

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 6-K

**REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULE 13a-16 OR 15d-16
UNDER THE SECURITIES EXCHANGE ACT OF 1934**

For the month of March, 2017

Commission File Number: 001-36532

SPHERE 3D CORP.

240 Matheson Blvd. East
Mississauga, Ontario, Canada, L4Z 1X1
(Address of principal executive offices)

Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F.

Form 20-F Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Indicate by check mark whether by furnishing the information contained in this Form, the registrant is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):

The information contained in this Form 6-K is incorporated by reference into, or as additional exhibits to, as applicable, the registrant's outstanding registration statements.

Consent, Waiver, Reaffirmation and Amendment Number One to Credit Agreement

As previously disclosed, on April 6, 2016, Overland Storage, Inc., a California corporation (“Overland”) and wholly owned subsidiary of Sphere 3D Corp. (the “Company”), Tandberg Data GmbH, a limited liability company organized under the laws of Germany (“Tandberg” and, together with Overland, collectively the “Borrowers”), and Opus Bank, a California commercial bank, as Lender (“Lender”), entered into a Credit Agreement (the “Credit Agreement”) pursuant to which the Lender provided the Borrowers a \$10 Million revolving credit facility and Overland \$10 Million term loan facility. On December 30, 2016, the Borrowers and Lender entered into a Consent, Waiver, Reaffirmation and Amendment Number One to Credit Agreement (the “First Amendment”) pursuant to which (i) the maturity date for the revolving and term loan credit facilities were amended to be the earlier of the maturity date in the 8% Senior Secured Convertible Debenture, dated December 1, 2014, issued to FBC Holdings S.a r.l. (the “Debenture”), or March 31, 2017, (ii) the Lender granted a waiver of specified defaults under the Credit Agreement relating to a minimum asset coverage ratio, (iii) the Lender provided its consent to the consummation of the acquisition of equity interests of certain target companies, and (iv) certain other terms of the Credit Agreement were amended, including but not limited to terms related to collateral coverage, milestone deliverables, and financial covenants.

Further, as a condition of the entry into the First Amendment, the Company (i) cancelled the warrant issued to Lender for the purchase of 1,541,768 common shares at an exercise price of \$1.30 per common share and (ii) issued to the Lender a warrant (the “Replacement Warrant”) for the purchase of up to 862,068 common shares at an exercise price of \$0.01 per common share. The Replacement Warrant provides for “piggyback” registration rights.

The foregoing descriptions of the First Amendment and the Replacement Warrant do not purport to be complete and are qualified in their entirety by reference to each of the First Amendment and the Replacement Warrant, attached hereto as Exhibits 99.1 and 99.2, respectively, and incorporated herein by reference. Portions of the First Amendment have been redacted based upon a request for confidential treatment filed with the Securities and Exchange Commission pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Amendments Number Two and Three to Credit Agreement, Amendment Number One to Amendment Number 1, Waiver and Reaffirmation

On March 12, 2017, the Borrowers and Lender entered into an Amendment Number Two to Credit Agreement, Amendment Number One to Amendment Number 1, Waiver and Reaffirmation (the “Second Amendment”). On March 22, 2017, the Borrowers and Lender entered into an Amendment Number Three to Credit Agreement (the “Third Amendment”) further amending the Second Amendment. Under the terms of the Second Amendment, as modified by the Third Amendment, (i) the maturity date for the revolving and term loan credit facilities were amended to be the earlier of (a) the maturity date in the Debenture or (b) (x) June 30, 2017 if the Maturity Extension Trigger Date (as defined below) occurs on or before March 31, 2017 or (y) if the Maturity Extension Trigger Date has not occurred by such date, March 31, 2017, (ii) the Lender granted a waiver of specified defaults under the Credit Agreement relating to obligations to deliver to the Lender an executed letter of intent with respect to refinancing the credit facility, and (iii) certain other terms of the Credit Agreement were amended, including but not limited to terms related to collateral coverage, milestone deliverables, and financial covenants. The Maturity Extension Trigger Date is the date upon which both of the following conditions have been satisfied: (a) the Company shall have received gross cash proceeds of at least \$3,000,000 from the issuance of the common shares and related warrants and (b) the Company shall have deposited at least \$2,500,000 of the funds raised in an equity offering into the primary operating account that Overland maintains at Opus Bank. In the event of certain specified events of default, including failure to meet certain monthly revenue and EBITDA targets, to enter into a term sheet with a new lender by April 28, 2017, or to enter into a letter of intent with respect to a financing or retain a financial advisor with respect to a sale of a significant portion of the company's assets, all amounts under the Credit Agreement may be accelerated and become immediately payable.

