v) the Final Exchange shall be consummated pursuant to Section 3(a)(9) of the Securities Act and the terms set forth in Amendment No. 2.

Pursuant to the terms of Amendment No. 2, on February 9, 2024, the remaining principal amount of Akerna Notes was exchanged for 824,977 shares of Common Stock. The exchange of Akerna Notes for shares of Common Stock was made pursuant to the exemption from registration provided by Section 3(a)(9) under the Securities Act.

Release and Termination of Security Agreements and Consents

In order to consummate the Merger and the Sale Transaction (as defined in Item 2.01 below), pursuant to the terms of the Exchange Agreements, the Company entered into a release and termination agreement dated February 8, 2024 ("Release and Termination Agreement"), to obtain a release under, and termination of, the Amended and Restated Security and Pledge Agreement dated October 5, 2021 entered into by and among the Company, certain of its subsidiaries, and the collateral agent named therein, the Amended and Restated Intellectual Property Security Agreement dated October 5, 2021 by and between the Company, certain of its subsidiaries and the collateral agent named therein, and the Amended and Restated Guaranty dated October 5, 2021 by and between certain subsidiaries of the Company and the collateral agent named therein (collectively, the "Credit Agreements"). Pursuant to the Release and Termination Agreement, the collateral agent released the Company and its subsidiaries from all of the security interests and guarantees set forth in the Credit Agreements and agreed that, upon receipt by the holders of the Akerna Notes of (i) the shares of Common Stock to be issued pursuant to Amendment No. 2 and (ii) evidence of the receipt of assignment of a stated monetary interest in the Company's Employee Retention Tax Credit ("ERTC") to the holders of the Akerna Notes (who were also holders of the Series C Shares), the Credit Agreements would terminate without any further action by the collateral agent or the holders of the Akerna Notes.

Further, the Company entered into a separate consent and agreement dated February 8, 2024 with each of the two institutions that hold the Akerna Notes, pursuant to which each such holder separately consented to the Release and Termination Agreement (the "Noteholder Consents").

In order to consummate the Merger and Sale Transaction, pursuant to the terms of the SPA (as defined in Item 2.01 below), the Company also entered into a release and termination agreement dated February 8, 2024 (the "MJA Release and Termination Agreement") with MJ Acquisition Corp. ("MJA") to obtain a release under and termination of the Second Amended and Restated Security and Pledge Agreement dated November 15, 2023 entered into by and among the Company, certain of its subsidiaries, and MJA under the Second Amended and Restated Intellectual Property Security Agreement dated November 15, 2023 by and between the Company, certain of its subsidiaries and MJA and under the Second Amended and Restated Guaranty dated November 15, 2023, by and between certain subsidiaries of the Company and MJA (the "MJA Credit Agreement"). Pursuant to the MJA Release and Termination Agreement, MJA released the Company and its subsidiaries from all of the security interests and guarantees set forth in the MJA Credit Agreements and agreed that, upon receipt by MJA of the assignment of the membership interests of MJ Freeway, LLC ("MJ Freeway") and the shares of Common Stock to be issued to MJA upon conversion of the promissory note held by MJA into shares of Common Stock pursuant to the terms of the MJA Note, the MJA Credit Agreements would terminate without any further action by MJA.

ERTC Assignment Agreement

On February 8, 2024, the Company entered into a ERTC & Liability Assignment Agreement (the "ERTC Agreement") with Distributionco LLC, a Colorado limited liability company ("Distributionco"). Pursuant to the ERTC Agreement, in order to (i) induce the holders of the Akerna Notes and Series C Shares to agree to the closing of the Merger and Sale Transaction, (ii) settle certain accounts payable to a third party service provider and (iii) settle certain amounts of compensation due and payable to officers of the Company, the Company agreed to the assignment of the Company ERTC credit anticipated to be approximately $2,111,665 to Distributionco in exchange for Distributionco assuming the above liabilities of the Company totaling in the aggregate, $2,111,665 of liabilities.

Share Settlement Agreements

On February 8, 2024, the Company entered into share settlement agreements (the "Share Settlement Agreements") with David McCullough, Cecil R. Thompson, Larry Dean Ditto, Jessica Billingsley and Scott Sozio, each a former officer of the Company (the "Purchasers"), pursuant to which the Purchasers were issued shares of Common Stock as satisfaction for outstanding compensation balances owed to the Purchasers. On February 9, 2024, an aggregate of 446,611 shares of Common Stock (the "Settlement Shares") were issued to the Purchasers pursuant to the terms of the Share Settlement Agreements. The issuance of the Settlement Shares was made pursuant to the exemption from registration contained in Section 4(a)(2) of the Securities Act.

Registration Rights Agreement

In order to induce the Purchasers to execute and deliver the Share Settlement Agreements, the Company agreed to provide certain registration rights under the Securities Act and applicable state securities laws with respect to the Settlement Shares, pursuant to registration rights agreements (the "Registration Rights Agreements"), dated February 8, 2024, between the Company and each of the Purchasers.

The foregoing description of the material terms of the 3(a)(9) Exchange Agreements, Amendment No. 2 to the Exchange Agreements, the Release and Termination Agreement, the Noteholder Consents, the MJA Release and Termination Agreement, the ERTC Agreement, the Share Settlement Agreements and the Registration Rights Agreements does not purport to be complete and is qualified in its entirety by reference to the full text of the form of 3(a)(9) Exchange Agreement, form of Amendment No. 2 to the Exchange Agreements, the Release and Termination Agreement, the form of Noteholder Consent, the MJA Release and Termination Agreement, the ERTC Agreement, the form of Share Settlement Agreement and the form of Registration Rights Agreement, which are filed as Exhibit 10.1 through 10.8, respectively, to this Current Report on Form 8-K and which are incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

The information included in Item 1.01 hereof regarding the Release and Termination Agreement and the MJA Release and Termination Agreement and the termination of the Credit Agreements and the MJA Credit Agreement is also incorporated by reference into this Item 1.02.

Item 2.01 Completion of Acquisition or Disposition of Assets.

Merger Agreement

On February 9, 2024, the Company completed the transactions contemplated by that certain agreement and plan of merger by and between the Company, Akerna Merger Co., a wholly-owned subsidiary of the Company ("Merger Sub"), and Ivy Crypto, Inc. (formerly known as Gryphon Digital Mining, Inc.) ("Ivy"), dated January 27, 2023, as amended on April 28, 2023 and June 14, 2023 (the "Merger Agreement"). A copy of the Merger Agreement, the first amendment thereto and the second amendment thereto are attached as Exhibits 2.2, 2.5 and 4.1 to the Company's Current Reports on Form 8-K filed with the Securities and Exchange Commission (the "SEC") on January 27, 2023, May 1, 2023 and June 15, 2023, respectively, which Current Reports are hereby incorporated by reference.

Under the terms of the Merger Agreement, Merger Sub merged with and into Ivy, with Ivy surviving as a wholly-owned subsidiary of the Company (the "Merger"). At the effective time of the Merger (the "Effective Time"), each share of Ivy's common stock, par value $0.0001 per share (the "Ivy Common Stock"), and Ivy's preferred stock, par value $0.0001 per share (the "Ivy Preferred Stock," collectively referred to herein with the Ivy Common Stock as the "Ivy Shares"), outstanding immediately prior to the Effective Time was converted into the right to receive approximately 1.7273744 shares of Common Stock.

Each warrant to purchase common stock of Ivy that was issued and outstanding at the Effective Time will remain issued and outstanding, and was assumed by the Company and is exercisable for shares of Common Stock pursuant to its existing terms and conditions as adjusted to reflect the ratio of exchange of Ivy Shares for shares of Common Stock.

Immediately after giving effect to the Merger, the Company had 38,733,554 shares of Common Stock outstanding and warrants to purchase Common Stock outstanding and exercisable to acquire shares of Common Stock.

On February 9, 2024, the Common Stock began trading on the Nasdaq Capital Market ("NASDAQ") under the symbol "GRYP."

Sale Transaction Agreement

On February 9, 2024, the Company closed on the sale transaction (the "Sale Transaction") pursuant to that certain securities purchase agreement dated April 28, 2023 (as amended, the "SPA") with Akerna Canada Ample Exchange Inc. and MJ Acquisition Corp. ("MJA"), as amended October 12, 2023, November 15, 2023 and December 28, 2023. A copy of the SPA, the first amendment thereto and the second amendment thereto are attached as Exhibits 2.1, 2.1 and 2.1 to the Company's Current Reports on Form 8-K filed with the SEC on May 1, 2023, October 4, 2023 and November 17, 2023, respectively, which Current Reports are hereby incorporated by reference and the third amendment thereto is attached as Exhibit 2.11 to the Company's Registration Statement on Form S-4/A as filed with the SEC on December 29, 2023 and is hereby incorporated by reference.

Upon the terms and subject to the satisfaction of the conditions described in the SPA, including approval of the transaction by Akerna's stockholders, Akerna sold to MJA all of the membership interests in MJ Freeway, LLC for an aggregate purchase price of approximately $1.2 million and conversion of a loan to Akerna from MJA in the amount of $1,650,000 (funded $1,000,000 on April 28, 2023, $500,000 on October 11, 2023 and $150,000 on November 15, 2023) evidence by a Second Amended and Restated Promissory Note dated November 15, 2023 (the "MJA Note"), which principal amount of MJA Note converted into shares of Common Stock of Akerna at closing of the Sale Transaction, with such MJA Note deemed paid in full at closing of the Sale Transaction. The conversion of principal amount of MJA Note for shares of Common Stock was made pursuant to the exemption from registration provided by Section 3(a)(9) under the Securities Act.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing

On February 8, 2024, the Company notified the NASDAQ that in connection with the closing of the Merger, the Company would not continue the listing of its publicly traded warrants on the NASDAQ and that such listing is to be withdrawn upon completion of the Merger on February 9, 2024. The Company anticipates that following withdrawal from the NASDAQ, the publicly traded warrants will be quoted for trading on the over-the-counter markets. Following the 1-for-20 reverse stock split, the publicly traded warrants are exercisable for an aggregate total of 14,534 shares of Common Stock at an exercise price of $4,600 per share, and such warrants expire on June 17, 2024.

Item 3.02 Unregistered Sales of Equity Securities

The information included in Item 1.01 hereof related to the issuance of shares of Common Stock pursuant to the 3(a)(9) Exchange Agreements, Amendment No. 2 to the Exchange Agreements, and the Share Settlement Agreements and the information included in Item 2.01 hereof related to the issuance of shares of Common Stock upon the conversion of the MJA Note is also incorporated by reference into this Item 3.02.

Item 3.03 Material Modification of Rights to Security Holders.

The information included in Items 5.10 and 5.03 hereof is also incorporated by reference into this Item 3.03.

Item 5.01 Changes in Control of Registrant

Following the Merger, the former holders of Ivy's equity securities now hold 92.5% of the Common Stock, on a fully diluted basis, with the remainder being held by the legacy holders of the Company. The disclosure contained in Item 2.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Removal and Appointment of Directors and Officers

As of the Effective Date, and in accordance with the terms of the Merger Agreement, the Board became comprised of five directors: Robby Chang, Brittany Kaiser, Heather Cox, Steve Gutterman and Jessica Billingsley. As of the Effective Date, the following individuals became the executive officers of the Company: Robby Chang, Chief Executive Officer, and Simeon Salzman, Chief Financial Officer and Corporate Secretary. With the exception of Jessica Billingsley, each of the Company's previous officers and directors resigned from their respective positions at the Company on the Effective Date.

For more information concerning the executive officers and directors, see the disclosure in the Company's final prospectus and definitive proxy statement dated as of January 5, 2024 (the "Proxy Statement") filed with the SEC on January 9, 2024 in the sections titled "Management Following the Merger," "Akerna Executive Compensation" "Gryphon's Executive and Director Compensation" and "Certain Relationships and Related-Party Transactions of the Combined Company," each of which is incorporated herein by reference.

Executive Officer Compensation

On February 8, 2024, the Company's Compensation Committee (the "Committee") finalized the grant of bonuses to executive officers in connection with their performance in 2023 and in connection with the closing of the Merger and Sale Transaction. The Committee granted the following cash bonuses all of which, along with other unpaid compensation, were then settled in shares of Common Stock pursuant to the Share Settlement Agreements: Jessica Billingsley - $719,670, Scott Sozio - $314,000, Larry Dean Ditto - $212,317, David McCullough - $37,539 and Cecil R. Thompson - $37,307.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Name Change

On February 8, 2024, the Company filed a Certificate of Amendment to its Amended and Restated Articles of Incorporation (the "Name Change Amendment"). The Name Change Amendment changed the name of the Company from "Akerna Corp." to "Gryphon Digital Mining, Inc." The Name Change Amendment is attached hereto as Exhibit 3.1 and incorporated herein by reference.

Reverse Stock Split

On February 8, 2024, the Company filed a Certificate of Amendment to its Amended and Restated Articles of Incorporation (the "Reverse Stock Split Amendment"). The Reverse Stock Split Amendment effected a reverse stock split of the Common Stock, at a ratio of one new share for every twenty shares of outstanding Common Stock (the "Reverse Stock Split"). The Reverse Stock Split Amendment is attached hereto as Exhibit 3.2 and incorporated herein by reference.

The Reverse Stock Split was approved at a Special Meeting of the Stockholders held on January 29, 2024 (the "Special Meeting"). The Reverse Stock Split is more fully described in the Company's proxy statement/prospectus included in the registration statement on Form S-4 (File No. 333-271857) as filed with the SEC on May 12, 2023 and declared effective by the Commission on January 9, 2024. Immediately after the Special Meeting, on January 29, 2024, the Akerna board of directors (the "Board") determined the ratio of the Reverse Stock Split at 1-for-20.

Pursuant to the authorization of the Board and the Certificate of Amendment, the Reverse Stock Split became effective on February 8, 2024 at 4:05 p.m. Eastern Standard Time (the "Effective Time"). The shares of Common Stock began trading on the NASDAQ on a post-split basis on February 9, 2024, with a new CUSIP number: 400510103.

At the Effective Time, every twenty (20) shares of issued and outstanding Common Stock were converted into one (1) share of issued and outstanding Common Stock. The Company's transfer agent, Continental Stock Transfer & Trust Company ("Continental"), served as exchange agent for the Reverse Stock Split and provided instructions to stockholders of record regarding the Reverse Stock Split.

Because the Reverse Stock Split Amendment did not reduce the number of authorized shares of Common Stock, the effect of the Reverse Stock Split was to increase the number of shares of Common Stock available for issuance relative to the number of shares issued and outstanding. The Reverse Stock Split did not alter the par value of the Common Stock or modify any voting rights or other terms of the Common Stock.

No fractional shares were issued in connection with the Reverse Stock Split. Stockholders of record who otherwise would be entitled to receive fractional shares were entitled to rounding up of their fractional share to the nearest whole share. No stockholders received cash in lieu of fractional shares.

Each certificate that immediately prior to the Effective Time represented shares of Common Stock ("Old Certificates") thereafter represented that number of shares of Common Stock into which the shares of Common Stock represented by the Old Certificate shall have been combined, subject to the adjustment for fractional shares as described above. Unless otherwise requested by the stockholder, Continental issued all of the post-split shares in paperless, "book-entry" form, and unless otherwise requested by the stockholder, Continental will be holding the shares in an account set up for the stockholder. All book-entry or other electronic positions representing issued and outstanding shares of Common Stock will be automatically adjusted. Those stockholders holding Common Stock in "street name" will receive instructions from their brokers.

In addition, the number of shares of Common Stock issuable upon exercise or conversion of Akerna's outstanding warrants were proportionately adjusted by the applicable administrator, using the 1-for-20 ratio, rounded up to the nearest whole share and nearest whole cent. The Board or the applicable administrator implemented only applicable technical, conforming changes to the securities, including ratably reducing the authorized shares of Common Stock available for awards under the Company's equity plans. In addition, the exercise price for each outstanding warrant was increased in inverse proportion to the 1-for-20 split ratio such that upon a conversion or exercise, the aggregate exercise price payable by the warrant holder to the Company for the shares subject to the warrant remains approximately the same as the aggregate exercise price prior to the Reverse Stock Split.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
3.1	Certificate of Amendment for Name Change
3.2	Certificate of Amendment for Reverse Stock Split
10.1	Form of 3(a)(9) Exchange Agreement
10.2	Form of Amendment No. 2 to the Exchange Agreements
10.3	Release and Termination Agreement
10.4	Form of Noteholder Consent
10.5	MJA Release and Termination Agreement
10.6	ERTC Agreement
10.7	Form of Share Settlement Agreement
10.8	Form of Registration Rights Agreement
104	Cover Page Interactive Data File (embedded within the Inline XBRL Document).

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: February 13, 2024

GRYPHON DIGITAL MINING, INC.

By: /s/ Robby Chang
Name: Robby Chang
Title: Chief Executive Officer

Exhibit 3.1

FOURTH
CERTIFICATE OF AMENDMENT
TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
AKERNA CORP.
(*a Delaware corporation)*

Akerna Corp. (the "***Company***"), a company organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "***DGCL***"), does hereby certify as follows:

1. The name of the corporation is Akerna Corp.

2. This Certificate of Amendment (the "Certificate of Amendment") amends the provisions of the Company's Amended and Restated Certificate of Incorporation filed with the Secretary of State, as amended (the "Amended and Restated Certificate of Incorporation").

3. The First Article of the Amended and Restated Certificate of Incorporation regarding the name of the Company is hereby amended and restated to read in its entirety as follows:

   "FIRST: The name of the corporation is Gryphon Digital Mining, Inc. (hereinafter sometimes referred to as the "Corporation")"

4. The foregoing amendments were duly adopted in accordance with the provisions of Section 242 of the DGCL.

5. This Certificate of Amendment and the name change of the Company will become effective at 4:10 p.m. Eastern Standard Time on February 8, 2024.

IN WITNESS WHEREOF, the Company has caused this Certificate of Amendment of the Amended and Restated Certificate of Incorporation, as amended, to be executed and acknowledged by its duly appointed officer as of this 8th day of February, 2024.