Further, as a condition of the entry into the Second Amendment, the Company issued to the Lender (i) a warrant (the “First Additional Warrant”), exercisable in the event that the Company has not repaid all outstanding amounts due under the Credit Agreement on or prior to April 17, 2017, for the purchase of the number of common shares determined by dividing (i) 75,000 by (ii) the difference between the market price of our common shares on April 17, 2017 and \$0.01, at an exercise price of \$0.01 per common share and (ii) a warrant (the “Second Additional Warrant”), exercisable in the event that the Company has not repaid all outstanding amounts due under the Credit Agreement on or prior to May 31, 2017, for the purchase of the number of common shares determined by dividing (i) 100,000 by (ii) the difference between the market price of our common shares on May 31, 2017 and \$0.01, at an exercise price of \$0.01 per common share. In addition, the warrants provide for “piggyback” registration rights.

The foregoing descriptions of the Second Amendment, the First Additional Warrant, the Second Additional Warrant and the Third Amendment do not purport to be complete and are qualified in their entirety by reference to each of the Amendments and the Warrants, attached hereto as Exhibits 99.3, 99.4, 99.5 and 99.6, respectively, and incorporated herein by reference. Portions of the Second Amendment and Third Amendment have been redacted based upon a request for confidential treatment filed with the Securities and Exchange Commission pursuant to Rule 24b-2 under the Securities Exchange Act of 1934, as amended.

Term Loan Agreement

The Company and FBC Holdings S.a r.l. (“FBC”), a company organized under the laws of Luxembourg, entered into a Term Loan Agreement, dated as of September 16, 2016, pursuant to which FBC provided a term loan to the Company in the principal amount of \$2,500,000. The loan bears an interest rate of 20% per annum and is repayable in equal monthly installments with the first such payment paid in January 2017. The Term Loan Agreement contains customary covenants, and is secured by substantially all assets of the Company. The foregoing description of the Term Loan Agreement does not purport to be complete and is qualified in its entirety by reference to the Term Loan Agreement attached hereto as Exhibit 99.7 and incorporated herein by reference.

Exhibits

<u>99.1*</u>	<u>First Amendment</u>
<u>99.2</u>	<u>Replacement Warrant</u>
<u>99.3*</u>	<u>Second Amendment</u>
<u>99.4</u>	<u>First Additional Warrant</u>
<u>99.5</u>	<u>Second Additional Warrant</u>
<u>99.6*</u>	<u>Third Amendment</u>
<u>99.7</u>	<u>Term Loan Agreement</u>
<u>99.8</u>	<u>Consent of Moss Adams LLP, Independent Registered Public Accounting Firm</u>

* Portions of this exhibit have been omitted pursuant to a request for confidential treatment.

SIGNATURE

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, thereunto duly authorized.

SPHERE 3D CORP.

Date: March 23, 2017

/s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Chief Financial Officer

CONSENT, WAIVER, REAFFIRMATION AND AMENDMENT NUMBER ONE TO CREDIT AGREEMENT

This **CONSENT, WAIVER, REAFFIRMATION AND AMENDMENT NUMBER ONE TO CREDIT AGREEMENT** (this "Agreement") is made as of December 30, 2016, by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("**Subsidiary Borrower**" and, collectively with Company, the "**Borrowers**" and each individually a "**Borrower**"), each undersigned Guarantor signatory hereto, and **OPUS BANK**, a California commercial bank ("Lender").

WITNESSETH:

WHEREAS, Borrowers and Lender are parties to that certain Credit Agreement, dated as of April 6, 2016 (such Credit Agreement as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, the Borrowers have notified Lender of certain Events of Default that have occurred and are continuing, which Events of Default are identified on Schedule A attached hereto (collectively, the "Specified Defaults"). For purposes of this Agreement and without further investigations by Lender with respect to the existence thereof, no other Default or Event of Default is, or shall be deemed to be, a Specified Default;

WHEREAS, Borrowers have informed Lender that the Loan Parties intend to acquire all of the Equity Interests of Unified ConneXions, Inc. ("UCX") and HVE ConneXions LLC ("HXC", and collectively with UCX, the "Targets") (such acquisition of the Equity Interests of the Targets, the "Subject Transaction");

WHEREAS, Borrowers have requested that Lender (a) amend the Credit Agreement as set forth herein, (b) consent to the Subject Transaction, and (b) waive the Specified Defaults, in each case, as set forth herein; and

WHEREAS, on and subject to each of the terms and conditions set forth herein, Lender has agreed to accommodate Borrowers' requests;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and each intending to be bound hereby, the parties hereto agree as follows:

1. Capitalized Terms. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Credit Agreement.
2. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.
3. Waiver of Specified Defaults.
 - (a) Each Borrower and Guarantor acknowledges and agrees that the Specified Defaults have occurred and are continuing.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(b) Notwithstanding any provisions of the Credit Agreement and the other Loan Documents to the contrary, subject to the satisfaction of the conditions precedent set forth in Section 6 hereof, Lender hereby waives the Specified Defaults; provided, that nothing herein, nor any communications among any Borrower, any Guarantor, or Lender, shall be deemed a waiver with respect to any Events of Default or any failure of any Borrower or any Guarantor to comply fully with any provision of the Credit Agreement or any provision of any other Loan Document (in each case other than with respect to the Specified Defaults), and in no event shall this waiver be deemed to be a waiver of enforcement of any of Lender's rights or remedies under the Credit Agreement and the other Loan Documents, at law (including under the Uniform Commercial Code), in equity, or otherwise including, without limitation, the right to declare all Obligations immediately due and payable pursuant to Section 8.02 of the Credit Agreement, with respect to any other Defaults or Events of Default now existing or hereafter arising. Except as expressly provided herein, Lender hereby reserves and preserves all of its rights and remedies against any Borrower and any Guarantor under the Credit Agreement and the other Loan Documents, at law (including under the Uniform Commercial Code), in equity, or otherwise including, without limitation, the right to declare all Obligations immediately due and payable pursuant to Section 8.02 of the Credit Agreement.