By: /s/ Jessica Billingsley
Name: Jessica Billingsley
Title: Chief Executive Officer

Exhibit 3.2

THIRD
CERTIFICATE OF AMENDMENT
TO THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
OF
AKERNA CORP.
(*a Delaware corporation)*

Akerna Corp. (the "***Company***"), a company organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "***DGCL***"), does hereby certify as follows:

1. Upon the effectiveness of this Certificate of Amendment pursuant to the DGCL, Article IV of the Amended and Restated Certificate of Incorporation of the Company is hereby amended by adding the following paragraph following all current paragraphs:

2. "Effective at 4:05 pm Eastern Standard Time on February 8, 2024 (such time, the "***Effective Time***"), every twenty (20) shares of Common Stock outstanding immediately prior to the Effective Time (such shares, the "***Old Common Stock***") shall automatically without further action on the part of the Company be combined into one (1) fully paid and nonassessable share of Common Stock (the "***New Common Stock***"), subject to the treatment of fractional shares described below. From and after the Effective Time, certificates representing the Old Common Stock shall, without the necessity of presenting the same for exchange, represent the number of shares of New Common Stock into which such Old Common Stock shall have been converted pursuant to this Certificate of Amendment. There shall be no fractional shares issued. Stockholders who otherwise would be entitled to receive fractional shares because they hold a number of shares of Common Stock not evenly divisible by twenty (20), will be entitled to rounding up of their fractional share to the nearest whole share."

3. The foregoing amendments were duly adopted in accordance with the provisions of Section 242 of the DGCL.

IN WITNESS WHEREOF, the Company has caused this Certificate of Amendment of the Amended and Restated Certificate of Incorporation, as amended, to be executed and acknowledged by its duly appointed officer as of this 8th day of February, 2024.

By: /s/ Jessica Billingsley
Name: Jessica Billingsley
Title: Chief Executive Officer

Exhibit 10.1

EXCHANGE AGREEMENT

EXCHANGE AGREEMENT (the "**Agreement**") is made as of the 8th day of February, 2024, by and between, Akerna Corp., a Delaware corporation (the "**Company**"), and the Holder signatory hereto (the "**Holder**").

WHEREAS, prior to the date hereof, pursuant to that certain Securities Purchase Agreement, dated as of October 5, 2021, by and between the Company and the investors party thereto (as amended, the "**Securities Purchase Agreement**"), the Company issued to such investors certain senior secured convertible notes (the "**Notes**").

WHEREAS, previously, the Company, Gryphon Digital Mining, Inc. ("**Gryphon**") and Akerna Merger Co., a Delaware corporation ("**Merger Sub**"), entered into an Agreement and Plan of Merger, dated January 27, 2023 (the "**Merger Agreement**"), pursuant to which Merger Sub will merge with and into Gryphon (the "**Merger**"), with Gryphon surviving the Merger as a wholly owned subsidiary of the Company.

WEHREAS, in connection with the entry by the Company and Gryphon into the Merger Agreement, the Company and the Holder entered into an Exchange Agreement dated January 27, 2023 (the "**Exchange Agreement**") and authorized a new series of Preferred Stock of the Company designated as Series C Preferred Stock the terms of which are set forth in the certificate of designation for such series of Preferred Stock in the form attached as Exhibit B to the Exchange Agreement (together with any shares of Series C Preferred Stock issued in replacement thereof in accordance with the terms thereof, the "**Series C Preferred Stock**").

WHEREAS, under the terms of the Exchange Agreement, as amended, the Holder exchanged a principal amount of the Notes into shares of Series C Preferred Stock.

WHEREAS, as of the date hereof, the Holder is the holder of 1,711 shares of the Series C Preferred Stock (the "**Series C Shares**").

WHEREAS, in exchange for the Series C Shares, the Company desires to issue to the Holder, such aggregate number of shares of common stock of the Company (the **"Exchange Shares**") equal to the quotient of (x) the aggregate face value of the Series C Shares, being $1,000 per Series C Shares, divided by (y) the lower of (i) the Nasdaq Official Closing Price of the common stock of the Company (as defined in the Nasdaq Listing Rules) immediately preceding the date of this Agreement; or (ii) the average Nasdaq Official Closing Price of the common stock of the Company for the five trading days immediately preceding the date of this Agreement.

WHEREAS, the exchange of the Series C Shares for the Exchange Shares is being made in reliance upon the exemption from registration provided by Section 3(a)(9) of the Securities Act of 1933, as amended (the "**1933 Act**").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the promises and the mutual agreements, representations and warranties, provisions and covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Exchange. On the Closing Date, subject to the terms and conditions of this Agreement, the Holder shall, and the Company shall, pursuant to Section 3(a)(9) of the 1933 Act, exchange the Series C Shares for 378,373 Exchange Shares based on a per share price of $4.522 (the Nasdaq Official Closing Price of the common stock of the Company (as defined in the Nasdaq Listing Rules) immediately preceding the date of this Agreement of $0.2261, as adjusted to reflect the 1-for-20 reverse stock split to be effected immediately prior to the Final Closing). At the Closing (as defined below), the following transactions shall occur (such transactions in this Section 1, the "**Exchange**"):

1.1 As of the Closing Date, the Series C Shares shall be free and clear of all Liens. Upon receipt of the Exchange Shares in accordance with Section 1.2, all of the Holder's rights under the Series C Shares shall be extinguished.

1.2 On the Closing Date the Company shall issue the Exchange Shares to the Holder (or its designee). Promptly after the Closing Date the Company shall deliver a certificate or DRS advice slip evidencing the Exchange Shares to the Holder (or its designee). On the Closing Date, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Exchange Shares, irrespective of the date the Company delivers the certificate evidencing the Exchange Shares to the Holder; *provided, however*, that to the extent that any issuances of Exchange Shares to the Holder at the Closing in accordance herewith would result in such Holder and its other Attribution Parties (as defined in the Notes) exceeding the Maximum Percentage (as defined in the Notes) (as calculated in accordance with Section 3(d)(i) of the Notes) (a "**Maximum Percentage Event**"), then such Holder shall not be entitled to receive such aggregate number of Exchange Shares in excess of the Maximum Percentage (and shall not have beneficial ownership of such Exchange Shares (or other equivalent security) as a result of the Closing (and beneficial ownership) to such extent of any such excess), such remaining portion of such Final Closing Exchange Shares that would have otherwise been issued to the Holder at the Final Closing (such remaining portion of Exchange Shares, the "**Abeyance Shares**"), such portion of the Series C Shares shall alternatively be exchanged for the right to receive such Abeyance Shares (with a beneficial ownership and issuance limitation substantially in the form of Section 3(d) of the Notes, mutatis mutandis), at such time or times as its right thereto would not result in such Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times, if any, such Holder shall be granted such remaining portion of such Abeyance Shares in accordance herewith.

1.3 The Company and the Holder shall execute and/or deliver such other documents and agreements as are customary and reasonably necessary to effectuate the Exchange.

1.4 For purposes of this Agreement, "Nasdaq Official Closing Price" shall be appropriately adjusted for any stock split, stock dividend, stock combination, reclassification or other similar transaction during such applicable period.

2. The Closing. Subject to the conditions set forth below, the Exchange shall take place via the electronic exchange of documents, securities and signatures, immediately following the Effective Time of the Merger under the Merger Agreement or at such other time and place as the Company and the Holder mutually agree (the "**Closing**" and the "**Closing Date**").

4. Closing Conditions.

4.1 Condition's to Holder's Obligations. The obligation of the Holder to consummate the Exchange is subject to the fulfillment, to the Holder's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

(a) Representations and Warranties. Each and every representation and warranty of the Company set forth herein shall be true and correct in all material respects (except where qualified by materiality or material adverse effect, which shall be true and correct in all respect) as of the date when made and as of the Closing Date as though originally made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such specific date) and the Company shall have performed, satisfied and complied in all respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by the Company at or prior to the Closing Date. The Holder shall have received a certificate, duly executed by the Chief Executive Officer of the Company, dated as of the Closing Date, to the foregoing effect and as to such other matters as may be reasonably requested by the Holder in the form acceptable to the Holder.

(c) Issuance of Securities. At the Closing, the Company shall issue the Exchange Shares on the books and records of the Company.

(e) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(g) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Holder, and the Holder shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.

(i) Listing. On each Trading Day (as defined in the Exchange Agreement) during the twenty (20) Trading Days immediately preceding the Closing Date and the Closing Date, the Exchange Shares (I) shall be designated for quotation or listed on an Eligible Market (as defined in the Exchange Agreement) and (II) shall not have been suspended.

(j) No Material Non-Public Information. During the period commencing on the date hereof, through and including, the Closing Date, the Holder shall not be in possession of any material, nonpublic information received from Gryphon, the Company, any subsidiary or its respective agents or affiliates.

(k) Merger Agreement. As of the Closing Date, the Merger Agreement shall remain in full force and effect, shall not have been terminated by any person and the conditions to the consummation of the Merger set forth therein shall be satisfied in full (or waived) other than such actions that shall occur on the Closing Date at the time of consummation of the transactions contemplated by the Merger Agreement (all of which are reasonably capable of being satisfied by the parties thereto on the Closing Date (and the Company and Gryphon shall have no knowledge of any reason why any condition to the consummation of the transactions contemplated by the Merger Agreement would not be reasonably capable of being satisfied and consummated on the Closing Date), as evidenced by a certificate executed by a duly authorized officer of each of the Company and Gryphon.

4.2 Condition's to the Company's Obligations. The obligation of the Company to consummate the Exchange is subject to the fulfillment, to the Company's reasonable satisfaction, prior to or at the Closing in question, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Holder contained in this Agreement shall be true and correct in all material respects (except for those representations and warranties that are qualified by materiality or material adverse effect, which are accurate in all respects) on the date hereof and on and as of the Closing Date as if made on and as of such date (except for representations and warranties that speak as of a specific date, which are accurate in all material respects (except for those representations and warranties that are qualified by materiality or material adverse effect, which are accurate in all respects) as of such specified date).

(b) Waiver. Each Other Holder (as defined below) shall have duly executed and delivered to the Company an agreement in the form of this Agreement, which shall remain in full force and effect.

(c) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

(d) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Company and the Company shall have received all such counterpart originals or certified or other copies of such documents as the Company may reasonably request.

(e) Releases. The Holder and each Other Holder shall have executed and delivered the MJF Release (as defined in the Exchange Agreement) and the Merger Release (as defined in the Exchange Agreement) to the Company and Gryphon.

5. Representations and Warranties of the Company. Except as set forth in the correspondingly numbered Section of the Disclosure Schedules, the Company represents and warrants to the Holder that the statements contained in this Section 7 are true and correct as of the date hereof and will be at the Closing Date:

5.1 Organization, Good Standing and Qualification. Each of the Company and each of its Subsidiaries are entities duly organized and validly existing and in good standing under the laws of the jurisdiction in which they are formed, and have the requisite power and authority to own their properties and to carry on their business as now being conducted and as presently proposed to be conducted. Each of the Company and each of its Subsidiaries is duly qualified as a foreign entity to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect (as defined below). As used in this Agreement, "Material Adverse Effect" means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof), condition (financial or otherwise) or prospects of the Company or any Subsidiary, individually or taken as a whole, (ii) the transactions contemplated hereby and/or the Merger Agreement or (iii) the authority or ability of the Company or any of its Subsidiaries to perform any of their respective obligations under this Agreement and/or the Merger Agreement. Other than the Persons (as defined below) listed in the SEC Documents (as defined below) and Merger Sub, the Company has no Subsidiaries. "Subsidiaries" means any Person in which the Company, directly or indirectly, (I) owns any of the outstanding capital stock or holds any equity or similar interest of such Person or (II) controls or operates all or any part of the business, operations or administration of such Person, and each of the foregoing, is individually referred to herein as a "Subsidiary." For purposes of this Agreement, (x) "Person" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and any Governmental Entity or any department or agency thereof and (y) "Governmental Entity" means any nation, state, county, city, town, village, district, or other political jurisdiction of any nature, federal, state, local, municipal, foreign, or other government, governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, or entity and any court or other tribunal), multi-national organization or body; or body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature or instrumentality of any of the foregoing, including any entity or enterprise owned or controlled by a government or a public international organization or any of the foregoing.

5.2 Authorization. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement and each of the other agreements entered into by the parties hereto in connection with the transactions contemplated hereby and to consummate the Exchange (including, without limitation, the reservation for issuance and issuance of the Exchange Shares in accordance herewith). The execution and delivery of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby, including, without limitation, the reservation for issuance and issuance of the Exchange Shares in accordance herewith has been duly authorized by the Company's Board of Directors and no further filing, consent, or authorization is required by the Company, its Board of Directors or its stockholders. This Agreement has been duly executed and delivered by the Company, and constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies and except as rights to indemnification and to contribution may be limited by federal or state securities laws.

5.3 No Conflict. The execution, delivery and performance of this Agreement by the Company and the consummation by the Company of the transactions contemplated hereby (including, without limitation, the reservation for issuance and issuance of the Exchange Shares in accordance herewith) will not (i) result in a violation of the Certificate of Incorporation (as defined below) or any other organizational documents of the Company or any of its Subsidiaries, any capital stock of the Company or any of its Subsidiaries or Bylaws (as defined below) of the Company or any of its Subsidiaries, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company or any of its Subsidiaries is a party, or (iii) to the Knowledge of the Company, result in a violation of any law, rule, regulation, order, judgment or decree (including foreign, federal and state securities laws and regulations and the rules and regulations of the Nasdaq Capital Market (the "**Principal Market**") and including all applicable federal laws, rules and regulations) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected. For purposes of this Agreement, the term "**Knowledge of the Company**" or any other similar knowledge qualification, means the actual or constructive knowledge of any director or officer of the Company, after due inquiry.

5.4 No Consents. Neither the Company nor any Subsidiary is required to obtain any consent from, authorization or order of, or make any filing or registration with the Securities and Exchange Commission (the "**SEC**") or state securities agencies, any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its respective obligations under or contemplated by this Agreement, in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company or any Subsidiary is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof, and neither the Company nor any of its Subsidiaries are aware of any facts or circumstances which might prevent the Company or any of its Subsidiaries from obtaining or effecting any of the registration, application or filings contemplated by this Agreement. Except as disclosed in the SEC Documents (as defined below), the Company is not in violation of the requirements of the Principal Market and has no knowledge of any facts or circumstances which would reasonably lead to delisting or suspension of the shares of common stock of the Company (the "**Common Stock**") in the foreseeable future.

5.5 Securities Law Exemptions. Assuming the accuracy of the representations and warranties of the Holder contained herein, the offer and issuance by the Company of the Exchange Shares in accordance herewith is exempt from registration under the 1933 Act pursuant to the exemption provided by Rule 3(a)(9) thereof. The Company acknowledges and agrees that no cash consideration shall be paid, or be required to be paid, directly, or indirectly, by the Holder to the Company in connection with the Exchange.

5.6 Issuance of Exchange Shares. The Company has reserved a sufficient number of Common Stock issuable in the Exchange to consummate the Exchange in accordance herewith, and when the Exchange Shares are issued accordance herewith, the Exchange Shares, when issued, will be validly issued, fully paid and nonassessable and free from all preemptive or similar rights, mortgages, defects, claims, liens, pledges, charges, taxes, rights of first refusal, encumbrances, security interests and other encumbrances (collectively "**Encumbrances**") with respect to the issue thereof with the holders being entitled to all rights accorded to a holder of Common Stock.

5.6 Transfer Taxes. On the date hereof, all share transfer or other taxes (other than income or similar taxes) which are required to be paid in connection with the issuance of the Exchange Shares to be exchanged with the Holder hereunder will be, or will have been, fully paid or provided for by the Company, and all laws imposing such taxes will be or will have been complied with.

5.7 SEC Documents; Financial Statements. As of the date hereof, the Company has met all of its filing requirements of periodic reports under Section 13 or Section 15(d) of Securities Exchange Act of 1934, as amended (the "1934 Act") (all of the foregoing filed prior to the date hereof, including without limitation, Current Reports on Form 8-K filed by the Company with the SEC whether required to be filed or not (but excluding Item 7.01 thereunder), and all exhibits and appendices included therein (other than Exhibits 99.1 to Form 8-K) and financial statements, notes and schedules thereto and documents incorporated by reference therein being hereinafter referred to as the "**SEC Documents**"). Upon request by the Holder, the Company has delivered or has made available to the Holder or its representatives true, correct and complete copies of each of the SEC Documents not available on the EDGAR system. As of their respective dates, the SEC Documents complied in all material respects with the requirements of the 1934 Act and the rules and regulations of the SEC promulgated thereunder applicable to the SEC Documents, and none of the SEC Documents, at the time they were filed with the SEC, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. As of their respective dates, the financial statements of the Company included in the SEC Documents complied in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto as in effect as of the time of filing. Such financial statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**"), consistently applied, during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto, or (ii) in the case of unaudited interim statements, to the extent they may exclude footnotes or may be condensed or summary statements) and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of its operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments which will not be material, either individually or in the aggregate). No other information provided by or on behalf of the Company to the Holder which is not included in the SEC Documents (including, without limitation, information in the disclosure schedules to this Agreement) contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein not misleading, in the light of the circumstance under which they are or were made. The Company is not currently contemplating to amend or restate any of the financial statements (including, without limitation, any notes or any letter of the independent accountants of the Company with respect thereto) included in the SEC Documents (the "Financial Statements"), nor is the Company currently aware of facts or circumstances which would require the Company to amend or restate any of the Financial Statements, in each case, in order for any of the Financials Statements to be in compliance with GAAP and the rules and regulations of the SEC. The Company has not been informed by its independent accountants that they recommend that the Company amend or restate any of the Financial Statements or that there is any need for the Company to amend or restate any of the Financial Statements.

5.8 Absence of Certain Changes. Except as set forth in the SEC Documents, since the date of the Company's most recent audited financial statements contained in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022, there has been no material adverse change and no material adverse development in the business, assets, liabilities, properties, operations (including results thereof), condition (financial or otherwise) or prospects of the Company or any of its Subsidiaries, provided that the parties agree that the execution of the SPA and the Merger Agreement do not constitute a material adverse change or material adverse development. Except as set forth in the SEC Documents, since the date of the Company's most recent audited financial statements contained in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021, neither the Company nor any of its Subsidiaries has (i) declared or paid any dividends, (ii) sold any assets, individually or in the aggregate, outside of the ordinary course of business or (iii) made any capital expenditures, individually or in the aggregate, outside of the ordinary course of business. Neither the Company nor any of its Subsidiaries has taken any steps to seek protection pursuant to any law or statute relating to bankruptcy, insolvency, reorganization, receivership, liquidation or winding up, nor does the Company or any Subsidiary have any knowledge or reason to believe that any of their respective creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so.

5.9 No Undisclosed Events, Liabilities, Developments or Circumstances. Except as set forth in the SEC Documents, no event, liability, development or circumstance has occurred or exists, or is reasonably expected to exist or occur with respect to the Company, any of its Subsidiaries or any of their respective businesses, properties, liabilities, prospects, operations (including results thereof) or condition (financial or otherwise), that (i) would be required to be disclosed by the Company under applicable securities laws on a registration statement on Form S-1 filed with the SEC relating to an issuance and sale by the Company of its Common Stock and which has not been publicly announced, (ii) would reasonably expected to have a material adverse effect on the Holder's investment hereunder or (iii) would reasonably be expected to have a Material Adverse Effect on the Company.

5.10 Conduct of Business; Regulatory Permits. Neither the Company nor any of its Subsidiaries is in violation of any term of or in default under its Certificate of Incorporation, any certificate of designation, preferences or rights of any other outstanding series of Preferred Stock of the Company or any of its Subsidiaries or Bylaws or their organizational charter, certificate of formation, memorandum of association, articles of association, Certificate of Incorporation or bylaws, respectively. Except as set forth in the SEC Documents, neither the Company nor any of its Subsidiaries is in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Company or any of its Subsidiaries, and neither the Company nor any of its Subsidiaries will conduct its business in violation of any of the foregoing, except in all cases for possible violations which could not, individually or in the aggregate, have a Material Adverse Effect. Except as set forth in the SEC Documents, without limiting the generality of the foregoing, the Company is not in violation of any of the rules, regulations or requirements of the Principal Market and has no knowledge of any facts or circumstances that could reasonably lead to delisting or suspension of the Common Stock by the Principal Market in the foreseeable future. Except as set forth in the SEC Documents, during the two years prior to the date hereof, (i) the Common Stock has been listed or designated for quotation on the Principal Market, (ii) trading in the Common Stock has not been suspended by the SEC or the Principal Market and (iii) the Company has received no communication, written or oral, from the SEC or the Principal Market regarding the suspension or delisting of the Common Stock from the Principal Market. The Company and each of its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any such Subsidiary has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. There is no agreement, commitment, judgment, injunction, order or decree binding upon the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries is a party which has or would reasonably be expected to have the effect of prohibiting or materially impairing any business practice of the Company or any of its Subsidiaries, any acquisition of property by the Company or any of its Subsidiaries or the conduct of business by the Company or any of its Subsidiaries as currently conducted other than such effects, individually or in the aggregate, which have not had and would not reasonably be expected to have a Material Adverse Effect on the Company or any of its Subsidiaries.

5.11 Transactions With Affiliates. Except as set forth in the SEC Documents, no current or former employee, partner, director, officer or stockholder (direct or indirect) of the Company or its Subsidiaries, or any associate, or, to the knowledge of the Company, any affiliate of any thereof, or any relative with a relationship no more remote than first cousin of any of the foregoing, is presently, or has ever been, (i) a party to any transaction with the Company or its Subsidiaries (including any contract, agreement or other arrangement providing for the furnishing of services by, or rental of real or personal property from, or otherwise requiring payments to, any such director, officer or stockholder or such associate or affiliate or relative Subsidiaries (other than for ordinary course services as employees, consultants, officers or directors of the Company or any of its Subsidiaries)) or (ii) the direct or indirect owner of an interest in any corporation, firm, association or business organization which is a competitor, supplier or customer of the Company or its Subsidiaries (except for a passive investment (direct or indirect) in less than 5% of the common stock of a company whose securities are traded on or quoted through an Eligible Market), nor does any such Person receive income from any source other than the Company or its Subsidiaries which relates to the business of the Company or its Subsidiaries or should properly accrue to the Company or its Subsidiaries. Except as set forth in the SEC Documents, no employee, officer, stockholder or director of the Company or any of its Subsidiaries or member of his or her immediate family is indebted to the Company or its Subsidiaries, as the case may be, nor is the Company or any of its Subsidiaries indebted (or committed to make loans or extend or guarantee credit) to any of them, other than (i) for payment of salary for services rendered, (ii) reimbursement for reasonable expenses incurred on behalf of the Company, and (iii) for other standard employee benefits made generally available to all employees or executives (including stock option agreements outstanding under any stock option plan approved by the Board of Directors of the Company).

5.12 Capitalization.

(a) Definitions:

(i) "Common Stock" means (x) the Company's shares of common stock, $0.0001 par value per share, and (y) any capital stock into which such common stock shall have been changed or any share capital resulting from a reclassification of such Common Stock.

(ii) "Preferred Stock" means (x) the Company's blank check preferred stock, $0.0001 par value per share, the terms of which may be designated by the board of directors of the Company in a certificate of designation and (y) any capital stock into which such Preferred Stock shall have been changed or any share capital resulting from a reclassification of such Preferred Stock (other than a conversion of such preferred stock into Common Stock in accordance with the terms of such certificate of designations).

(b) Authorized and Outstanding Capital Stock. As of the date hereof, the authorized capital stock of the Company consists of (A) 150,000,000 shares of Common Stock, of which, 10,352,018 are issued and outstanding as of the date hereof and 2,595,122 shares of Common Stock are reserved for issuance pursuant to Convertible Securities (as defined below), in each case exercisable or exchangeable for, or convertible into, shares of Common Stock, and (B) 5,000,000 shares of Preferred Stock, of which (i) 400,000 have been designated as Series A Preferred Stock of which none are issued and outstanding; and, (ii) 100,000 have been designated as Series B Preferred Stock of which none are issued and outstanding, (iii) one (1) has been designated as Special Voting Preferred Stock of which one (1) is issued and outstandingly and (iv) 3,422 have been designated Series C Preferred Stock of which 3,422 shares are issued and outstanding. No shares of Common Stock are held in the treasury of the Company. "Convertible Securities" means any capital stock or other security of the Company or any of its Subsidiaries that is at any time and under any circumstances directly or indirectly convertible into, exercisable or exchangeable for, or which otherwise entitles the holder thereof to acquire, any capital stock or other security of the Company (including, without limitation, Common Stock) or any of its Subsidiaries.

(c) Valid Issuance; Available Shares; Affiliates. All of such outstanding shares of Common Stock are duly authorized and have been, or upon issuance will be, validly issued and are fully paid and nonassessable. The SEC Documents set forth the number of shares of Common Stock that are (A) reserved for issuance pursuant to Convertible Securities and (B) that are, as of the date hereof, owned by Persons who are "affiliates" (as defined in Rule 405 of the 1933 Act and calculated based on the assumption that only officers, directors and holders of at least 10% of the Company's issued and outstanding Common Stock are "affiliates" without conceding that any such Persons are "affiliates" for purposes of federal securities laws) of the Company or any of its Subsidiaries.

(d) Organizational Documents. The Company has furnished or has made available to the to the Holder by filing on the SEC EDGAR system true, correct and complete copies of the Company's Certificate of Incorporation, as amended and as in effect on the date hereof (the "Certificate of Incorporation"), and the Company's bylaws, as amended and as in effect on the date hereof (the "Bylaws"), and the terms of all Convertible Securities and the material rights of the holders thereof in respect thereto.

5.13 Indebtedness and Other Contracts. Neither the Company nor any of its Subsidiaries, (i) except as disclosed in the SEC Documents, has any outstanding debt securities, notes, credit agreements, credit facilities or other agreements, documents or instruments evidencing Indebtedness of the Company or any of its Subsidiaries or by which the Company or any of its Subsidiaries is or may become bound, (ii) is a party to any contract, agreement or instrument, except as disclosed in the SEC Documents, the violation of which, or default under which, by the other party(ies) to such contract, agreement or instrument could reasonably be expected to result in a Material Adverse Effect, (iii) has any financing statements securing obligations in any amounts filed in connection with the Company or any of its Subsidiaries, except as disclosed in the SEC Documents; (iv) is in violation of any term of, or in default under, any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not result, individually or in the aggregate, in a Material Adverse Effect, or (v) is a party to any contract, agreement or instrument relating to any Indebtedness, the performance of which, in the judgment of the Company's officers, has or is expected to have a Material Adverse Effect. Neither the Company nor any of its Subsidiaries have any liabilities or obligations required to be disclosed in the SEC Documents which are not so disclosed in the SEC Documents, other than those incurred in the ordinary course of the Company's or its Subsidiaries' respective businesses and which, individually or in the aggregate, do not or could not have a Material Adverse Effect.

5.14 Litigation. Except as otherwise disclosed by the Company in its SEC Documents or as set forth on Schedule 7.15 hereto,, there is no action, suit, arbitration, proceeding, inquiry or investigation before or by the Principal Market, any court, public board, other Governmental Entity, self-regulatory organization or body pending or, to the Knowledge of the Company, threatened against or affecting the Company or any of its Subsidiaries, the Common Stock or any of the Company's or its Subsidiaries' officers or directors that would reasonably be expected to have a Material Adverse Effect on the Company or its Subsidiaries, whether of a civil or criminal nature or otherwise, in their capacities as such. No director, officer or employee of the Company or any of its Subsidiaries has willfully violated 18 U.S.C. §1519 or engaged in spoliation in reasonable anticipation of litigation. Without limitation of the foregoing, there has not been, and to the Knowledge of the Company, there is not pending or contemplated, any investigation by the SEC involving the Company, any of its Subsidiaries or any current or former director or officer of the Company or any of its Subsidiaries. The SEC has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company under the 1933 Act or the 1934 Act. Neither the Company nor any of its Subsidiaries is subject to any order, writ, judgment, injunction, decree, determination or award of any Governmental Entity.

5.15 Disclosure. The Company confirms that neither it nor any other Person acting on its behalf has provided the Holder or its agents or counsel with any information that constitutes or would reasonably be expected to constitute material, non-public information concerning the Company or any of its Subsidiaries, other than the existence of the transactions contemplated by this Agreement. The Company understands and confirms that the Holder will rely on the foregoing representations in effecting transactions in securities of the Company. All disclosure provided to the Holder regarding the Company and its Subsidiaries, their businesses and the transactions contemplated hereby, including the schedules to this Agreement, furnished by or on behalf of the Company or any of its Subsidiaries is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. Each press release issued by the Company or any of its Subsidiaries during the twelve (12) months preceding the date of this Agreement did not at the time of release contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading. No event or circumstance has occurred or information exists with respect to the Company or any of its Subsidiaries or its or their business, properties, liabilities, prospects, operations (including results thereof) or conditions (financial or otherwise), which, under applicable law, rule or regulation, requires public disclosure at or before the date hereof or announcement by the Company but which has not been so publicly announced or disclosed.

6. Representations and Warranties of the Holder. As a material inducement to the Company to enter into this Agreement and consummate the Exchange, the Holder represents, warrants and covenants with and to the Company as of the date hereof and the Closing Date, as follows:

6.1 Reliance of Exemptions. The Holder understands that the Exchange Shares and are being offered and exchanged in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and the Holder's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Holder set forth herein in order to determine the availability of such exemptions and the eligibility of the Holder to acquire the Exchange Shares.

6.2 No Governmental Review. The Holder understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Exchange Shares or the fairness or suitability of the investment in the Exchange Shares nor have such authorities passed upon or endorsed the merits of the offering of the Exchange Shares..

6.3 Validity; Enforcement. This Agreement has been duly and validly authorized, executed and delivered on behalf of the Holder and shall constitute the legal, valid and binding obligation of the Holder enforceable against the Holder in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

6.4 No Conflicts. The execution, delivery and performance by the Holder of this Agreement and the consummation by the Holder of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of the Holder or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Holder is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to the Holder, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Holder to perform its obligations hereunder.

6.5 Ownership of Series C Shares. The Holder owns the Series C Shares free and clear of any Encumbrances (other than the obligations pursuant to this Agreement and applicable securities laws).

7. Additional Covenants

7.1 Disclosure. The Company shall, on or before 8:30 a.m., New York City time, on the first business day after the date of this Agreement, issue a press release and/or Current Report on Form 8-K disclosing all material terms of the transactions contemplated hereby and attaching the form of this Agreement as an exhibit thereto (collectively with all exhibits attached thereto, the "**8-K Filing**"). From and after the issuance of the 8-K Filing, the Holder shall not be in possession of any material, nonpublic information received from the Company or any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that is not disclosed in the 8-K Filing. The Company shall not, and shall cause its officers, directors, employees, affiliates and agents, not to, provide the Holder with any material, nonpublic information regarding the Company from and after the filing of the 8-K Filing without the express written consent of the Holder. To the extent that the Company delivers any material, non-public information to the Holder without the Holder's express prior written consent, the Company hereby covenants and agrees that the Holder shall not have any duty of confidentiality to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent with respect to, or a duty to the to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agent or not to trade on the basis of, such material, non-public information. The Company shall not disclose the name of the Holder in any filing, announcement, release or otherwise, unless such disclosure is required by law or regulation. In addition, effective upon the filing of the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and the Holder or any of its affiliates, on the other hand, shall terminate and be of no further force or effect. The Company understands and confirms that the Holder will rely on the foregoing representations in effecting transactions in securities of the Company.

7.2 Listing. The Company shall promptly secure the listing or designation for quotation (as applicable) of all of the Exchange Shares an upon each Eligible Market upon which the Common Stock is then listed or designated for quotation (as applicable) (subject to official notice of issuance) and shall maintain such listing of all the Exchange Shares. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 7.2.

7.3 Holding Period. For the purposes of Rule 144 of the 1933 Act, the Company acknowledges that the holding period of the Notes and the Series C Shares may be tacked onto the holding period of the Exchange Shares, and the Company agrees not to take a position contrary to this Section 7.3.

7.4 Blue Sky. The Company shall make all filings and reports relating to the Exchange required under applicable securities or "Blue Sky" laws of the states of the United States following the date hereof, if any.

7.5 Fees and Expenses. The Company shall reimburse Kelley Drye & Warren, LLP (counsel to the lead Holder) in an aggregate non-accountable amount of $5,000 (the "**Legal Fee Amount**") for costs and expenses incurred by it in connection with drafting and negotiation of the Exchange Documents; provided, that the Company shall promptly reimburse Kelley Drye & Warren LLP on demand for any additional reasonable and documented fees and expenses not so reimbursed through such withholding at each Closing. Each party to this Agreement shall bear its own expenses in connection with the structuring, documentation, negotiation and closing of the transactions contemplated hereby, except as provided in the previous sentence, and except that the Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, transfer agent fees, Depository Trust Company (**"DTC**") fees relating to or arising out of the transactions contemplated hereby.

7.6 Independent Nature of Holder's Obligations and Rights. The obligations of the Holder under this Agreement are several and not joint with the obligations of any other holder of securities of the Company (each, an "**Other Holde**r"), and the Holder shall not be responsible in any way for the performance of the obligations of any Other Holder under any other agreement by and between the Company and any Other Holder (each, an "**Other Agreement**"). Nothing contained herein or in any Other Agreement, and no action taken by the Holder pursuant hereto, shall be deemed to constitute the Holder and Other Holders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Holder and Other Holders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Amendment or any Other Agreement and the Company acknowledges that, to the best of its knowledge, the Holder and the Other Holders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Amendment or any Other Agreement. The Company, and the Holder confirm that the Holder has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. The Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Amendment, and it shall not be necessary for any Other Holder to be joined as an additional party in any proceeding for such purpose.

8. Miscellaneous

8.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

8.2 Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY**.

8.3 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

8.4 Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon delivery, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party) or by electronic mail; or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses, facsimile numbers and e-mail addresses for such communications shall be:

If to the Company:

Akerna Corp.
1550 Larimer Street, #246
Denver, Colorado 80202
Telephone: (888) 932-6537
Email: jlb@akerna.com

With a copy to:

Dorsey & Whitney LLP
1400 Wewatta Street, Suite 400
Denver, CO 80202
Telephone: (303) 352-1133
Facsimile: (303) 629-3450
Attention: Jason K. Brenkert, Esq.
Email: brenkert.jason@dorsey.com

If to the Holder, to its address, facsimile number and e-mail address set forth on its signature page hereto, or to such other address, facsimile number and/or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine or e-mail containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

8.5 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Holder.

8.6 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

8.7 Entire Agreement. This Agreement represents the entire agreement and understandings between the parties concerning the Exchange and the other matters described herein and therein and supersedes and replaces any and all prior agreements and understandings solely with respect to the subject matter hereof and thereof.

8.8 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.9 Interpretation. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all genders, (c) “including” has the inclusive meaning frequently identified with the phrase “but not limited to” and (d) references to “hereunder” or “herein” relate to this Agreement.

8.10 No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

8.11 Survival. The representations, warranties and covenants of the Company and the Holder contained herein shall survive the Closing and delivery of the Securities.

8.12 Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

8.13 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date provided above.

AKERNA CORP.

By: _____
Name: Jessica Billingsley
Title: Chief Executive Officer

Mailing Address and E-Mail Address for Notices:
1550 Larimer Street, #246
Denver, Colorado 80202
jlb@akerna.com

IN WITNESS WHEREOF, the Holder and the Company have executed this Agreement as of the date set forth on the first page of this Agreement.

HOLDER:

By: _____
Name:
Title:

Mailing Address and E-Mail Address for Notices:

Exhibit 10.2

AKERNA CORP.

AMENDMENT NO. 2 TO EXCHANGE AGREEMENT

This Amendment No. 2 (the "**Second Amendment**") to that certain Exchange Agreement, dated January 27, 2023, by and between Akerna Corp., a Delaware corporation with offices located at 1550 Larimer Street, #246, Denver, Colorado 80202 (the "**Company**"), and investor signatory thereto (the "**Holder**") (the "**Exchange Agreement**"), is entered into as of this 8th day of February, 2024, by and between the Company and the Holder, with reference to the following facts (capitalized terms used but not otherwise defined herein shall have the meanings as set forth in the Exchange Agreement (as amended hereby) (the "**Second Amended Exchange Agreement**"):

A. Prior to the date hereof, pursuant to that certain Securities Purchase Agreement, dated as of October 5, 2021, by and between the Company and the investors party thereto (as amended, the "**Securities Purchase Agreement**"), the Company issued to such investors certain senior secured convertible notes (the "**Notes**").

B. As of the date hereof, the Holder holds $_____ in aggregate principal amount of Notes (the "**Existing Note**").

C. Previously, the Company, Gryphon Digital Mining, Inc. ("**Gryphon**") and Akerna Merger Co., a Delaware corporation ("**Merger Sub**"), entered into an Agreement and Plan of Merger, dated January 27, 2023 (the "**Merger Agreement**"), pursuant to which Merger Sub will merge with and into Gryphon (the "**Merger**"), with Gryphon surviving the Merger as a wholly owned subsidiary of the Company.