(c) The waivers in this Section 3 shall be effective only in the specific instances and for the specific purposes set forth herein and do not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Loan Document, which terms and conditions shall continue in full force and effect.

(d) The Loan Parties agree that neither the foregoing agreement by Lender nor the acceptance by Lender of any of the payments provided for hereunder or in the Loan Documents, nor any payment prior to the date hereof, shall excuse any Loan Party from any of its obligations under the Loan Documents. Each Loan Party agrees that it will not assert laches, waiver or any other defense to the enforcement of any of the Loan Documents based upon the foregoing agreement of Lender to waive or the acceptance by Lender of any of the payments provided for in the Loan Documents or any payment prior to the date hereof.

4. Consent to Subject Transaction. Upon and subject to the satisfaction of each of the conditions set forth in Section 6 of this Agreement, any provisions of the Credit Agreement and the other Loan Documents to the contrary notwithstanding, Lender hereby consents to the consummation of the Subject Transaction, but only so long as (a) the aggregate consideration (whether in cash or otherwise, including, without limitation, the amount of any holdback or earnout obligations) payable by the Loan Parties or their Subsidiaries for the Subject Transaction does not exceed \$[***], (b) the aggregate amount of consideration payable in cash by the Loan Parties or their Subsidiaries in connection with the Subject Transaction does not exceed \$[***], (c) other than a requirement for up to \$[***] in consideration to be paid in cash following receipt of both the net cash proceeds of the Initial Equity Raise and investor commitments with respect to the Second Equity Raise, the documentation for the Subject Transaction does not require that any consideration be paid in cash by the Loan Parties or their Subsidiaries in respect of the Subject Transaction until after the Company shall have received net cash proceeds of both the Initial Equity Raise and the Second Equity Raise, (d) other than payment of up to \$[***] in consideration in cash after receipt of both the net cash proceeds of the Initial Equity Raise and investor commitments with respect to the Second Equity Raise, the Loan Parties and their Subsidiaries do not make any cash payments of consideration on account of the Subject Transaction until after the Company has received net cash proceeds of both the Initial Equity Raise and the Second Equity Raise, (e) no more than \$[***] in cash consideration in connection with the Subject Transaction is paid or required to be paid before the date that is one year after the consummation of the Subject Transaction, (f) on the date of consummation of the Subject Transaction, the Subject Transaction constitutes a Permitted Acquisition except pursuant to clauses (h), (j), and (k) thereof, and (g) the Company has delivered to Lender substantially concurrently with the closing of the Subject Transaction a certificate of a Senior Officer of Company certifying to compliance with clauses (a) through (f) above.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

5. Amendments to Credit Agreement.

(a) Section 1.1 of the Credit Agreement is hereby amended by adding in proper alphabetical order, or amending and restating in their entirety, the following definitions:

“*Amendment Number 1*” means that certain Consent, Waiver, Reaffirmation and Amendment Number One to Credit Agreement, dated as of December 30, 2016, among Borrowers, Guarantors, and Lender.

“*Amendment Number 1 Effective Date*” means December 30, 2016.

“*Budget*” means the Initial Budget as updated by each updated 13-week projection of cash disbursements and cash receipts of the Loan Parties and their Subsidiaries required thereafter under the terms of Amendment Number 1, prepared on a week by week basis, in form and detail reasonably satisfactory to Lender (including the scope and methodology of review and analysis) “*Consolidated Revenue*” shall mean, for any period, the revenue of Parent and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP.

“*Consultant*” has the meaning specified therefor in Amendment Number 1.

“*Designated Account*” means the deposit account of the Company identified on Schedule D-1 to this Agreement located at Opus Bank.

“*Initial Budget*” has the meaning set forth in Section 6.17(a) .

“*Insolvency Proceeding*” means any proceeding (including preliminary proceedings) commenced by or against any Person under any provision of any Debtor Relief Law or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

“*Initial Equity Raise*” has the meaning set forth in Section 8.01(m).

“*Interest Rate*” means (i) in the case of the Revolving Loan, a fluctuating rate per annum equal to the higher of (a) the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as its “prime rate” (or the average prime rate if a high and a low prime rate are therein reported) plus 2.75% or (b) 6.25%, and (ii) in the case of the Term Loan, a fluctuating rate per annum equal to the higher of (a) the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as its “prime rate” (or the average prime rate if a high and a low prime rate are therein reported) plus 2.75% or (b) 6.25% .