D. Under the terms of the Exchange Agreement, at the Final Closing, (i) if any portion of the Existing Note remains outstanding other than such portion of the applicable Company Optional Redemption Price of the Notes to be paid in cash pursuant to the Cash Sweep, to exchange the remaining Conversion Amount of the Existing Note into such aggregate number of shares of Common Stock (the "**Final Closing Exchange Shares**") equal to the quotient of (A) the applicable Company Optional Redemption Price of the remaining Conversion Amount of the Existing Note then outstanding divided by (B) the lower of (x) the lowest VWAP of the Common Stock during the five (5) Trading Day period ending, and including, the Trading Day immediately prior to the Final Closing Date and (y) the Conversion Price (as defined in the Existing Note) in effect as of the Final Closing Date; provided, however, that to the extent that any issuances of Final Closing Exchange Shares to the Holder at the Final Closing in accordance herewith would result in such Holder and its other Attribution Parties (as defined in the Existing Note) exceeding the Maximum Percentage (as defined in the Existing Note) (as calculated in accordance with Section 3(d)(i) of the Existing Note) (a "**Maximum Percentage Event**"), then such Holder shall not be entitled to receive such aggregate number of Final Closing Exchange Shares in excess of the Maximum Percentage (and shall not have beneficial ownership of such Final Closing Exchange Shares (or other equivalent security) as a result of the Final Closing (and beneficial ownership) to such extent of any such excess), such remaining portion of such Final Closing Exchange Shares that would have otherwise been issued to the Holder at the Final Closing (such remaining portion of Final Closing Exchange Shares, the "**Abeyance Shares**"), such portion of the Existing Note shall alternatively be exchanged for the right to receive such Abeyance Shares (with a beneficial ownership and issuance limitation substantially in the form of Section 3(d) of the Existing Note, *mutatis mutandis*), at such time or times as its right thereto would not result in such Holder and the other Attribution Parties exceeding the Maximum Percentage, at which time or times, if any, such Holder shall be granted such remaining portion of such Abeyance Shares in accordance herewith (the "**Final Exchange**").

E. The parties desire to amend the Exchange Agreement as follows (collectively, the "**Amendments**"): (i) the "Final Closing Date" under the Exchange Agreement to conduct the Final Exchange shall be the date hereof with such "Final Closing" to take place immediately following the Effective Time of the Merger, (ii) the Company Optional Redemption Price of the Existing Notes shall be $nil (iii) $_____ of the Existing Note will remain outstanding following the payment of portion of the Existing Note pursuant to the Cash Sweep and will converted at the Final Closing into 191,076 Final Closing Shares based on a per share price of $4.60 (being the lowest VWAP of the Common Stock during the five (5) Trading Day period ending, and including, the Trading Day immediately prior to the Final Closing Date of $0.23, as adjusted to reflect the 1-for-20 reverse stock split to be effected immediately prior to the Final Closing, (iv) such number of Final Closing Shares will not exceed the Maximum Percentage and therefore there will be no Abeyance Shares, and (v) the Final Exchange shall be consummated on the date hereof pursuant to Section 3(a)(9) of the Securities Act of 1933, as amended (the "**1933 Act**") and the terms set forth in this Second Amendment.

NOW, **THEREFORE**, in consideration of the foregoing premises and the mutual covenants hereinafter contained, the sufficiency of which is acknowledged by the parties, the parties hereto agree as follows:

1. Amendments; Initial Closing. At the Final Closing on the Final Closing Date, the Amendments shall be effective and the Final Exchange shall occur in accordance with the terms and conditions of this Second Amendment.

2. Acknowledgment. The Company hereby confirms and agrees that the execution, delivery and effectiveness of this Second Amendment shall not operate as an amendment, modification or waiver of any right, power or remedy of the Holder except to the extent expressly set forth and the Holder does not hereby waive any of the conditions set forth in the Exchange Agreement for the Final Closing to occur.

3. The Company's Representations and Warranties. The Company hereby represents and warrants to the Holder that the following representations are true and complete as of the date hereof.

A. *Organization and Standing*. The Company is a corporation duly organized and validly existing under the laws of the State of Delaware and is in good standing as a corporation under the laws of Delaware.

B. *Authorization*. The Company's execution, delivery, and performance of this Second Amendment has been duly authorized by all requisite corporate action, and this Second Amendment constitutes the Company's legal, valid, and binding obligation, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights. The Company's execution, delivery, and performance of this Second Amendment, and the Company's compliance with the provisions of this Second Amendment, do not conflict with, or result in a breach or violation of the terms, conditions, or provisions of, or constitute a default (or an event with which the giving of notice or passage of time, or both could result in a default) under, or result in the creation or imposition of any lien pursuant to the terms of, the Company's Certificate of Incorporation, as currently in effect, or the Company's Bylaws.

C. *Company Bring Down*. Except as set forth on Schedule 3(C) attached hereto, the Company hereby makes the representations and warranties to the Holder as set forth in Section 7 of the Exchange Agreement (as amended hereby) as if such representations and warranties were made as of the date hereof as set forth in their entirety in this Amendment, *mutatis mutandis*. Such representations and warranties to the transactions thereunder and the securities issued pursuant thereto are hereby deemed for purposes of this Amendment to be references to the transactions hereunder and the issuance of the securities pursuant hereto, references therein to "Final Closing Date" being deemed references to the date hereof, and references to "the date hereof" being deemed references to the date of this Amendment.

D. *Final Closing Conditions*. The Company hereby represents to the Holder that all of the conditions for the Final Closing under the Exchange Agreement have been fulfilled as of the date hereof.

4. Holder's Representations and Warranties. The Holder represents and warrants to the Company with respect to the transactions contemplated by this Amendment as follows:

A. *Right, Title, and Interest*. The Holder is the lawful owner of the Existing Note, has good and marketable title to the Existing Note, and has all right, title, and interest in and to the Existing Note. The Existing Note is free and clear of all liens, encumbrances, equities, security interests, and any other claims whatsoever. No third-party has any right to prevent the Holder from converting the Existing Note as contemplated by this Amendment, and no third-party has any right to receive notice of the conversion of the Existing Note as contemplated by this Amendment. The Holder is not aware of any basis for any disputes or challenges regarding the Holder's ownership of the Existing Note and no such disputes or challenges are pending or alleged.

B. *Authorization*. The Holder has full power and authority to enter into this Amendment. All action on the part of the Holder necessary for the authorization, execution, delivery and performance of this Amendment, and the performance of all of the Holder's obligations under this Amendment, has been taken or will be taken prior to the effectiveness of the Agreement. This Agreement, when executed and delivered by the Holder, will constitute valid and legally binding obligations of the Holder, enforceable in accordance with their terms.

C. *Payment in Full of Existing Note following Final Closing*. The Holder acknowledges and agrees that the payment of the Company Optional Redemption Price of the Existing Note pursuant to the Cash Sweep and issuance and delivery of the Final Closing Exchange Shares at the Final Closing constitutes full and final payment and settlement of all amounts outstanding and owed to the Holder under the Existing Note, including any and all principal amount, accrued and unpaid interest and any accrued penalties due and owing thereunder, and that the Company owes no further obligations to the Holder under the Existing Note.

5. Miscellaneous.

A. *Disclosure of Transaction*. The Company shall, on or before 8:30 a.m., New York City time, on or prior to the first Business Day after the date of this Amendment, file a Current Report on Form 8-K describing the terms of the transactions contemplated hereby in the form required by the 1934 Act and attaching this Amendment as an exhibit to such filing (excluding schedules, the "**8-K Filing**"). From and after the filing of the 8-K Filing, the Company shall have disclosed all material, non-public information (if any) provided up to such time to the Holder by the Company or any of its Subsidiaries or any of their respective officers, directors, employees or agents. In addition, upon the filing of the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement with respect to the transactions contemplated by this Second Amendment or as otherwise disclosed in the 8-K Filing, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and any of the Holder or any of their affiliates, on the other hand, shall terminate. Neither the Company, its Subsidiaries nor the Holder shall issue any press releases or any other public statements with respect to the transactions contemplated hereby; *provided, however,* the Company shall be entitled, without the prior approval of the Holder, to issue a press release or make such other public disclosure with respect to such transactions (i) in substantial conformity with the 8-K Filing and contemporaneously therewith or (ii) as is required by applicable law and regulations (provided that in the case of clause (i) the Holder shall be consulted by the Company in connection with any such press release or other public disclosure prior to its release). For the avoidance of doubt, the foregoing sentence shall not apply to any press release or other public statement solely with respect to the Merger Agreement and the transactions contemplated thereby and without any reference to the Holder or this Second Amendment. Without the prior written consent of the Holder (which may be granted or withheld in the Holder's sole discretion), except as required by applicable law, the Company shall not (and shall cause each of its Subsidiaries and affiliates to not) disclose the name of the Holder in any filing, announcement, release or otherwise. Notwithstanding anything contained in this Second Amendment to the contrary and without implication that the contrary would otherwise be true, the Company expressly acknowledges and agrees that the Holder shall not have (unless expressly agreed to by the Holder after the date hereof in a written definitive and binding agreement executed by the Company and the Holder (it being understood and agreed that no Other Holder may bind the Holder with respect thereto)), any duty of confidentiality with respect to, or a duty not to trade on the basis of, any material, non-public information regarding the Company or any of its Subsidiaries

B. *Fees*. The Company shall reimburse Kelley Drye & Warren, LLP (counsel to the lead Holder) in an aggregate non-accountable amount of $5,000 (the "**Legal Fee Amount**") for costs and expenses incurred by it in connection with drafting and negotiation of this Second Amendment; provided, that the Company shall promptly reimburse Kelley Drye & Warren LLP on demand for any additional reasonable and documented fees and expenses not so reimbursed through such withholding at each Closing. Each party to this Second Amendment shall bear its own expenses in connection with the structuring, documentation, negotiation and closing of the transactions contemplated hereby, except as provided in the previous sentence, and except that the Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, transfer agent fees, Depository Trust Company ("**DTC**") fees relating to or arising out of the transactions contemplated hereby.

C. *Independent Nature of Holder's Obligations and Rights*. The obligations of the Holder under this Second Amendment are several and not joint with the obligations of any other holder of securities of the Company (each, an "**Other Holder**"), and the Holder shall not be responsible in any way for the performance of the obligations of any Other Holder under any other agreement by and between the Company and any Other Holder (each, an "**Other Agreement**"). Nothing contained herein or in any Other Agreement, and no action taken by the Holder pursuant hereto, shall be deemed to constitute the Holder and Other Holders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Holder and Other Holders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Second Amendment or any Other Agreement and the Company acknowledges that, to the best of its knowledge, the Holder and the Other Holders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Second Amendment or any Other Agreement. The Company, and the Holder confirm that the Holder has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. The Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Second Amendment, and it shall not be necessary for any Other Holder to be joined as an additional party in any proceeding for such purpose.

D. *Notices*. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Second Amendment must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon delivery, when sent by electronic mail; or (iii) one Trading Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses and e-mail addresses for such communications shall be as set forth on the signature pages attached hereto or to such other address and/or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's e-mail containing the time, date and copy of the message or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by electronic mail or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

E. *Successors and Assigns.* Except as otherwise provided herein, the terms and conditions of this Second Amendment shall inure to the benefit of and be binding upon the parties hereto and the respective successors and assigns of the parties. Nothing in this Second Amendment, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Second Amendment, except as expressly provided in this Second Amendment.

F. *Governing Law*. All questions concerning the construction, validity, enforcement and interpretation of this Second Amendment shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Second Amendment and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

G. *Severability*. If one or more provisions of this Second Amendment are held to be unenforceable under applicable law, such provision shall be excluded from this Second Amendment and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms so long as this Second Amendment as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

H. *Counterparts*. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

I. *No Third Party Beneficiaries*. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

(SIGNATURE PAGES FOLLOW)

IN WITNESS WHEREOF, the Company and the Holder have each executed this Second Amendment as of the date set forth on the first page of this Second Amendment.

AKERNA CORP.

By: _____
Name: Jessica Billingsley
Title: Chief Executive Officer

Mailing Address and E-Mail Address for Notices:
1550 Larimer Street, #246
Denver, Colorado 80202
jlb@akerna.com

[SIGNATURE PAGE TO AMENDMENT NO. 2 TO EXCHANGE AGREEMENT]

IN WITNESS WHEREOF, the Holder and the Company have executed this Second Amendment as of the date set forth on the first page of this Second Amendment.

HOLDER:

By: _____
Name:
Title:

Mailing Address and E-Mail Address for Notices:

_____

_____

_____

[SIGNATURE PAGE TO AMENDMENT NO. 2 TO EXCHANGE AGREEMENT]

Exhibit 10.3

RELEASE AND TERMINATION OF SECURITY AGREEMENTS

THIS RELEASE AND TERMINATAION OF SECURITY AGREEMENTS (the "**Release and Termination**") dated February 8, 2024 is granted and entered into by HT Investments MA LLC, in its capacity as collateral agent (the "**Collateral Agent**") under that certain Amended and Restated Security and Pledge Agreement dated as of October 5, 2021 (the "**Security Agreement**") related to the issuance of senior secured convertible notes (the "**Notes**") by Akerna Corp., a Delaware corporation (the "**Company**"), acting on behalf of the holders of the Notes (the "**Holders**"), for the benefit of the Company.

RECITALS

WHEREAS, the Company is party to that certain Securities Purchase Agreement, dated as of October 5, 2021 (as amended, restated, extended, replaced or otherwise modified from time to time, the "**Securities Purchase Agreement**"), by and among the Company, the Collateral Agent and the Holders, pursuant to which the Company sold Notes to the Holders (capitalized terms not defined herein shall have the meaning as set forth in the Securities Purchase Agreement).

WHEREAS, as security for the repayment of the Company's obligations under the Notes, the Company and certain subsidiaries of the Company entered into the Security Agreement, that certain Amended and Restated Intellectual Property Security Agreement dated October 5, 2021 (the "**Intellectual Property Security Agreement**") and a guaranty dated October 5, 2021 (the "**Guaranty**") (in each case as the same may be amended, restated, extended, restructured, refinanced, replaced, supplemented or otherwise modified from time to time, collectively, the 2021 Securities Purchase Agreement, the Security Agreement, the Intellectual Property Security Agreement and the Guaranty, the "**Senior Credit Agreements**") pursuant to which, among other things, the Company and its subsidiaries signatory thereto (the "**Credit Parties**') agreed to secure their obligations arising under and related to the Securities Purchase Agreement and the Notes by granting the Collateral Agent, in its capacity as collateral agent to the Holders, a first priority security interest on substantially all of the assets of the Company and its material subsidiaries, including, without limitation, a pledge by the Company of all of membership interests (the "**Membership Interests**") of its wholly-owned subsidiary MJ Freeway LLC, a Colorado limited liability company ("**MJF**") held by the Company and by granting the Collateral Agent a guaranty of the payment of the Compamny's obligations under the Notes.

WHEREAS, the Company has entered into that certain Securities Purchase Agreement ("**MJA SPA**") by and between the Company, Akerna Canada Ample Exchange Inc. and MJ Acquistion Corp ("**MJA**") dated April 27, 2023, under which the Company will sell to MJA all of the Membership Interests (the "**Sale Transaction**").

WHEREAS, the Company, Gryphon Digital Mining, Inc. ("**Gryphon**") and Akerna Merger Co., a Delaware corporation ("**Merger Sub**"), entered into an Agreement and Plan of Merger, dated January 27, 2023 (the "**Merger Agreement**"), pursuant to which Merger Sub will merge with and into Gryphon (the "**Merger**"), with Gryphon surviving the Merger as a wholly owned subsidiary of the Company.

WHEREAS, in connection with the entry by the Company and Gryphon into the Merger Agreement, the Company and the Holder entered into an Exchange Agreement dated January 27, 2023 (as amended, the "**Exchange Agreement**") pursuant to which, among other things, conditioned upon the terms and conditions set forth therein, including the payment of the Company Optional Redemption Price of the Existing Note pursuant to the Cash Sweep and issuance and delivery of the Final Closing Exchange Shares at the Final Closing, the Holder agreed to consent to this Release and Termination.

WHEREAS, on or prior to the date hereof, each Holder has, severally, entered into a consent and agreement with the Company pursuant to which the Holder has consented to this Release and Termination in the form attached thereto as Exhibit A (collectively, the "**Consents**").

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants and agreements set forth in this Release and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows

1. Release of Security Interest and Termination of Senior Credit Agreements. Effective as of the later of (the "**Effective Time**") (a) the time each of the Holders, severally, and the Company shall have duly executed and delivered to the Collateral Agent the Consents, (b) the time the parties hereto shall have executed and delivered this Release and Termination and (c) the time each Holder shall have been issued and delivered the Final Closing Exchange Shares to be issued and delivered to such Holder under the Exchange Agreement and each Holder has received evidence of a right to receive cash from the Company's ERTC receivable being assigned to Distributionco LLC, a Colorado Limited Liability Company pursuant to that certain ERTC & Liability Transfer Agreement dated February 8, 2024 (such right being in the amount of $413,000 for Holder High Trail Investments ON LLC and $242,500 for Holder Alto Opportunity Master Fund, SPC – Segregated Master Portfolio B), such delivery and evidence of right having been agreed to by each Holder as full and final payment of their Note, the Collateral Agent hereby (i) irrevocably and unconditionally releases and forever discharges, from and as of the date hereof, (A) its security interest (including any lien, claim or encumbrances related thereto) in the Credit Parties, (B) its security interest (including any lien, claim or encumbrances related thereto) in the Collateral (as defined in the Security Agreement and the IP Agreement) of the Credit Parties, (C) the obligations of the Credit Parties party to the Guaranty and (ii) agrees that each of the Senior Credit Agreement is hereby terminated and shall be of no further force and effect without the necessity of any further action on the part of the Credit Parties, the Collateral Agent, any Holder or any other Person.

2. Additional Actions. Effective as of the Effective Time, and at all times thereafter upon request of the Company, MJA or Gryphon, Collateral Agent will take and execute, or cause to be taken and executed, all actions and further instruments reasonably necessary, at the expense of the Company (in excess of the Legal Fee Amount (as defined below)), including but not limited to consenting to the Company, MJA or Gryphon filing UCC-3 amendment notices, to effect and give reasonable evidence to the terms of this Release and Termination.

3. Third Party Beneficiary. MJA and Gryphon are a third party beneficiary of the provisions set forth in this Release and Termination. Other than MJA and Gryphon, this Release and Termination are intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

4. Fees and Expenses. The Company shall reimburse the Collateral Agent a nonaccountable amount of $5,000 for the legal fees and expenses of Kelley Drye & Warren LLP, counsel to the Collateral Agent, in connection with the preparation and negotiation of this Release available funds in accordance with the written instructions delivered to the Company (the "**Legal Fee Amount**"). The Legal Fee Amount shall be paid by the Company whether or not the transactions contemplated by this Release are consummated.

5. No Material Information. On or before 8:30 a.m., New York City time, on the first(1st) Business Day occurring after the Effective Date, the Company shall file a Current Report on Form 8-K describing the terms of the transactions contemplated by this Release and Termination in the form required by the 1934 Act and attaching this Release and Termination as an exhibit to such filing (the "**8-K Filing**"). From and after the filing of the 8-K Filing with the SEC, no Holder nor the Collateral Agent shall be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that is not disclosed in the 8-K Filing. In addition, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents on the one hand, and each Holder, the Collateral Agent and/or any of their affiliates on the other hand, will terminate as of the date of filing of the 8-K Filing and is of no further force or effect. The Company shall not, and shall cause each of its Subsidiaries and its and each of their respective officers, directors, affiliates, employees and agents, not to, provide any Holder and/or the Collateral Agent, as applicable, with any material, non-public information regarding the Company or any of its Subsidiaries from and after the date of the 8-K Filing without the express prior written consent of the Collateral Agent. The Company understands and confirms that the Collateral Agent will rely on the foregoing representations in effecting transactions in securities of the Company.

6. Counterparts. This Release and Termination may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

8. No Strict Construction. The language used in this Release and Termination will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

9. Headings. The headings of this Release and Termination are for convenience of reference and shall not form part of, or affect the interpretation of, this Release and Termination.

10. Severability. If any provision of this Release and Termination is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Release and Termination so long as this Release and Termination as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

11. Amendments. No provision of this Release and Termination may be amended other than by an instrument in writing signed by the Company and the Collateral Agent.

12. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Release and Termination and the consummation of the transactions contemplated hereby.

13. Successors and Assigns. This Release and Termination shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

14. Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Release and Termination shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Release and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS RELEASE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

[Signature Page Follows]

IN WITNESS WHEREOF, the Holder and the Company have caused their respective signature page to this Release and Termination to be duly executed as of the date first written above.

COMPANY:

AKERNA CORP.

By: /s/ Jessica Billingsley
Name: Jessica Billingsley
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Collateral Agent and the Company have caused their respective signature page to this Release and Termination to be duly executed as of the date first written above.

COLLATERAL AGENT:

HT INVESTMENTS MA LLC

By: /s/ Eric Helenek
Name: Eric Helenek
Title: Authorized Signatory

Exhibit 10.4

CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT (the "**Consent**") is made on February 8, 2024 (the "**Effective Date**"), by and between the undersigned investor (the "**Holder**") and Akerna Corp., a Delaware corporation (the "**Company**").

RECITALS

WHEREAS, the Company is party to that certain Securities Purchase Agreement, dated as of October 5, 2021 (as amended, restated, extended, replaced or otherwise modified from time to time, the "**Securities Purchase Agreement**"), by and among the Company, the Holder and the other investors party thereto (the "**Other Holders**", and together with the Holder, the "**Holders**") and HT Investments MA LLC, in its capacity as collateral agent to the Holders (the "**Collateral Agent**"), pursuant to which the Company sold certain senior secured convertible notes (the "**Notes**") to the Holders (capitalized terms not defined herein shall have the meaning as set forth in the Securities Purchase Agreement);

WHEREAS, as security for the repayment of the Company's obligations under the Notes, the Company and certain subsidiaries of the Company entered into that certain Amended and Restated Security and Pledge Agreement dated as of October 5, 2021 (the "**Security Agreement**"), that certain Amended and Restated Intellectual Property Security Agreement dated October 5, 2021 (the "**Intellectual Property Security Agreement**") and a guaranty dated October 5, 2021 (the "**Guaranty**") (in each case as the same may be amended, restated, extended, restructured, refinanced, replaced, supplemented or otherwise modified from time to time, collectively, the 2021 Securities Purchase Agreement, the Security Agreement, the Intellectual Property Security Agreement and the Guaranty, the "**Senior Credit Agreements**") pursuant to which, among other things, the Company and its subsidiaries signatory thereto (the "**Credit Parties**') agreed to secure their obligations arising under and related to the Securities Purchase Agreement and the Notes by granting the Collateral Agent, in its capacity as collateral agent to the Holders, a first priority security interest on substantially all of the assets of the Company and its material subsidiaries, including, without limitation, a pledge by the Company of all of membership interests (the "**Membership Interests**") of its wholly-owned subsidiary MJ Freeway LLC, a Colorado limited liability company ("**MJF**") held by the Company and by granting the Collateral Agent a guaranty of the payment of the Compamny's obligations under the Notes;

WHEREAS, the Company has entered into that certain Securities Purchase Agreement ("**MJA SPA**") by and between the Company, Akerna Canada Ample Exchange Inc. and MJ Acquistion Corp ("**MJA**") dated April 27, 2023, under which the Company will sell to MJA all of the Membership Interests (the "**Sale Transaction**").

WHEREAS, the Company, Gryphon Digital Mining, Inc. ("**Gryphon**") and Akerna Merger Co., a Delaware corporation ("**Merger Sub**"), entered into an Agreement and Plan of Merger, dated January 27, 2023 (the "**Merger Agreement**"), pursuant to which Merger Sub will merge with and into Gryphon (the "**Merger**"), with Gryphon surviving the Merger as a wholly owned subsidiary of the Company.

WEHREAS, in connection with the entry by the Company and Gryphon into the Merger Agreement, the Company and the Holder entered into an Exchange Agreement dated January 27, 2023 (as amended, the "**Exchange Agreement**") pursuant to which, among other things, conditioned upon the terms and conditions set forth therein, including the payment of the Company Optional Redemption Price of the Existing Note pursuant to the Cash Sweep and issuance and delivery of the Final Closing Exchange Shares at the Final Closing, the Holder agreed to consent to this Release and Termination.

WHEREAS, the Holder desires to consent to the releases and termination of the Senior Credit Agreements pursuant to the terms and conditions set forth herein and to instruct the Collateral Agent to execute and perform the terms and conditions of that certain release and termination agreement attached hereto as **Exhibit A** (the "**Release and Termination**"); and

WHEREAS, concurrently herewith, each Other Holder has received a consent in the form of this Consent (each, an "**Other Consent**", and together with this Consent, the "**Consents**") and the Company is seeking to obtain Consents from each of the Holders.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants and agreements set forth in this Consent and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree asfollows:

1. Release of Security Interest and Termination of Senior Credit Agreements. Effective as of the time each Holder, severally, and the Company shall have executed and delivered to the Collateral Agent and the Company a duly and fully executed irrevocable consent in the form of this Consent (the "**Sale Transaction Effective Time**"), the Holder hereby irrevocably consents to (i) the Collateral Agent's irrevocable and unconditional release and forever discharge of (A) its security interest (including any lien, claim or encumbrances related thereto) in the Credit Parties, (B) its security interest (including any lien, claim or encumbrances related thereto) in the Collateral (as defined in the Security Agreement and the IP Agreement) of the Credit Parties, (C) the obligations of the Credit Parties party to the Guaranty and (ii) the Collateral Agent's agreement that each of the Senior Credit Agreement is hereby terminated and shall be of no further force and effect without the necessity of any further action on the part of the Credit Parties, the Collateral Agent, any Holder or any other Person, subject in each case to the unqualified satisfaction of the terms and conditions of such release and agreement to termination as set forth in the Release and Termination.

2. No Material Information. On or before 8:30 a.m., New York City time, on the first (1st) Business Day occurring after the Effective Date, the Company shall file a Current Report on Form 8-K describing the terms of the transactions contemplated by this Agreement in the form required by the 1934 Act and attaching this Agreement as an exhibit to such filing (the "**8-K Filing**"). From and after the filing of the 8-K Filing with the SEC, no Holder nor the Collateral Agent shall be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that is not disclosed in the 8-K Filing. In addition, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents on the one hand, and each Holder, the Collateral Agent and/or any of their affiliates on the other hand, will terminate as of the date of filing of the 8-K Filing and is of no further force or effect. The Company shall not, and shall cause each of its Subsidiaries and its and each of their respective officers, directors, affiliates, employees and agents, not to, provide any Holder and/or the Collateral Agent, as applicable, with any material, non-public information regarding the Company or any of its Subsidiaries from and after the date of the 8-K Filing without the express prior written consent of such Holder and/or the Collateral Agent, as applicable. The Company understands and confirms that the Holder will rely on the foregoing representations in effecting transactions in securities of the Company.

3. Counterparts. This Consent may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

4. No Strict Construction. The language used in this Consent will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

5. Headings. The headings of this Consent are for convenience of reference and shall not form part of, or affect the interpretation of, this Consent.

6. Severability. If any provision of this Consent is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Consent so long as this Consent as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

7. Amendments. No provision of this Consent may be amended other than by an instrument in writing signed by the Company, the Holder, and Wilcompute.

8. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Consent and the consummation of the transactions contemplated hereby.

9. Successors and Assigns. This Consent shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

10. Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Consent shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Consent and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS CONSENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

11. Most Favored Nation. The Company hereby represents and warrants as of the date hereof and covenants and agrees from and after the date hereof that none of the terms offered to any Person with respect to any consent, release, amendment, settlement or waiver relating to the terms, conditions and transactions contemplated hereby (each a "**Settlement Document**"), is or will be more favorable to such Person than those of the Holder and this Consent. If, and whenever on or after the date hereof, the Company enters into a Settlement Document, then (i) the Company shall provide notice thereof to the Holder immediately following the occurrence thereof and (ii) the terms and conditions of this Consent shall be, without any further action by the Holder or the Company, automatically amended and modified in an economically and legally equivalent manner such that the Holder shall receive the benefit of the more favorable terms and/or conditions (as the case may be) set forth in such Settlement Document, provided that upon written notice to the Company at any time the Holder may elect not to accept the benefit of any such amended or modified term or condition, in which event the term or condition contained in this Consent shall apply to the Holder as it was in effect immediately prior to such amendment or modification as if such amendment or modification never occurred with respect to the Holder; and provided further that no amendment or modification to this Agreement shall have the effect of (a) limiting the scope of the releases of security interests contemplated by this Consent or the Releases; or (b) increasing or granting a security interest (including any lien, claim or encumbrances related thereto) in the Ample Shares or in the Collateral (as defined in the Security Agreement and the IP Agreement) of the Company covered by the IP Assignment Agreement. The provisions of this Section 13 shall apply similarly and equally to each Settlement Document.

12. Independent Nature of Holder's Obligations and Rights. The obligations of the Holder under this Consent are several and not joint with the obligations of any Other Holder, and the Holdershall not be responsible in any way for the performance of the obligations of any Other Holder under any Other Consent. Nothing contained herein or in any Other Consent, and no action taken by the Holder pursuant hereto, shall be deemed to constitute the Holder and Other Holders as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Holder and Other Holders are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by this Consent or any Other Consent and the Company acknowledges that, to the best of its knowledge, the Holder and the Other Holders are not acting in concert or as a group with respect to such obligations or the transactions contemplated by this Consent or any Other Consent. The Company and the Holder confirm that the Holder has independently participated in the negotiation of the transactions contemplated hereby with the advice of its own counsel and advisors. The Holder shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Consent, and it shall not be necessary for any Other Holder to be joined as an additional party in any proceeding for such purpose.

[Signature Page Follows]

IN WITNESS WHEREOF, the Holder and the Company have caused their respective signature page to this Consent to be duly executed as of the date first written above.

COMPANY:

AKERNA CORP.

By: _____

Name: Jessica Billingsley
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Holder and the Company have caused their respective signature page to this Consent to be duly executed as of the date first written above.

HOLDER:

By: _____

Name:

Title: Authorized Signatory

Exhibit 10.5

RELEASE AND TERMINATION OF SECURITY AGREEMENTS

THIS RELEASE AND TERMINATAION OF SECURITY AGREEMENTS (the "**Release and Termination**") dated February 8, 2024 is granted and entered into by MJ Acquisition Corp. in its capacity as the secured party (the "**Secured Party**") under that certain Second Amended and Restated Security and Pledge Agreement dated as of November 15, 2023 (the "**Security Agreement**") related to the issuance of a second amended and restated secured promissory note (the "**Note**") by Akerna Corp., a Delaware corporation (the "**Company**") in the name of the Secured Party.

RECITALS

WHEREAS, the Company is party to that certain Second Amended and Restated Securities Purchase Agreement, dated as of November 15, 2023 (as amended, restated, extended, replaced or otherwise modified from time to time, the "**Securities Purchase Agreement**"), by and among the Company and the Secured Party, pursuant to which the Company sold the Note to the Secured Party (capitalized terms not defined herein shall have the meaning as set forth in the Securities Purchase Agreement).

WHEREAS, as security for the repayment of the Company's obligations under the Notes, the Company and certain subsidiaries of the Company entered into the Security Agreement, that certain Second Amended and Restated Intellectual Property Security Agreement dated November 15, 2023 (the "**Intellectual Property Security Agreement**") and a Second Amended and Restated Guaranty dated November 15, 2023 (the "**Guaranty**") (in each case as the same may be amended, restated, extended, restructured, refinanced, replaced, supplemented or otherwise modified from time to time, collectively, the Securities Purchase Agreement, the Security Agreement, the Intellectual Property Security Agreement and the Guaranty, the "**Senior Credit Agreements**") pursuant to which, among other things, the Company and its subsidiaries signatory thereto (the "**Credit Parties**') agreed to secure their obligations arising under and related to the Securities Purchase Agreement and the Note by granting the Secured Party, a security interest on substantially all of the assets of the Company and its material subsidiaries, including, without limitation, a pledge by the Company of all of membership interests (the "**Membership Interests**") of its wholly-owned subsidiary MJ Freeway LLC, a Colorado limited liability company ("**MJF**") held by the Company and by granting the Secured Party a guaranty of the payment of the Company's obligations under the Notes.

WHEREAS, the Company has entered into that certain Securities Purchase Agreement ("**MJA SPA**") by and between the Company, Akerna Canada Ample Exchange Inc. and the Secured Party dated April 27, 2023, under which the Company will sell to the Secured Party all of the Membership Interests (the "**Sale Transaction**").

WHEREAS, the Company, Gryphon Digital Mining, Inc. ("**Gryphon**") and Akerna Merger Co., a Delaware corporation ("**Merger Sub**"), entered into an Agreement and Plan of Merger, dated January 27, 2023 (the "**Merger Agreement**"), pursuant to which Merger Sub will merge with and into Gryphon (the "**Merger**"), with Gryphon surviving the Merger as a wholly owned subsidiary of the Company.

WHEREAS in connection with closing of the Sale Transaction, pursuant to the terms of the Note, the principal amount of the Note will be converted into shares of common stock of the Company (the "**MJA Conversion Shares**") pursuant to the terms and conditions of the Note.

WHEREAS, in connection with the closing of the Merger and the Sale Transaction, the Company requires that the Secured Party release its security interests under the Senior Credit Agreements and terminate all such Senior Credit Agreements.

NOW, THEREFORE, in consideration of the promises and the mutual representations, warranties, covenants and agreements set forth in this Release and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows

1. Release of Security Interest and Termination of Senior Credit Agreements. Effective as of the later of (the "**Effective Time**") (a) the time the parties hereto shall have executed and delivered this Release and Termination and (b) the time the Secured Party shall have been assigned and transferred the Membership Interests and issued and delivered the MJA Conversion Shares to be issued and delivered to the Secured Party under the Notes, such assignment and delivery having been agreed to by the Secured Party as full and final payment of the Note, the Secured Party hereby (i) irrevocably and unconditionally releases and forever discharges, from and as of the date hereof, (A) its security interest (including any lien, claim or encumbrances related thereto) in the Credit Parties, (B) its security interest (including any lien, claim or encumbrances related thereto) in the Collateral (as defined in the Security Agreement and the IP Agreement) of the Credit Parties, (C) the obligations of the Credit Parties party to the Guaranty and (ii) agrees that each of the Senior Credit Agreements is hereby terminated and shall be of no further force and effect without the necessity of any further action on the part of the Credit Parties, the Secured Party or any other Person.

2. Additional Actions. Effective as of the Effective Time, and at all times thereafter upon request of the Company or Gryphon, the Secured party will take and execute, or cause to be taken and executed, all actions and further instruments reasonably necessary, at the expense of the Company, including but not limited to consenting to the Company or Gryphon filing UCC-3 amendment notices, to effect and give reasonable evidence to the terms of this Release and Termination.

3. Third Party Beneficiary. Gryphon is a third party beneficiary of the provisions set forth in this Release and Termination. Other than Gryphon, this Release and Termination are intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

4. Fees and Expenses. Each party shall bear the cost of its own fees and expenses in relation to this Release.

5. No Material Information. On or before 8:30 a.m., New York City time, on the fourth (4^{th}) Business Day occurring after the Effective Date, the Company shall file a Current Report on Form 8-K describing the terms of the transactions contemplated by this Agreement in the form required by the 1934 Act and attaching this Agreement as an exhibit to such filing (the "**Agreement 8-K Filing**"). On or before the first (1^{st}) Business Day occurring after the fourteenth (14^{th}) calendar day following the Effective Date, the Company shall file a Current Report on Form 8-K describing any material, non-public information otherwise received by the Secured Party, as applicable, from the Company in the form required by the 1934 Act (the "**Other 8-K Filing**" and together with the Agreement 8-K Filing, the "**8-K Filings**"). From and after the filing of the 8-K Filings with the SEC, the Secured Party shall not be in possession of any material, nonpublic information received from the Company, any of its Subsidiaries or any of their respective officers, directors, employees, affiliates or agents, that is not disclosed in the 8-K Filings. In addition, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, affiliates, employees or agents on the one hand, and the Secured Party and/or any of their affiliates on the other hand, will terminate as of the date of filing of the Other 8-K Filing and is of no further force or effect. The Company shall not, and shall cause each of its Subsidiaries and its and each of their respective officers, directors, affiliates, employees and agents, not to, provide the Secured Party with any material, non-public information regarding the Company or any of its Subsidiaries from and after the date of the Other 8-K Filing without the express prior written consent of the Secured Party. The Company understands and confirms that the Secured Party will rely on the foregoing representations in effecting transactions in securities of the Company.