“*Lender-Related Persons*” means Lender, together with its Affiliates, officers, directors, employees, attorneys, advisors, consultants (including Consultant), and agents.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

“*Maturity Date*” means, with respect to (a) the Term Loan, the earliest of the Global Debenture Maturity or March 31, 2017 or such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of the Global Debenture Maturity or March 31, 2017 or such earlier date upon which the Commitments may be terminated and/or the Obligations may be accelerated in accordance with the terms of this Agreement.

“*Original Covenant Testing Event*” means the occurrence of an Event of Default under Section 8.01(m).

“*Revolving Loan Commitment*” means the commitment of the Lender to make Revolving Loans to Borrowers in an aggregate outstanding amount not to exceed \$8,595,017.72, as such amount may be changed from time to time pursuant to Section 2.05.

“*Second Equity Raise*” has the meaning set forth in Section 8.01(m).

“[***]”

“*Third Equity Raise*” has the meaning set forth in Section 8.01(m).

(b) Section 2.02(c) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(c) **Other Mandatory Prepayments.** In addition to the payments required by Section 2.03(b) hereof, Company shall (subject to Section 2.02(d) below) make mandatory prepayments of the Obligations as set forth below. Subject to Section 2.02(d) below, all such prepayments required under clauses (i), (ii), and (iii) below shall be applied first, pro rata to the remaining scheduled payments of principal due under the Term Loan (including, without limitation, the payment due on the Maturity Date thereof) and, second, to prepay the outstanding Revolving Loans. To the extent any amounts remain after such applications, other than any amounts remaining as a result of Lender declining prepayment pursuant to Section 2.02(d), such amounts may be retained by Company.

(i) **Asset Sales.** No later than the fifth Business Day following the date of receipt by the Parent or any of its Subsidiaries of any Net Asset Sale Proceeds (or on the 271st day if the first proviso hereto applies) if such Net Asset Sale Proceeds are equal to or in excess of \$500,000 received in any fiscal year through the applicable date of determination, Company shall prepay, subject to the provisions of Section 2.02(d) below, the Obligations in an aggregate amount equal to such Net Asset Sale Proceeds; provided that, so long as no Event of Default shall have occurred and be continuing, Company need not so apply such Net Asset Sale Proceeds so long as the Parent or one or more of its Subsidiaries invests such Net Asset Sale Proceeds within two hundred seventy (270) days of receipt thereof in assets of the general type used in the business of the Parent and its Subsidiaries (including acquisitions of assets by way of stock purchase, merger or acquisition of assets of a Borrower or business unit in compliance with Section 7.03) or the applicable Borrower or Guarantor enters into a binding commitment thereof within two hundred seventy (270) days from the date of the receipt of such Net Asset Sale Proceeds and subsequently makes such reinvestment within one hundred eighty (180) days from the date of such binding commitment; provided, further, pending any such investment all such Net Asset Sale Proceeds shall be invested in Cash or Cash Equivalents and deposited in the Designated Deposit Account and held therein until such time as such Net Asset Sale Proceeds are applied in payment of such investment.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(ii) **Insurance/Condemnation Proceeds.** No later than the fifth Business Day following the date of receipt by the Parent or any of its Subsidiaries (or on the 271st day if the first proviso hereto applies), or Lender as loss payee, of any Net Insurance/Condemnation Proceeds equal to or in excess of \$500,000 received in any fiscal year through the applicable date of determination, Company shall prepay, subject to the provisions of Section 2.02(d) below, the Obligations in an aggregate amount equal to such Net Insurance/Condemnation Proceeds; provided that so long as no Event of Default shall have occurred and be continuing, Company need not so apply such Net Insurance/Condemnation Proceeds so long as the Parent or one or more of its Subsidiaries invests such Net Insurance/Condemnation Proceeds within two hundred seventy (270) days of receipt thereof in assets of the general type used or useful in the business of the Parent and its Subsidiaries, which investment may include the repair, restoration or replacement of the applicable assets thereof; provided, further, that pending any such investment all such Net Insurance/Condemnation Proceeds, as the case may be, shall be invested in Cash or Cash Equivalents and deposited in the Designated Deposit Account and held therein until such time as such Net Insurance/Condemnation Proceeds are applied in payment of such investment.

(iii) **Break-up Fee.** No later than the fifth Business Day following the date of receipt by the Parent or any of its Subsidiaries of payment of any break-up fee, termination fee, alternate transaction fee, or similar fee in connection with any arrangements relating to the sale of other disposition of [***], Company shall prepay, subject to the provisions of Section 2.02(d) below, the Obligations in an aggregate amount equal to the amount of such payment received.”