6. Counterparts. This Release and Termination may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such signature page were an original thereof.

8. No Strict Construction. The language used in this Release and Termination will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

9. Headings. The headings of this Release and Termination are for convenience of reference and shall not form part of, or affect the interpretation of, this Release and Termination.

10. Severability. If any provision of this Release and Termination is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Release and Termination so long as this Release and Termination as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

11. Amendments. No provision of this Release and Termination may be amended other than by an instrument in writing signed by the Company and the Secured Party.

12. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Release and Termination and the consummation of the transactions contemplated hereby.

13. Successors and Assigns. This Release and Termination shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

14. Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Release and Termination shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Release and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS RELEASE OR ANY TRANSACTION CONTEMPLATED HEREBY.**

[Signature Page Follows]

IN WITNESS WHEREOF, the Secured Party and the Company have caused their respective signature page to this Release and Termination to be duly executed as of the date first written above.

COMPANY:

AKERNA CORP.

By: /s/ Jessica Billingsley
Name: Jessica Billingsley
Title: Chief Executive Officer

IN WITNESS WHEREOF, the Secured Party and the Company have caused their respective signature page to this Release to be duly executed as of the date first written above.

SECURED PARTY:

MJ ACQUISITION CORP

By: /s/ Scott Ogur
Name: Scott Ogur
Title: Authorized Signatory

Exhibit 10.6

ERTC & LIABILITY TRANSFER AGREEMENT FOR AKERNA Corp.

THIS ERTC & LIABILITY TRANSFER AGREEMENT ("Agreement") is made and entered into as of February 8, 2024 between Akerna Corp., a Delaware Corporation, ("Transferor") and Distributionco LLC, a Colorado Limited Liability Company, ("Transferee") for the voluntary transfer of ERTC receivables payable by Paychex, Inc. and certain liabilities of Transferor, owed by Transferor to the parties identified in this Agreement ("Liabilities").

RECITALS

A. Transferor possesses certain Employee Retention Tax Credit receivables and is liable for certain payments; and

B. Transferor desires to Transfer to Transferee and Transferee desires to receive from Transferor said ERTC receivables for the purpose of the payment of Transferor's Liabilities; and

C. Transferee agrees to make certain payments, as specified by Transferor, in settlement of said liabilities.

In consideration of the mutual promises, representation, warranties, and covenants contained in this Agreement, the Parties agree as follows:

1. **Transfer of ERTC Receivables.** Subject to the terms and conditions of this Agreement, Transferor agrees to transfer the ERTC receivables ("Transferred Asset") to Transferee.

2. **Payment of Existing Liabilities.** Transferee agrees to utilize the Transferred Asset, subject to each party's respective percentage share, to satisfy the liabilities of the parties identified in Schedule A ("Receiving Parties"):

3. **Terms.** Transferee shall make the payments from the Transferred Asset to the Receiving Parties within five (5) business days of Transferee's receipt of funds received from the Transferred Asset.

4. **Representations and Warranties of Transferor.** Transferor represents and warrants to Transferee as of the date of this Agreement that:

a. Transferor has full power and authority to execute and deliver this Agreement and to perform Transferor's obligations under it, and that this Agreement constitutes the valid and legally binding obligation of Transferor, enforceable in accordance with its terms and consideration.

b. Transferor holds of record, the Transferred Amount, free and clear of any restrictions on transfer (other than any restriction under applicable law), liabilities, taxes, security interests, options, warrants, purchase rights, contracts, commitments, equities, claims, or demands.

5. **Representations and Warranties of Transferee.** Transferee represents and warrants to Transferor as of the date of this Agreement that:

a. Transferee has full power and authority to execute and deliver this Agreement and to perform Transferee's obligations under it, and that this Agreement constitutes the valid and legally binding obligation of Transferee, enforceable with its terms and conditions.

6. Indemnification and Limitation of Liability.

a. Transferee shall indemnify or reimburse Transferor from and against any losses, claims, damages, liabilities, costs, and expenses, incurred after the transfer, (including reasonable attorney's fees and other expenses of investigation and defense or prosecution of any claims or actions) to which Transferor may become subject due to, or which result from: (i) any breach by Transferee of the covenants, warranties, or representations contained in this Agreement; and (ii) any third party claims which arise out of, relate to, or result from any act or omission of the Transferee.

b. Transferor shall indemnify or reimburse Transferee from and against any losses, claims, damages, liabilities, costs and expenses incurred prior to the transfer (including reasonable attorney's fees and other expenses of investigation and defense or prosecution of any claims or actions) to which Transferee may become subject due to, or which result from, any breach by the Transferor of the covenants, warranties, or representations contained in this Agreement.

7. **Transfer Covenants and Conditions.** Each of the parties will use reasonable efforts to take all actions and to do all things necessary to consummate and make effective the transactions contemplated in this Agreement.

8. **Agreement Binding**. This Agreement shall be binding upon the personal representatives, successors, and assignees of the parties. This Agreement and any accompanying instruments and documents include the entire transaction between the parties and there are no representations, warranties, covenants, or conditions, except those specified herein or in accompanying instruments or documents.

9. **Applicable Law and Disputes.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Any disputes arising out of this Agreement shall be submitted to mediation in Denver, Colorado. If a dispute is not resolved within thirty (30) days of the holding of a mediation session, then the dispute shall be subject to binding arbitration with the American Arbitration Association in Denver, CO. In the event of Arbitration, the losing party shall reimburse the prevailing party for reasonable attorney fees and costs incurred.

The parties have executed this Agreement on the date listed on the first page.

/s/ Jessica Billingsley

JESSICA BILLINGSLEY
For AKERNA CORP
TRANSFEROR

/s/ Scott Sozio

SCOTT SOZIO
For DISTRIBUTIONCO LLC
TRANSFEREE

Schedule A

The undersigned, in consideration of the payment from Distributionco LLC on behalf of Akerna Corp., in the amount of the below-listed percentage of funds received by Distributionco LLC, hereby waives and releases any and all claims against Akerna Corp. for additional payment of the below-listed amount. This waiver and release does not cover any additional past, present, or future payment due to the undersigned not listed below.

Amount

Percentage of Distributionco distributions

Name

Date

SHARE SETTLEMENT AGREEMENT

This SHARE SETTLEMENT AGREEMENT ("**Agreement**") is made and entered into by and between Akerna Corp., a Delaware Corporation ("**Akerna**" or the "**Company**"), and the signatory named hereto (the "**Officer**"). The Company and the Officer shall each be referred to as a "**Party**" and collectively the "**Parties**".

WHEREAS, the Officer has been employed by Akerna as an officer;

WHEREAS, Akerna has an outstanding compensation balance owed to the Officer in the in the amount set forth on Exhibit A attached hereto (the "**Compensation Balance**")

WHEREAS, Akerna wishes to satisfy the Compensation Balance in order to fully and finally settle all issues, differences, and claims, whether potential or actual, with the Officer;

NOW, THEREFORE, the parties agree as follows:

1. Effective Date. This Agreement does not become effective until a) the consummation of the transactions (the "**Transactions**") contemplated by that that certain Agreement and Plan of Merger dated as of January 27, 2023, by and among the Company, Akerna Merger Co., a Delaware corporation and wholly owned direct subsidiary of the Company, and Gryphon Digital Mining, Inc., and b) signed by all Parties as set forth in the preamble.

2. Consideration. As consideration for the promises and obligations of the Officer under this Agreement, Akerna wishes to satisfy the Compensation Balance with equity securities. Upon confirmation of the Transactions, the Company will issue to the Officer the number of shares of the Company's common stock, par value $0.0001 per share, as set forth on Exhibit A attached hereto (the "**Settlement Shares**"), based upon "market value" under Listing Rule 5635(c) of the Nasdaq Stock Market LLC, as set forth on Exhibit A attached hereto, which shall satisfy payment of the Compensation Balance in full.

3. Release of Claims by the Officer. As an inducement to the Company to enter into this Agreement and in exchange for the consideration provided for in this Agreement, including, but not limited to, as set forth in Section 2, the Officer hereby settles any and all claims that she or he has or may have against Akerna and its predecessors, successors, assigns, parents, affiliates, subsidiaries and related companies, and its and their officers, employees, agents, assigns, insurers, representatives, counsel, administrators, successors, shareholders, directors, and other representatives (collectively, the "**Released Parties**") related to or arising from the Compensation Balance.

For the consideration expressed herein, the Officer, on behalf of him and his heirs, successors, representatives, and assigns, hereby release and discharge the Released Parties from any and all claims, causes of action, liabilities, damages, and rights to relief of any kind that the Officer has or ever had against the Released Parties, known or unknown, by reason of any matter or fact giving rise to this Agreement. The Officer's release of claims is intended to extend to and includes, among other things, claims of any kind arising under or based upon the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act; the Worker Adjustment and Retraining Notification Act; Title VII of the Civil Rights Act of 1964; the Americans with Disabilities Act; the Family and Medical Leave Act; the Employee Retirement Income Security Act; the Equal Pay Act; the Occupational Safety and Health Act, the Families First Coronavirus Response Act; and any other federal, state, or local law, rule, or regulation prohibiting employment discrimination or otherwise relating to employment; and any claims based upon any other theory, whether legal or equitable, arising from or related to any matter or fact arising out the events giving rise to this Separation Agreement.

The Officer also agrees and understands that she or he is giving up any and all other claims, whether grounded in contract or tort theories, including, but not limited to: wrongful discharge; breach of contract (including, without limitation, any claims for unpaid compensation); tortious interference with contractual relations; promissory estoppel; detrimental reliance; breach of the implied covenant of good faith and fair dealing; breach of express or implied promise; breach of manuals or other policies; breach of fiduciary duty; assault; battery; fraud; false imprisonment; invasion of privacy; intentional or negligent misrepresentation; defamation, including, without limitation, libel, slander, discharge defamation, and self-publication defamation; discharge in violation of public policy; whistleblower-related claims; intentional and negligent infliction of emotional distress; claims for punitive damages and attorneys' fees; and any other theory, whether legal or equitable.

Nothing in this Agreement purports to release or waive claims that may not be released or waived as a matter of law; claims based on events, occurrences, or omissions that occur after the date of this Agreement; or claims related to any already-vested benefits under the terms of any of Akerna's benefit plans. Similarly, nothing in this Agreement prevents the Officer from challenging the validity of this Agreement; from filing a charge with the Equal Employment Opportunity Commission ("EEOC"), National Labor Relations Board ("NLRB"), the Occupational Safety and Health Administration ("OSHA"), or comparable state or local agency; or from participating in any investigation or proceeding conducted by the EEOC, NLRB, OSHA, or comparable state or local agency. However, the Officer agrees and understands that this Agreement waives all claims and rights to monetary or other recovery from the Released Parties to the fullest extent permitted by law.

This Release of Claims does not prohibit the Officer from reporting possible violations of federal law or regulation to any governmental agency or entity, including, but not limited to, the Department of Justice, the Securities and Exchange Commission ("SEC"), OSHA, Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. Nothing in this Separation Agreement requires the Officer to seek Akerna's prior authorization to make any such reports or disclosures and the Officer does not need to and is not required to notify Akerna that she or he has made any such reports or disclosures. This Agreement is not intended to and does not restrict the Officer from seeking or obtaining an SEC or OSHA whistleblower award or comparable government award.

Finally, the Officer understands that under the U.S. Defend Trade Secrets Act of 2016, the Officer will not be held criminally or civilly liable under any U.S. federal or state trade secret law for the disclosure of a trade secret that is made in confidence to government officials, either directly or indirectly, or to an attorney, in each case solely for the purpose of reporting or investigating a suspected violation of law, or in a complaint or other document filed in a lawsuit or other proceeding, provided such filing is made under seal.

4. Understandings and Acknowledgements. The Officer agrees as follows:

a. She or he understands that the certificates or other instruments representing the Settlement Shares, until such time as the resale of the securities have been registered under the Securities Act of 1933, as amended (the "**Securities Act**") and all applicable "blue sky" securities laws of any state, or such legend is not otherwise required pursuant to applicable law, shall bear the following legend:

"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND MAY NOT BE TRANSFERRED, SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE DISPOSED EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT EFFECTIVE UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, OR (B) PURSUANT TO AN EXEMPTION FROM REGISTRATION THEREUNDER. HEDGING TRANSACTIONS INVOLVING SUCH SECURITIES MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT."

b. She or he acknowledges that the Settlement Shares are highly speculative in nature and that she or he has such sophistication and experience in business and financial matters as to be capable of evaluating the merits and risks of the investment. In connection with the delivery of the Settlement Shares, she or he has not relied upon the Company for investment, legal or tax advice, or other professional advice, and has in all cases sought or elected not to seek the advice of her or his own personal investment advisers, legal counsel and tax advisers. She or he is able, without impairing her or his financial conditions, to bear the economic risk of, and withstand a complete loss of the investment and can otherwise be reasonably assumed to have the capacity to protect her or his own interests in connection with her or his investment in the Settlement Shares.

c. She or he acknowledges that the Settlement Shares have not been and will not be registered under Securities Act, or any applicable securities laws of any state of the United States, and the Settlement Shares are being issued to her or him in reliance upon Rule 506(b) of Regulation D under the Securities Act and/or Section 4(a)(2) under the Securities Act and similar exemptions under applicable securities laws of any state of the United States.

d. She or he acknowledges that the Settlement Shares are "restricted securities", as such term is defined under Rule 144 of the Securities Act, and may not be offered, sold, pledged, or otherwise transferred, directly or indirectly, without prior registration under the Securities Act and applicable state securities laws, or pursuant to an exemption from the registration requirements of the Securities Act and applicable securities laws of any state of the United States. Subject to compliance with applicable laws, upon request by the Officer, Company counsel shall issue an opinion to the Company's transfer agent for the removal of any restrictions on the Settlement Shares, or the Officer can deliver an opinion from counsel satisfactory to the Company, acting reasonably, for the removal of any restrictions on the Settlement Shares, and the Company shall instruct its transfer agent to accept such opinion.

e. She or he acknowledges that she or he is not acquiring the Settlement Shares as a result of "general solicitation" or "general advertising" (as such terms are used in Regulation D under the Securities Act).

5. Release of Claims. As an inducement to the Company to enter into this Agreement and in exchange for the consideration provided for in this Agreement, including, but not limited to, the issuance of the Settlement Shares, the Officer hereby settles any and all claims that she or he has or may have against the Company and its predecessors, successors, assigns, parents, affiliates, subsidiaries and related companies, and its and their officers, employees, agents, assigns, insurers, representatives, counsel, administrators, successors, shareholders, directors, and other representatives (collectively, the "**Released Parties**") as a result of the Officer's relationship with the Company, the termination of the Officer's relationship with the Company, or any act, occurrence, or omission occurring through the date of this Agreement. For the consideration expressed herein, the Officer hereby releases and discharges the Released Parties from any and all claims, causes of action, liabilities, damages, and rights to relief of any kind that the Officer has or ever had against the Released Parties, known or unknown, by reason of any matter or fact giving rise to this Agreement.

6. Cooperation. The Officer agrees to cooperate with Akerna with respect to any claims or lawsuits brought or threatened to be brought against the Released Parties, which relate to or involve the relationship with Akerna or any transactions, decisions, or actions of Akerna in which the Officer was involved or of which the Officer has knowledge (the "**Covered Subjects**"). As part of this agreement to cooperate, the Officer agrees to be available upon reasonable notice at mutually-agreeable times to discuss with Akerna and its counsel issues related to litigation or potential litigation exposure with respect to the Covered Subjects. The Officer also agrees to appear without subpoena for deposition or testimony at Akerna's request in connection with claims or lawsuits relating to Covered Subjects. Akerna will reimburse the Officer for all reasonable and customary expenses incurred while cooperating with Akerna pursuant to this Section 6, in accordance with Akerna's regular expense reimbursement practices.

7. Return of Information and Property. The Officer affirms that all originals and all copies of Akerna's records, correspondence, documents, and all other property and assets of Akerna, created or obtained as a result of, in the course of, or in connection with the Officer's relationship with Akerna, whether confidential or not, have been returned to Akerna prior to signing this Agreement, including, but not limited to, any notes, diaries, computer files, or other documents containing information regarding experiences or knowledge of Akerna's business or employee matters.

8. Passwords and Password-Protected Documents. With respect to any Akerna-related passwords and accounts, the Officer affirms that, prior to signing this Agreement, she or he has provided to Akerna all passwords in use, a list of any documents created or which are password- protected, and the password(s) necessary to access such password-protected documents.

9. Non-Assignability. The duties, rights, and obligations set forth herein may not be delegated or assigned by the Officer to any other person or entity without Akerna's prior written consent. Akerna's rights and obligations hereunder may be assigned to any successor following a sale of Akerna or of Akerna' assets, or any other transaction involving a change in control.

10. Governing Law; Severability. This Agreement shall be governed by the laws of the State of Colorado without regard to the choice of law provisions of any jurisdiction. If any part of this Agreement is found to be invalid and/or unenforceable, such part shall be modified to achieve the objective of the parties to the fullest extent permitted and the balance of this Agreement shall remain in full force and effect. The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties.

11. Choice of Venue. The parties agree that any and all legal actions or proceedings brought to interpret or enforce this Agreement, or in any other way arising out of or in relation to this Agreement, shall be brought exclusively in the state or federal courts of Denver County in the State of Colorado and hereby consent to the jurisdiction of such courts for any such action and further waive any objection to the convenience of the forum or venue.

12. Entire Agreement. This Agreement, and the documents referenced herein or attached hereto, constitute the entire agreement between the Officer and Akerna with respect to the Transactions, and there are no promises or understandings outside of this Agreement and the documents referenced herein or attached hereto with respect to the Transactions. Any modification of or addition to this Agreement must be in a writing signed by the Officer and Akerna.

13. Waiver. The waiver by either party of a breach by the other party of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

14. Counterparts and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original, and the counterparts together shall constitute one and the same agreement. A copied, scanned, or faxed signature shall be treated the same as an original.

15. Representation. BY SIGNING THIS SEPARATION AGREEMENT, THE OFFICER AFFIRMS THAT SHE OR HE HAS READ THE AGREEMENT; THAT SHE OR HE WAS PROVIDED A REASONABLE AND SUFFICIENT PERIOD OF TIME TO CONSIDER WHETHER TO ACCEPT THIS AGREEMENT PRIOR TO SIGNING IT; THAT THE PROVISIONS OF THE AGREEMENT ARE UNDERSTANDABLE; THAT THE AGREEMENT WAS SIGNED FREELY AND VOLUNTARILY; AND THAT SHE OR HE WAS ADVISED TO CONSULT WITH AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have executed this Agreement by their signatures below.

Dated: February 8, 2024

Dated: February 8, 2024

AKERNA CORP.

By: _____

Name:
Title:

[Officer Release and Settlement Agreement]

EXHIBIT A

The Company shall issue the Settlement Shares in accordance with the Officer Issuance Instructions below following the execution of the Settlement and Release Agreement to which this Exhibit is attached. The Company represents and warrants that the Settlement Shares, when issued, will be duly authorized, validly issued, fully paid and non-assessable.

Officer Issuance Instructions:

Officer:
Compensation Balance:
Per Share Value:
Total Number of Shares:

Name on Certificate/Holder: _____

Address: _____
_____
_____

EIN: _____

[Exhibit A to Officer Settlement Agreement]

Exhibit 10.8

FORM OF REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "**Agreement**") is made and entered into as of February 8, 2024, by and among Gryphon Digital Mining, Inc., a Delaware corporation (the "**Company**"), and the purchasers named on Schedule A hereto (the "**Purchasers**"), and shall become effective as of the Closing Date (as defined below).

RECITALS

A. In connection with certain Share Settlement Agreements by and between the Company and the Purchasers, the Purchasers were issued shares of common stock of the Company in the amounts set forth on Schedule A hereto (the "**Shares**").

B. To induce the Purchasers to execute and deliver the Share Settlement Agreements, the Company has agreed to provide certain registration rights under the Securities Act, and applicable state securities laws.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and the Purchaser agree as follows:

ARTICLE I DEFINITIONS

Capitalized terms used and not otherwise defined herein shall have the meanings given such terms in the Purchase Agreement. As used in this Agreement, the following terms shall have the following meanings:

"**Affiliate**" means, with respect to any Person, any other Person that directly or indirectly controls or is controlled by or under common control with such Person. For the purposes of this definition, "**control**," when used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise; and the terms "**affiliated**," "**controlling**" and "**controlled**" have meanings correlative to the foregoing.

"**Board**" means the Board of Directors of the Company.

"**Business Day**" means any day except Saturday, Sunday and any day which shall be a legal holiday or a day on which banking institutions in the state of Colorado generally are authorized or required by law or other government actions to close.

"**Closing Date**" means February 8, 2024.

"**Effectiveness Date**" means the date the Registration Statement has been declared effective by the SEC.

"**Effectiveness Period**" shall have the meaning set forth in Section 2.1(a).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended.

"**Indemnified Party**" shall have the meaning set forth in Section 5.3(a).

"**Indemnifying Party**" shall have the meaning set forth in Section 5.3(a).

"**Losses**" shall have the meaning set forth in Section 5.1.

"**Person**" means an individual or a corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or political subdivision thereof) or other entity of any kind.

"**Price Per Share**" shall have the meaning provided in the Purchase Agreement.

"**Proceeding**" means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

"**Prospectus**" means any prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to any such Prospectus, including post-effective amendments, and all material incorporated by reference in such Prospectus.

"**Registrable Securities**" means the Shares; provided, however, that the Purchaser has completed and delivered to the Company a Selling Stockholder Questionnaire; and provided, further that such securities shall no longer be deemed Registrable Securities if (i) such securities have been sold pursuant to a Registration Statement, (ii) such securities have been sold in compliance with Rule 144, (iii) such securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected holders (assuming that such securities and any securities issuable upon exercise, conversion or exchange of which, or as a dividend upon which, such securities were issued or are issuable, were at no time held by any Affiliate of the Company), as reasonably determined by the Company, upon the advice of counsel to the Company and the Transfer Agent has issued certificates for such Registrable Securities to the Purchaser thereof, or as the Purchaser may direct, without any restrictive legend, or (iv) upon the close of business on the date that is two (2) years following the effectiveness of the final Registration Statement(s) covering all the Registrable Securities hereunder, provided, however, that such two (2) year-period will be extended by the same number of days as any period of days following such effectiveness, other than days during an Allowed Delay, that the Registration Statement is not available for the resale of any of the Registrable Securities for any reason.

"**Registration Statement**" means the registration statements and any additional registration statements contemplated by Article II, including (in each case) the related Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference in such registration statement.

"**Rule 144**" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same effect as such Rule.

"**Rule 415**" means Rule 415 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC having substantially the same effect as such Rule.

"**SEC**" means the United States Securities and Exchange Commission.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Selling Stockholder Questionnaire**" means a questionnaire in the form attached as Annex B hereto, or such other form of questionnaire as may reasonably be requested by the Company from time to time.

"**Transaction Documents**" means this Agreement, the Purchase Agreement and the schedules and exhibits attached hereto and thereto.

ARTICLE II
REGISTRATION

2.1 Registration Obligations.

(a) As promptly as practicable following the Closing Date, the Company shall prepare and file with the SEC a Registration Statement covering the resale of the Registrable Securities as would permit the sale and distribution of all the Registrable Securities from time to time pursuant to Rule 415 in the manner reasonably requested by the Purchaser. The Registration Statement shall be on Form S-1 (or such other form available to the Company for the registration of the Registrable Securities at the time of filing as determined in good faith by counsel of the Company). The Registration Statement shall contain the "Plan of Distribution" section in substantially the form attached hereto as Annex A, subject to any SEC comments; provided, however, that no Purchaser shall be named as an "underwriter" in the Registration Statement without such Purchaser's prior written consent. Such Registration Statement also shall cover, to the extent allowable under the Securities Act and the rules promulgated thereunder (including Rule 416), such indeterminate number of additional shares of Company Common Stock resulting from stock splits, stock dividends or similar transactions with respect to the Registrable Securities. Such Registration Statement shall not include any shares of Company Common Stock or other securities for the account of any other holder without the prior written consent of the Purchaser. The Company shall use commercially reasonable efforts to cause the Registration Statement filed by it to be declared effective by the SEC under the Securities Act as promptly as practicable after the filing thereof, and, subject to Section 3.1(m) hereof, to keep such Registration Statement continuously effective under the Securities Act until such date as all Registrable Securities covered by such Registration Statement have ceased to be Registrable Securities (the "**Effectiveness Period**"). By 5:30 p.m., Eastern time, on the Effective Date, the Company shall file with the SEC in accordance with Rule 424(b)(3) under the Securities Act the final Prospectus to be used in connection with sales pursuant to such Registration Statement.

(b) Promptly following the date upon which the Company becomes eligible to use a registration statement on Form S-3 to register the Registrable Securities for resale, the Company shall file a registration statement on Form S-3 covering the Registrable Securities (or a post- effective amendment on Form S-3 to the registration statement on Form S-1) (a "**Shelf Registration Statement**") and shall use commercially reasonable efforts to cause such Shelf Registration Statement to be declared effective as promptly as practicable thereafter, provided that the Company shall maintain the effectiveness of all Shelf Registration Statements then in effect and the availability for use of each Prospectus contained therein until such time as a Shelf Registration Statement covering the resale of all the Registrable Securities has been declared effective by the SEC and the Prospectus contained therein is available for use or, if sooner, the expiration of the Effectiveness Period.

ARTICLE III
REGISTRATION PROCEDURES

3.1 Registration Procedures. In connection with the Company's registration obligations hereunder, the Company shall:

(a) Prepare and file with the SEC such amendments, including post-effective amendments, to the Registration Statement as may be necessary to keep the Registration Statement continuously effective (subject to Section 3.1(l)) as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the SEC such additional Registration Statements, if necessary, in order to register for resale under the Securities Act all of the Registrable Securities; cause the related Prospectus to be amended or supplemented by any required Prospectus supplement, and as so supplemented or amended to be filed pursuant to Rule 424 (or any similar provisions then in force) promulgated under the Securities Act; respond promptly, but in any event within seven (7) days, to any comments received from the SEC with respect to the Registration Statement or any amendment thereto and promptly provide the Purchaser true and complete copies of all correspondence from and to the SEC relating to such Registration Statement; and comply in all material respects with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by the Registration Statement during the applicable period in accordance with the intended methods of disposition by the Purchaser thereof set forth in the Registration Statement as so amended or in such Prospectus as so supplemented.

(b) At the time the SEC declares the Registration Statement effective, the Purchasers shall be named as a selling stockholder in the Registration Statement and the related Prospectus in such a manner as to permit the Purchasers to deliver such Prospectus to purchasers of Registrable Securities included in the Registration Statement in accordance with applicable law, subject to the terms and conditions hereof.

(c) Promptly notify the Purchasers (i)(A) when a Registration Statement, a Prospectus or any Prospectus supplement or pre- or post-effective amendment to the Registration Statement is filed;(B) when the SEC notifies the Company whether there will be a "review" of such Registration Statement and whenever the SEC comments in writing on such Registration Statement, and if requested by the Purchasers, furnish to them a copy of such comments and the Company's responses thereto and (C) with respect to the Registration Statement or any post-effective amendment filed by the Company, when the same has become effective; (ii) of any request by the SEC or any other Federal or state governmental authority for amendments or supplements to the Registration Statement or Prospectus or for additional information of the Company; (iii) of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose; (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities of the Company for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose; and (v) of the occurrence of any event that makes any statement made in the Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to such Registration Statement, Prospectus or other documents so that, in the case of such Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) Use commercially reasonable efforts to avoid the issuance of, and, if issued, to obtain the withdrawal of, (i) any order suspending the effectiveness of the Registration Statement or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any U.S. jurisdiction.

(e) If requested by the Purchasers (i) promptly incorporate in a Prospectus supplement or post-effective amendment to the Registration Statement such information as the Purchasers reasonably request to be included therein unless the inclusion of such information would reasonably be expected to expose the Company to liability under federal and state securities laws and regulations and (ii) make all required filings of such Prospectus supplement or such post-effective amendment as soon as practicable after the Company has received notification of the matters to be incorporated in such Prospectus supplement or post-effective amendment.

(f) Furnish to the Purchasers, without charge and upon request, at least one conformed copy of each Registration Statement and each amendment thereto, including financial statements and schedules, and, to the extent requested by such Person, all documents incorporated or deemed to be incorporated therein by reference, and all exhibits (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the SEC, provided, that the Company shall have no obligation to provide any document pursuant to this clause that is available on the SEC's EDGAR system.

(g) Promptly deliver to the Purchasers, without charge, as many copies of the Prospectus or Prospectuses (including each form of prospectus) and each amendment or supplement thereto as such Persons may reasonably request; and the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by the Purchasers in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto to the extent permitted by federal and state securities laws and regulations.

(h) Cooperate with the Purchasers to facilitate the timely preparation and delivery of certificates representing Registrable Securities of the Company to be sold pursuant to a Registration Statement.

(i) Upon the occurrence of any event contemplated by Section 3.1(c)(v), as promptly as practicable prepare a supplement or amendment, including a post-effective amendment, to the Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither the Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) Use commercially reasonable efforts to cause all Registrable Securities relating to the Registration Statement to be listed on The Nasdaq Capital Market ("**Nasdaq**") or any subsequent securities exchange, quotation system or market, if any, on which similar securities issued by the Company are then listed or traded.

(k) The Company may require the Purchasers to furnish to the Company information regarding the Purchasers and the distribution of such Registrable Securities as is required by law to be disclosed in the Registration Statement, and the Company may exclude from such registration the Registrable Securities of the Purchasers who fails to furnish such information within fifteen (15) days after receiving such request.

(l) For not more than thirty (30) consecutive calendar days or for a total of not more than sixty (60) days in any twelve (12) month period, the Company may suspend the use of any Prospectus included in any Registration Statement contemplated by this Section 3.1(l) in the event that the Company determines in good faith that such suspension is necessary to (A) delay the disclosure of material non-public information concerning the Company, the disclosure of which at the time is not, in the good faith opinion of the Company, in the best interests of the Company or (B) amend or supplement the affected Registration Statement or the related Prospectus so that such Registration Statement or Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the case of the Prospectus in light of the circumstances under which they were made, not misleading (an "**Allowed Delay**"); provided, that the Company shall promptly (a) notify the Purchasers in writing of the commencement of an Allowed Delay, but shall not (without the prior written consent of the Purchasers) disclose to the Purchasers any material non-public information giving rise to an Allowed Delay, (b) advise the Purchasers in writing to cease all sales under the Registration Statement until the end of the Allowed Delay and (c) use commercially reasonable efforts to terminate an Allowed Delay as promptly as practicable.

(m) The Company shall use commercially reasonable efforts to register or qualify, and cooperate with the Purchasers of the Registrable Securities included in the Registration Statement in connection with the registration or qualification of, the resale of the Registrable Securities under applicable securities or "blue sky" laws of such states of the United States as any the Purchasers requests in writing and to do any and all other acts or things necessary or advisable to enable the offer and sale in such jurisdictions of the Registrable Securities covered by the Registration Statement; provided, however, that the Company shall not be required to (i) qualify generally to do business in any jurisdiction where it is not then so qualified or (ii) take any action that would subject it to general service of process or to taxation in any jurisdiction to which it is not then so subject.

(n) The Company will comply with all rules and regulations of the SEC to the extent and so long as they are applicable to the Registration Statement and will make generally available to its security holders (or otherwise provide in accordance with Section 11(a) of the Securities Act) an earnings statement (which need not be audited) satisfying the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder, no later than forty-five (45) days after the end of a 12-month period (or ninety (90) days, if such period is a fiscal year) beginning with the Company's first fiscal quarter commencing after the effective date of the Registration Statement.

(o) The Company shall (A) permit Purchaser's legal counsel to review and comment upon (i) each Registration Statement within a reasonable number of days prior to its filing with the SEC and (ii) all amendments and supplements to each Registration Statement (including, without limitation, the Prospectus contained therein) (except for Annual Reports on Form 10-K, Report on Form 8-K, and any similar or successor reports) within a reasonable number of days prior to their filing with the SEC, and (B) not file any Registration Statement or amendment or supplement thereto in a form to which Legal Counsel reasonably objects.

3.2 Purchasers Obligations.

(a) At least five (5) Business Days prior to the first anticipated filing date of a Registration Statement, the Company shall notify the Purchasers in writing of the information the Company requires from the Purchasers if the Purchasers elects to have any of the Purchasers's Registrable Securities included in such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to the Registrable Securities that (i) the Purchasers furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the effectiveness of the registration of such Registrable Securities, and (ii) the Purchasers execute such documents in connection with such registration as the Company may reasonably request.

(b) The Purchasers covenants and agrees by its acquisition of such Registrable Securities that (i) it will not sell any Registrable Securities under the Registration Statement until it has received copies of the Prospectus as then amended or supplemented as contemplated in Section 3.1(g) and notice from the Company that such Registration Statement and any post-effective amendments thereto have become effective as contemplated by Section 3.1(c)(i)–(ii) and its officers, directors or Affiliates, if any, will comply with the prospectus delivery requirements of the Securities Act as applicable to them in connection with sales of Registrable Securities pursuant to the Registration Statement.

(c) Upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3.1(c)(ii)–(v) or Section 3.1(l), the Purchasers will forthwith discontinue disposition of such Registrable Securities under the Registration Statement until the Purchaser's receipt of the copies of the supplemented Prospectus and/or amended Registration Statement contemplated by Section 3.1(i), or until it is advised in writing by the Company that the use of the applicable Prospectus may be resumed, and, in either case, has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such Prospectus or Registration Statement.

ARTICLE IV
REGISTRATION EXPENSES

4.1 Registration Expenses. All reasonable fees and expenses incident to the performance of or compliance with this Agreement by the Company (excluding underwriters' discounts and commissions and all fees and expenses of legal counsel, accountants and other advisors for the Purchasers), except as and to the extent specified in this Section 4.1, shall be borne by the Company whether or not a Registration Statement is filed by the Company or becomes effective and whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with Nasdaq and each other securities exchange or market on which Registrable Securities are required hereunder to be listed, (B) with respect to filings required to be made by the Company with the Financial Industry Regulatory Authority and (C) in compliance with state securities or "blue sky" laws by the Company or with respect to Registrable Securities, (ii) messenger, telephone and delivery expenses, (iii) fees and disbursements of counsel for the Company, (iv) Securities Act liability insurance, if the Company so desires such insurance, and (v) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement, including, without limitation, the Company's independent public accountants. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit, the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any underwriting, broker or similar fees or commissions of the Purchasers or, except to the extent provided for above or in the Transaction Documents, any legal fees or other costs of the Purchasers.

ARTICLE V
INDEMNIFICATION

5.1 Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless the Purchasers, its permitted assignees, officers, directors, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Company Common Stock), underwriters, investment advisors and employees, each Person who controls any the Purchasers or permitted assignee (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, agents and employees of each such controlling Person, and the respective successors, assigns, estate and personal representatives of each of the foregoing, to the fullest extent permitted by applicable law, from and against any and all claims, losses, damages, liabilities, penalties, judgments, costs (including, without limitation, costs of investigation) and expenses (including, without limitation, reasonable attorneys' fees and expenses) (collectively, "**Losses**"), arising out of or relating to any untrue or alleged untrue statement of a material fact contained in the Registration Statement, any Prospectus, as supplemented or amended, if applicable, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or form of prospectus or supplement thereto, in the light of the circumstances under which they were made) not misleading, except (i) to the extent, but only to the extent, that such untrue statements or omissions or alleged untrue statements or omissions are based primarily upon information regarding the Purchasers furnished in writing to the Company by the Purchasers expressly for use in such Registration Statement, such Prospectus or in any amendment or supplement thereto or to the extent that such information relates primarily to the Purchasers or the Purchasers's proposed method of distribution of Registrable Securities and was furnished in writing by the Purchasers expressly for use therein (it being understood that the Purchasers has approved Annex A hereto for this purpose); or (ii) in the case of an occurrence of an event of the type specified in Section 3.1(c)(ii)- (v), the use by the Purchasers of an outdated or defective Prospectus, but only if and to the extent that the Company has advised the Purchasers that it no longer meets the requirements for the use of Rule 172 and as a result thereof the Purchasers is required to deliver a current Prospectus to any transferee of Registrable Securities and has provided a copy of a current Prospectus to the Purchasers prior to the sale or transfer of Registrable Securities giving rise to such Losses. The Company shall notify the Purchasers promptly of the institution, threat or assertion of any Proceeding of which the Company is aware in connection with the transactions contemplated by this Agreement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of an Indemnified Party (as defined in Section 5.3(a) hereof) and shall survive the transfer of the Registrable Securities by the Purchasers.