(c) Section 2.04 of the Credit Agreement is hereby amended by adding the following new clause (c) at the end thereof:

“(c) **Success Fee.** If on the first to occur of the Payoff Date (as defined in the New Warrant (as defined in Amendment Number 1) or the Maturity Date, the Current Market Price (as defined in the New Warrant (as defined in Amendment Number 1) determined immediately prior to the Payoff Date is less than the Current Market Price as of the Effective Date (as defined in the New Warrant (as defined in Amendment Number 1)), the Borrowers shall pay to the Lender on such date a success fee in immediately available funds in an amount equal to: (i) the difference between the Current Market Price as of the Effective Date and the Current Market Price as of the Payoff Date; multiplied by (ii) the number of Common Shares (defined in the New Warrant (as defined in Amendment Number 1)) underlying the Warrants (defined in the New Warrant (as defined in Amendment Number 1)) represented by the Warrant defined in the New Warrant (as defined in Amendment Number 1), which fee referenced is fully earned on the Amendment Number 1 Effective Date and due and payable on the first to occur of the Payoff Date or the Maturity Date; provided that no such success fee shall be payable in the event that the New Warrant is redeemed by the Parent (in its sole discretion) on the earlier of Payoff Date or Maturity Date for a cash payment to Lender of \$250,000 in accordance with the terms of the New Warrant.

(d) Section 5 of the Credit Agreement is hereby amended by adding the following new Section 5.20 at the end thereof:

“**Section 5.20 Collateral Coverage.** Not less than (i) [***]% of the revenue comprising Consolidated Revenue of Parent and its Subsidiaries for the most recently ended fiscal quarter is attributable to revenue of the Loan Parties as a group (calculated, for the avoidance of doubt, without taking into account revenue of any Person who is not a Loan Party) and (ii) [***]% of the stated book value of the consolidated assets of Parent and its Subsidiaries for the most recently ended fiscal month is attributable to assets owned by the Loan Parties.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(e) Section 6.01(c) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(c) as soon as available, but in any event within 20 days after the end of each calendar month, commencing with the month ended December 31, 2016, a consolidated balance sheet of the Parent and its Subsidiaries as at the end of such fiscal month, and the related consolidated statements of income for such month and for the portion of Parent’s fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding month of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and accompanied by a Compliance Certificate as required under Section 6.02(a); provided that it is acknowledged that the financial statements delivered for the month ending December 31, 2016 shall be prepared on a preliminary basis pending delivery of the financial statements referred to in Section 6.01(b) for the quarter ending December 31, 2016; and”

(f) Section 6.02(a) of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(a) concurrently with the delivery of the financial statements referred to in Sections 6.01(a), (b) and (c), a duly completed Compliance Certificate signed by a Senior Officer of Company; provided that no Compliance Certificate delivered with the financial statements referred to in Section 6.01(c) solely for the month ending December 31, 2016;”

(g) Section 6 of the Credit Agreement is hereby amended by adding the following new Sections 6.17 thereto:

“6.17. **Milestones.** Deliver to Lender:

(a) (i) promptly upon any material change to the projections of the Loan Parties for the fiscal year ending December 31, 2017 previously delivered to Lender, an updated set of projections of the Loan Parties for the fiscal year ending December 31, 2017, on a month by month basis, in form and detail (including as to scope and underlying assumptions) reasonably satisfactory to Lender, and (ii) on or before Thursday of the week beginning January 15, 2017, a 3-week projection of cash disbursements and cash receipts of the Loan Parties and their Subsidiaries for the three-week period ending February 3, 2016, prepared on a week-by-week basis, in form and detail reasonably satisfactory to Lender (including the scope and methodology of review and analysis) (the “Initial Budget”).

(b) on or before February 7, 2017, an executed letter of intent with respect to a proposed financing by [***] or one or more of its affiliates (or another lender reasonably acceptable to Lender) of one or more of the Loan Parties providing for a senior credit facility secured by current assets of at least \$10,000,000, permitting a separate senior financing secured by certain other long term assets and general intangibles of not less than \$7,000,000 provided by [***] or another lender reasonably acceptable to Lender, and providing for targeted a closing date of no later than March 31, 2017,

(c) on or before February 15, 2017, an executed letter of intent with respect to a proposed senior financing of one or more of the Loan Parties by [***] or one of its affiliates (or another lender reasonably acceptable to Lender), providing for a senior facility of at least \$7,000,000 secured by long term assets and general intangibles, permitting a separate senior financing of not less than \$10,000,000 provided by [***] or one or more of its affiliates (or another lender reasonably acceptable to Lender) and secured by current assets, and providing for targeted a closing date of no later than March 31, 2017,

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(d) on or before March 24, 2017, an executed letter of intent with respect to a proposed sale by the Loan Parties of certain [***] of the Loan Parties on terms and conditions relative to payment consideration reasonably satisfactory to Lender and provided that any break-up, alternative transaction, or termination fee payable to the Loan Parties or their subsidiaries would be applied as a mandatory prepayment of the Obligations in accordance with the terms of Section 2.02(c) (iii), and

(e) on or before March 15, 2017, one or more letters of intent executed by the proposed purchasers thereof with respect to the proposed Third Equity Raise (which, for the avoidance of doubt, shall be in addition to the Initial Equity Raise and the Second Equity Raise) by Parent providing for net cash proceeds of not less than \$3,000,000 and providing for a targeted a closing date of no later than March 31, 2017.

The foregoing to the contrary notwithstanding, (x) no Loan Party or Subsidiary of any Loan Party shall be permitted to execute a letter of intent delivered pursuant to the foregoing clauses (d) or (e) of this Section 6.17 that, and no such letter of intent shall satisfy the requirements of the foregoing clauses (d) or (e) if such letter of intent, requires the payment of a work fee or other form of cash deposit by Parent or one of its Subsidiaries connection with the delivery thereof or as a condition to the effectiveness or continued effectiveness thereof, and (y) no Loan Party or Subsidiary of any Loan Party shall be permitted to execute a letter of intent in connection with the proposed transactions described in foregoing clauses (b) or (c) of this Section 6.17 that, and no such letter of intent shall satisfy the requirements of the foregoing clauses (b) or (c) if such letter of intent, requires the payment of a work fee or other form of cash deposit by Parent or one of its Subsidiaries connection with the delivery thereof or as a condition to the effectiveness or continued effectiveness thereof, unless with respect to this clause (y) only, the following conditions are satisfied (A) (i) with respect to clause (b), the amount of such work fee or cash deposit does not exceed \$50,000 and (ii) with respect to clause (c) either such deposit or work fee was paid to the Amendment Number 1 Effective Date or is otherwise commercially reasonable, and (B) the amount of such work fee or cash deposit (other than amounts paid prior to the Amendment Number 1 Effective Date) is accounted for in the most recent Budget and Lender has received a certificate of the chief financial officer of the Loan Parties, in form and substance reasonably satisfactory to Lender, certifying that, on a pro forma basis after giving effect to such cash deposit or work fee payment, the Budget adequately demonstrates the Loan Parties' ability to meet all debt, liabilities, and operating requirements due and payable during the immediately subsequent 3-week period from Loan Parties' projected revenue during such period."

(h) Section 7.11 of the Credit Agreement is hereby amended and restated in its entirety as follows:

"7.11 Financial Covenants.

(a) **Minimum Consolidated Revenue.** Fail to achieve Consolidated Revenue of Parent and its Subsidiaries of at least the required amount set forth in the following table for the applicable period set forth opposite thereto measured as of the last day thereof:

[***] Omitted pursuant to a request for confidential treatment with the SEC.

Consolidated Revenue	Applicable Period
\$15,600,000	For 1 quarter period ending December 31, 2016
\$[***]	For the 1 month period ending January 31, 2017
\$[***]	For the 1 month period ending February 28, 2017
\$[***]	For the 1 month period ending March 31, 2017 and the last day of each 1-month period ending thereafter

(b) **Minimum Consolidated Adjusted EBITDA.** Fail to achieve Consolidated Adjusted EBITDA of Parent and its Subsidiaries of at least the required amount set forth in the following table for the applicable period set forth opposite thereto measured as of the last day thereof:

Consolidated Revenue	Applicable Period
\$(3,600,000)	For 1 quarter period ending December 31, 2016
\$[***]	For the 1 month period ending January 31, 2017
\$[***]	For the 1 month period ending February 28, 2017
\$[***]	For the 1 month period ending March 31, 2017 and the last day of each 1-month period ending thereafter

(i) Section 8.01 of the Credit Agreement is hereby amended by amending and restating clauses (c) and (d) in their entirety as follows:

“(c) Any default occurs in the observance or performance of any agreement contained in Section 6.16, 6.17, or 7 of this Agreement or in any covenant contained in Amendment Number 1 (other than Section 8 thereof); or

(d) Any default occurs in the observance or performance of any agreement contained in Section 6.01 or 6.02 of this Agreement or Section 8 of Amendment Number 1 and such default continues for three (3) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Loan Party, or (ii) the date on which written notice thereof is given to Borrower by Lender; or”.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(j) Section 8.01 of the Credit Agreement is hereby amended by (i) deleting the “or” at the end of clause (k) thereof, (ii) replacing the “.” at the end of clause (l) thereof with “; or”, and (iii) inserting the following new clause (m) at the end of Section 8.01:

“(m) If (i) Parent shall not have received net cash proceeds of at least \$2,000,000 from the issuance of common stock Equity Interests of Parent during the period between December 29, 2016 and December 31, 2016 (the “*Initial Equity Raise*”) and contributed to the Company at least \$2,000,000 in immediately available funds from such Initial Equity Raise on or prior to December 31, 2016 by depositing such amount in the Designated Account, (ii) Parent shall not have received net cash proceeds of at least \$3,000,000 from the issuance of common stock Equity Interests of Parent during the period between the January 1, 2017 and January 31, 2017 (the “*Second Equity Raise*”) and contributed to the Company at least \$3,000,000 in immediately available funds from such Second Equity Raise on or prior to January 31, 2017 by depositing such amount in the Designated Account, and/or (iii) Parent shall not have received net cash proceeds of at least \$3,000,000 from the issuance of common stock Equity Interests of Parent during the period between February 1, 2017 and March 31, 2017 (the “*Third Equity Raise*”) and contributed to the Company at least \$3,000,000 in immediately available funds from such Third Equity Raise on or prior to March 31, 2017 by depositing such amount in the Designated Account.”

(k) The Credit Agreement is hereby amended by adding Schedule D-1 in the form attached hereto as Exhibit A thereto.

(l) Exhibit B to the Credit Agreement is hereby amended and restated in its entirety and replaced with Exhibit B attached hereto.

6. Conditions Precedent to Effectiveness. The satisfaction of each of the following shall constitute conditions precedent to the effectiveness of this Agreement and each and every provision hereof (such date being the “Agreement Effective Date”):

(a) Lender shall have received counterparts of this Agreement duly executed and delivered by each Borrower and each Guarantor;

(b) Lender shall have received, in form and substance satisfactory to Lender:

(i) a replacement Note, evidencing Revolving Loans, duly executed and delivered by each Borrower;

(ii) a duly executed original replacement common stock purchase warrant issued to Lender in the form of Exhibit C hereto (the “**New Warrant**”),

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Senior Officers of each Loan Party as Lender may require to establish the identities of and verify the authority and capacity of each Senior Officer thereof authorized to act as a Senior Officer thereof;

(iv) such evidence as Lender may reasonably require to verify that each Loan Party is duly organized or formed, validly existing, in good standing (to the extent such concept is applicable in the relevant jurisdiction) and qualified to engage in business in such Loan Party’s jurisdiction of organization and in each foreign jurisdiction in which such Loan Party is required to be qualified, including certified copies of such Loan Party’s Organization Documents, certificates of good standing and/or qualification to engage in business, tax clearance certificates, and the like,

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) except for representations and warranties which would otherwise fail to be true and correct solely as a result of the occurrence and continuance of the Specified Defaults, the representations and warranties herein and in the Credit Agreement and the other Loan Documents shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day);

(d) no Default or Event of Default (other than the Specified Defaults) shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein; and

(e) no injunction, writ, restraining order or other order of any nature prohibiting, directly or indirectly, the consummation of the transactions contemplated herein shall have been issued and remain in force by any Governmental Authority against any Borrower or any Guarantor or Lender.

7. Representations and Warranties. Each Loan Party hereby represents and warrants to Lender as follows (and such representations and warranties shall survive the execution and delivery of this Agreement):

(a) Due Organization and Qualification. Each Loan Party (i) is duly organized and validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, (ii) is qualified to do business in any jurisdiction where the failure to be so qualified reasonably could be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Due Execution and Authority. Each Loan Party has the corporate or limited liability company, as applicable, power and authority and the legal right to make, deliver and perform this Agreement and each other Loan Document to which it is a party and each Loan Party has the corporate, limited liability company or other organizational, as applicable, power and authority to, and has taken all necessary action to, authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party. No consent or authorization of, filing with, or other act by or in respect of, any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents except for any filings or recordings in connection with the perfection of the Liens granted under the Loan Documents.

(c) No Legal Bar. The execution, delivery, and performance by each Borrower and each other Loan Party of this Agreement and each of the other Loan Documents to which it is a party and compliance with the provisions hereof and thereof have been duly authorized by all requisite action on the part of each such Borrower and each such other Loan Party and do not and will not (i) violate or conflict with, or result in a breach of, or require any consent under (x) any Organization Documents of a Borrower or any other Loan Party, (y) any material Laws, rules, or regulations or any order, writ, injunction, or decree of any Governmental Authority or arbitrator applicable to any of the Loan Parties or their respective businesses, or (z) any material Contractual Obligation of a Borrower or any other Loan Party or by which any of them or any of their property is bound or subject (after giving effect to any modifications, waivers or consents, the effectiveness of which may occur concurrently with the Closing Date), (ii) constitute a default under any such material agreement or instrument, or (iii) result in, or require, the creation or imposition of any Lien on any of the properties of a Borrower or other Loan Party (other than the Liens granted in connection herewith).

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(d) Enforceability. This Agreement, the Credit Agreement and the other Loan Documents have been duly executed and delivered by each Borrower and Guarantor and are the legally valid and binding obligations of each Borrower and Guarantor, enforceable against such Borrower and Guarantor in accordance with their respective terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally and general principals of equity (whether considered in a proceeding in equity or law).

(e) No Injunctions or Other Orders. No injunction, writ, restraining order, or other order of any nature prohibiting, directly or indirectly, the consummation of the transactions contemplated herein has been issued and remains in force by any Governmental Authority against any Loan Party or Lender.

(f) Representations and Warranties. Except for representations and warranties which would otherwise fail to be true and correct solely as a result of the occurrence and continuance of the Specified Defaults, the representations and warranties herein and in the Credit Agreement and the other Loan Documents are true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on and as such date (except to the extent that such representations and warranties relate solely to an earlier day).

(g) No Default. No Default or Event of Default (other than the Specified Defaults) has occurred and is continuing on the date hereof or as of the date upon which the conditions precedent set forth herein are satisfied, nor will result from the consummation of the transactions contemplated herein.

(h) Performance. Except for the Specified Defaults, each Loan Party has performed in all material respects all agreements to be performed on its part on or before the date hereof as set forth in the Credit Agreement and the other Loan Documents.

(i) Financial Projections. All projections concerning the Loan Parties that have been or are hereafter made available to Lender by any Loan Party or any Loan Party's officers, management, shareholders, directors, employees, personnel, attorneys, accountants, advisors, auditors, consultants and other agents and representatives (each individually a "Loan Party Representative" and collectively the "Loan Party Representatives") in connection with the transactions contemplated hereby and by the other Loan Documents have been (or will be, in the case of projections made available after the date hereof) prepared in good faith based upon reasonable assumptions (it being recognized by Lender that the projections and forecasts provided are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

(j) No Duress. This Agreement has been entered into without force or duress, of the free will of each Loan Party. Each Loan Party's decision to enter into this Agreement is a fully informed decision and each Loan Party is aware of all legal and other ramifications of such decision.

(k) Comprehension and Advice of Counsel. (i) Each Loan Party has thoroughly read and reviewed the terms and provisions of this Agreement in its full and final form and is familiar with same, (ii) the terms and provisions contained herein are clearly understood by the Loan Parties and have been fully and unconditionally consented to by the Loan Parties, (iii) the Loan Parties have had full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel of their own selection, in regard to understanding the terms, meaning and effect of this Agreement, (iv) this Agreement has been entered into by each Loan Party freely, voluntarily, and with full knowledge, and (v) in executing this Agreement, no Loan Party is relying on any representations, either written or oral, express or implied, made to any Loan Party by any other party hereto or Lender. Each Loan Party acknowledges that Lender's agreements set forth in this Agreement are adequate and sufficient consideration for the agreements of the Loan Parties set forth in this Agreement.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(l) Insolvency Proceedings. Each Loan Party represents and warrants to Lender that none of the Loan Parties has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it and the Loan Party Representatives have no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

8. Covenants. Each Loan Party hereby covenants and agrees with Lender as follows:

(a) Consultant.

(i) The Loan Parties hereby acknowledge and agree that Lender is exercising its inspection rights under Section 6.08 of the Credit Agreement and intends to engage the services of Sherwood Partners (“Consultant”) to (A) review and analyze (y) the Loan Parties’ projections for the fiscal year ending December 31, 2017 and (z) the Initial Budget delivered by the Loan Parties, in order to verify that such projections and Initial Budget have been prepared based on reasonable assumptions, (B) conduct a review of the Loan Parties’ and their Subsidiaries’ intellectual property portfolio (including verification of ownership and location), and (C) conduct an analysis of the liquidation value of the assets of the Loan Parties and their Subsidiaries (the projects described in items (A) through (C) of this Section 8(a)(i) are referred to collectively as the “Initial Project”). Each Loan Party acknowledges and agrees that, in its discretion, Lender may broaden the scope of Consultant’s engagement, at Borrowers’ expense (subject to the cap on Borrower’s obligation to reimburse such expenses related to the Initial Project set forth in Section 8(a)(ii)), to include additional responsibilities or duties identified by Lender.

(ii) The Loan Parties and their respective Subsidiaries shall, upon reasonable notice from Lender, make each or any Loan Party’s and its Subsidiaries’ respective officers, management, shareholders, directors, employees, personnel, attorneys, accountants, advisors, auditors, consultants and other agents and representatives (each individually a “Loan Party Representative” and collectively the “Loan Party Representatives”) available during normal business hours for meetings with Lender and Consultant, as may be reasonably requested by Lender. Each Loan Party acknowledges and agrees that all fees, costs and expenses incurred or charged by Lender in connection with the analysis and review of the Loan Parties’ and their Subsidiaries’ affairs, financial condition, assets and operations (including, without limitation, the fees, costs, and expenses of any financial advisor or consultant, including costs and expenses of Consultant) shall immediately constitute a part of the Obligations that will be secured by the Collateral and shall be payable by Borrowers upon demand by Lender; provided, however, that Lender and Borrowers agree that Borrower shall not be responsible for more than \$40,000 in fees of Consultant for completion of the Initial Project as long as the Loan Parties have complied with their obligations under this Agreement and the other Loan Documents.

(iii) Each Loan Party and their respective Subsidiaries shall cooperate in good faith with Lender and Consultant in furnishing information and taking such other action as required or contemplated by this Agreement and the other Loan Documents, including, without limitation, providing all information reasonably requested and providing Lender and the Lender-Related Persons full access during normal business hours to its original books and records (and to permit Lender to make copies thereof), property and assets wherever they may be located, which right of access shall include the right to inspect and appraise such property and assets; provided that no such access shall disrupt the ordinary course operation of the business of the Loan Parties. Each Loan Party authorizes Lender and Consultant to meet or have discussions with any Loan Party Representative from time