5.2 Indemnification by Purchasers. The Purchasers and its permitted assignees shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, and the respective successors, assigns, estate and personal representatives of each of the foregoing, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, arising out of or relating to any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, as supplemented or amended, if applicable, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in the light of the circumstances under which they were made) not misleading, to the extent, but only to the extent, that such untrue statement or omission or alleged untrue statement or omission is contained in or omitted from any written information regarding the Purchasers furnished in writing to the Company by the Purchasers expressly for use in the Registration Statement, and that such information was reasonably relied upon by the Company for use therein. In no event shall the liability of the Purchasers be greater in amount than the dollar amount of the proceeds (net of all expenses paid by the Purchasers in connection with any claim relating to this Section 5.2 and the amount of any damages the Purchasers has otherwise been required to pay by reason of such untrue statement or omission) received by the Purchasers upon the sale of the Registrable Securities included in the Registration Statement giving rise to such indemnification obligation.

5.3 Conduct of Indemnification Proceedings.

(a) If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "**Indemnified Party**"), such Indemnified Party promptly shall notify the Person from whom indemnity is sought (the "**Indemnifying Party**") in writing, and the Indemnifying Party shall assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all fees and expenses incurred in connection with defense thereof; provided, that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have proximately and materially adversely prejudiced the Indemnifying Party.

(b) An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses; or (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding; or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and such Indemnified Party shall have been advised by counsel (which shall be reasonably acceptable to the Indemnifying Party) that a conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, the Indemnifying Party shall be responsible for reasonable fees and expenses of no more than one counsel (together with appropriate local counsel) for the Indemnified Parties). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is or could have been a party, unless such settlement (i) includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

(c) All reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section 5.3) shall be paid to the Indemnified Party, as incurred, within twenty (20) Business Days of written notice thereof to the Indemnifying Party (regardless of whether it is ultimately determined that an Indemnified Party is not entitled to indemnification hereunder; provided, that the Indemnifying Party may require such Indemnified Party to undertake to reimburse all such fees and expenses to the extent it is finally judicially determined that such Indemnified Party is not entitled to indemnification hereunder).

5.4 Contribution.

(a) If a claim for indemnification under Section 5.1 or 5.2 is unavailable to an Indemnified Party because of a failure or refusal of a governmental authority to enforce such indemnification in accordance with its terms (by reason of public policy or otherwise), then each Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying, Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in Section 5.3, any reasonable attorneys' or other reasonable fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section 5.4 was available to such party in accordance with its terms.

(b) The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5.4 were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. In no event shall the contribution obligation of the Purchasers be greater in amount than the dollar amount of the proceeds (net of all expenses paid by the Purchasers in connection with any claim relating to this Section 5.4 and the amount of any damages the Purchasers has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission) received by it upon the sale of the Registrable Securities giving rise to such contribution obligation.

(c) The indemnity and contribution agreements contained in this Article V are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

ARTICLE VI
RULE 144

6.1 Rule 144. With a view to making available to the Purchasers the benefits of Rule 144 (or its successor rule) and any other rule or regulation of the SEC that may at any time permit the Purchasers to sell shares of Company Common Stock to the public without registration, the Company covenants and agrees to: (i) make and keep public information available, as those terms are understood and defined in Rule 144, until the earlier of (A) six months after such date as all of the Registrable Securities may be sold without volume or manner-of-sale restrictions by the Purchasers thereof pursuant to Rule 144 or any other rule of similar effect or (B) such date as all of the Registrable Securities shall have been resold pursuant to a Registration Statement, Rule 144 or otherwise in a transaction in which the transferee receives freely tradable shares; (ii) file with the SEC in a timely manner all reports and other documents required of the Company under the Exchange Act pursuant to Rule 144(c)(1) and Rule 144(i); and (iii) furnish to the Purchasers upon request, as long as the Purchasers owns any Registrable Securities, (A) a written statement by the Company that it has complied with the reporting requirements of the Exchange Act pursuant to Rule 144(c)(1) and Rule 144(i), (B) a copy of the Company's most recent Annual Report on Form 10-K or Quarterly Report on Form 10-Q, and (C) such other information as may be reasonably requested in order to avail the Purchasers of any rule or regulation of the SEC that permits the selling of any such Registrable Securities without registration.

ARTICLE VII
MISCELLANEOUS

7.1 Effectiveness. The Company's obligations hereunder shall be conditioned upon the occurrence of the Closing under the Purchase Agreement, and this Agreement shall not be effective until such Closing. If the Purchase Agreement shall be terminated prior to the Closing, then this Agreement shall be void and of no further force or effect (and no party hereto shall have any rights or obligations with respect to this Agreement).

7.2 Remedies. In the event of a breach by the Company or by the Purchasers of any of their obligations under this Agreement, the Company in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. The Company and the Purchasers agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate.

7.3 Entire Agreement; Amendment. This Agreement and the other Transaction Documents contain the entire understanding and agreement of the parties with respect to the matters covered hereby and, except as specifically set forth herein or therein, neither the Company nor the Purchasers make any representation, warranty, covenant or undertaking with respect to such matters, and they supersede all prior understandings and agreements with respect to said subject matter, all of which are merged herein. This Agreement and any term hereof may be amended, terminated or waived only with the written consent of the Company and the Purchasers.

7.4 No Inconsistent Agreements. The Company will not on or after the date of this Agreement enter into any agreement with respect to its securities that is inconsistent with the rights granted to the Purchasers in this Agreement or otherwise conflicts with the provisions hereof. The rights granted to the Purchasers hereunder do not in any way conflict with and are not inconsistent with the rights granted to the Purchasers of the Company's securities under any agreement in effect on the date hereof.

7.5 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of (a) the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or email address specified in this Section prior to 4:00 p.m. (Eastern time) on a Trading Day, (b) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile or email at the facsimile number or e-mail address specified in this Section on a day that is not a Trading Day or later than 4:00 p.m. (Eastern time) on any Trading Day, (c) the Trading Day following the date of deposit with a nationally recognized overnight courier service, or (d) upon actual receipt by the party to whom such notice is required to be given. The addresses, facsimile numbers and email addresses for such notices and communications are those set forth below, or such other address or facsimile number as may be designated in writing hereafter, in the same manner, by any such Person:

If to the Company:

Gryphon Digital Mining, Inc.
1180 N. Town Center Drive, Suite 100
Las Vegas, NV, 89144
Attention: Robby Chang
Telephone: (877) 646-3374
E-mail:

with copies (which copies shall not constitute notice to the Company) to:

Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
New York, New York 10105-0302
Attention: Adam C. Berkaw
Telephone: (212) 370-1300
Email:

If to the Purchasers: See signature page

7.6 Waivers. No waiver by either party of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it thereafter.

7.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns and shall inure to the benefit of the Purchasers and its successors and assigns. The Company may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the Purchasers of at least a majority of all Registrable Securities then outstanding.

7.8 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

7.9 Termination. This Agreement shall terminate at the end of the Effectiveness Period, except that Articles IV and V and this Article VII shall remain in effect in accordance with their terms.

7.10 Governing Law; Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Delaware without regard to the conflict of law principles thereof. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the state and federal courts located in the State of Delaware for the purpose of any suit, action, proceeding or judgment relating to or arising out of this Agreement and the transactions contemplated hereby. Service of process in connection with any such suit, action or proceeding may be served on each party hereto anywhere in the world by the same methods as are specified for the giving of notices under this Agreement. Each of the parties hereto irrevocably consents to the jurisdiction of any such court in any such suit, action or proceeding and to the laying of venue in such court. Each party hereto irrevocably waives any objection to the laying of venue of any such suit, action or proceeding brought in such courts and irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. If any party hereto shall commence an action or proceeding to enforce any provisions of the Transaction Documents, then, the prevailing party in such action or proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

7.11 Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

7.12 Severability. If any provision hereof should be held invalid, illegal or unenforceable in any respect, then, to the fullest extent permitted by law, (a) all other provisions hereof shall remain in full force and effect and shall be liberally construed in order to carry out the intentions of the parties as nearly as may be possible and (b) the parties shall use their commercially reasonable efforts to replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) which, insofar as practical, implement the purposes of such provision(s) in this Agreement.

7.13 Construction. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

[*Signature pages to follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Registration Rights Agreement to be duly executed by their respective authorized officers as of the date first above written.

THE COMPANY:

GRYPHON DIGITAL MINING, INC.

By: _____

Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Registration Rights Agreement to be duly executed by their respective authorized officers as of the date first above written.

PURCHASERS:

JESSICA BILLINGSLEY

Address: [●]

SCOTT SOZIO

Address: [●]

DAVID MCCULLOUGH

Address:[●]

CECIL R. THOMPSON

Address: [●]

LARRY DEAN DITTO

Address: [●]

SCHEDULE A

Purchaser Name	Number of Shares
David McCullough	16,611
Cecil R. Thompson	16,508
Larry Dean Ditto	70,460
Jessica Billingsley	238,828
Scott Sozio	104,204
TOTAL	**446,611**

ANNEX A
PLAN OF DISTRIBUTION

The selling stockholders, which as used herein includes donees, pledgees, transferees or other successors-in-interest selling shares of common stock previously issued and the shares of common stock issuable upon exercise of the warrants, or interests in shares of common stock received after the date of this prospectus from a selling stockholder as a gift, pledge, partnership distribution or other transfer, may, from time to time, sell, transfer or otherwise dispose of any or all of their shares of common stock or interests in shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. The selling stockholders may sell their shares of our common stock pursuant to this prospectus at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market price, at varying prices determined at the time of sale, or at negotiated prices.

The selling stockholders may use any one or more of the following methods when disposing of shares or interests therein:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent, but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- broker-dealers may agree with the selling stockholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling stockholders may, from time to time, pledge or grant a security interest in some or all of the shares of common stock or warrants owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock, from time to time, under this prospectus, or under an amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act amending the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer the shares of common stock in other circumstances, in which case the transferees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

In connection with the sale of our common stock or interests therein, the selling stockholders may enter into hedging transactions with broker- dealers or other financial institutions, which may in turn engage in short sales of the common stock in the course of hedging the positions they assume. The selling stockholders may also sell shares of our common stock short and deliver these securities to close out their short positions, or loan or pledge the common stock to broker-dealers that in turn may sell these securities. The selling stockholders may also enter into option or other transactions with broker-dealers or other financial institutions or the creation of one or more derivative securities which require the delivery to such broker-dealer or other financial institution of shares offered by this prospectus, which shares such broker- dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The aggregate proceeds to the selling stockholders from the sale of the common stock offered by them will be the purchase price of the common stock less discounts or commissions, if any. Each of the selling stockholders reserves the right to accept and, together with their agents from time to time, to reject, in whole or in part, any proposed purchase of common stock to be made directly or through agents. We will not receive any of the proceeds from this offering.

The selling stockholders and any underwriters, broker-dealers or agents that participate in the sale of the common stock or interests therein may be "underwriters" within the meaning of Section 2(11) of the Securities Act. Any discounts, commissions, concessions or profit they earn on any resale of the shares may be underwriting discounts and commissions under the Securities Act. Selling stockholders who are "underwriters" within the meaning of Section 2(11) of the Securities Act will be subject to the prospectus delivery requirements of the Securities Act.

To the extent required, the shares of our common stock to be sold, the names of the selling stockholders, the respective purchase prices and public offering prices, the names of any agents, dealer or underwriter, any applicable commissions or discounts with respect to a particular offer will be set forth in an accompanying prospectus supplement or, if appropriate, a post-effective amendment to the registration statement that includes this prospectus.

In order to comply with the securities laws of some states, if applicable, the common stock may be sold in these jurisdictions only through registered or licensed brokers or dealers. In addition, in some states the common stock may not be sold unless it has been registered or qualified for sale or an exemption from registration or qualification requirements is available and is complied with.

We have advised the selling stockholders that the anti-manipulation rules of Regulation M under the Exchange Act may apply to sales of shares in the market and to the activities of the selling stockholders and their affiliates. In addition, we will make copies of this prospectus (as it may be supplemented or amended from time to time) available to the selling stockholders for the purpose of satisfying the prospectus delivery requirements of the Securities Act. The selling stockholders may indemnify any broker-dealer that participates in transactions involving the sale of the shares against certain liabilities, including liabilities arising under the Securities Act.

We have agreed to indemnify the selling stockholders against liabilities, including liabilities under the Securities Act and state securities laws, relating to the registration of the shares offered by this prospectus.

We have agreed with the selling stockholders to keep the registration statement of which this prospectus constitutes a part effective until such time as the shares offered by the selling stockholders have been effectively registered under the Securities Act and disposed of in accordance with such registration statement, the shares offered by the selling stockholders have been disposed of pursuant to Rule 144 under the Securities Act or the shares offered by the selling stockholders may be resold pursuant to Rule 144 without restriction or limitation (including without the requirement to be in compliance with Rule 144(c)(1)) or another similar exemption under the Securities Act.

ANNEX B
SELLING STOCKHOLDER NOTICE AND QUESTIONNAIRE

GRYPHON DIGITAL MINING, INC.

Selling Stockholder Notice and Questionnaire

The undersigned beneficial owner of common stock, par value $0.0001 per share (the "Common Stock"), of Gryphon Digital Mining, Inc. (the "Company"), (the "Registrable Securities") understands that the Company has filed or intends to file with the U.S. Securities and Exchange Commission (the "SEC") a registration statement (the "Registration Statement") for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the "Securities Act"), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement, dated as of June 13, 2023 (the "Registration Rights Agreement"), among the Company and the Purchaser named therein. The purpose of this Questionnaire is to facilitate the filing of the Registration Statement under the Act that will permit you to resell the Registrable Securities in the future. The information supplied by you will be used in preparing the Registration Statement. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and the related Prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling stockholder in the Registration Statement and the related Prospectus.

NOTICE

The undersigned beneficial owner (the "Selling Stockholder") of Registrable Securities hereby elects to include the Registrable Securities owned by it and listed below in Item 3 (unless otherwise specified under such Item 3) in the Registration Statement.

QUESTIONNAIRE

1. Name.

(a) Full Legal Name of Selling Stockholder:

(b) Full Legal Name of Selling Stockholder (if not the same as (a) above) through which Registrable Securities Listed in Item 3 below are held:

(c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by the questionnaire):

---

2. Address for Notices to Selling Stockholder:

_____

_____

Telephone: _____

Fax: _____

Contact Person: _____

E-mail address of Contact Person: _____

3. Beneficial Ownership of Registrable Securities:

(a) Type and Number of Registrable Securities beneficially owned:

4. Broker-Dealer Status:

(a) Are you a broker-dealer?

Yes □ No □

Note: If yes, the SEC's staff has indicated that you should be identified as an underwriter in the Registration Statement.

(b) Are you an affiliate of a broker-dealer?

Yes □ No □

Note: If yes, provide a narrative explanation below:

(c) If you are an affiliate of a broker-dealer, do you certify that you bought the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes □ No □

Note: If no, the SEC's staff has indicated that you should be identified as an underwriter in the Registration Statement.

5. Beneficial Ownership of Other Securities of the Company Owned by the Selling Stockholder.

Except as set forth below in this Item 5, the undersigned is not the beneficial or registered owner of any securities of the Company other than the Registrable Securities listed above in Item 3.

(a) As of _____, 202 , the Selling Stockholder owned outright (including shares registered in Selling Stockholder's name individually or jointly with others, shares held in the name of a bank, broker, nominee, depository or in "street name" for its account), _____shares of the Company's capital stock (excluding the Registrable Securities). If "zero," please so state.

(b) In addition to the number of shares Selling Stockholder owned outright as indicated in Item 5(a) above, as of _____ , 202 , the Selling Stockholder had or shared voting power or investment power, directly or indirectly, through a contract, arrangement, understanding, relationship or otherwise, with respect to _____shares of the Company's capital stock (excluding the Registrable Securities). If "zero," please so state.

If the answer to Item 5(b) is not "zero," please complete the following tables:

Sole Voting Power:

Number of Shares	**Nature of Relationship Resulting in Sole Voting Power**

Shared Voting Power:

Number of Shares	**With Whom Shared**	**Nature of Relationship**

Sole Investment power:

Number of Shares	**Nature of Relationship Resulting in Sole Investment Power**

Shared Investment power:

Number of Shares	**With Whom Shared**	**Nature of Relationship**

(c) As of _____, 202 , the Selling Stockholder had the right to acquire the following shares of the Company's common stock pursuant to the exercise of outstanding stock options, warrants or other rights (excluding the Registrable Securities). Please describe the number, type and terms of the securities, the method of ownership, and whether the undersigned holds sole or shared voting and investment power. If "none", please so state.

6. Relationships with the Company:

Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% of more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.

State any exceptions here:

7. Plan of Distribution:

The undersigned has reviewed the form of Plan of Distribution attached as Annex A to the Registration Rights Agreement, and hereby confirms that, except as set forth below, the information contained therein regarding the undersigned and its plan of distribution is correct and complete.

State any exceptions here:

_____

_____

****

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof and prior to the effective date of any applicable Registration Statement filed pursuant to the Registration Rights Agreement.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 7 and the inclusion of such information in each Registration Statement filed pursuant to the Registration Rights Agreement and each related Prospectus. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of any such Registration Statement and the related Prospectus.

By signing below, the undersigned acknowledges that it understands its obligation to comply, and agrees that it will comply, with the provisions of the Exchange Act and the rules and regulations thereunder, particularly Regulation M. The undersigned also acknowledges that it understands that the answers to this Questionnaire are furnished for use in connection with Registration Statements filed pursuant to the Registration Rights Agreement and any amendments or supplements thereto filed with the SEC pursuant to the Securities Act.

By returning this Questionnaire, the undersigned will be deemed to be aware of the foregoing interpretation.

I confirm that, to the best of my knowledge and belief, the foregoing statements (including without limitation the answers to this Questionnaire) are correct.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: _____

Beneficial Owner: _____

By: _____

Name:
Title: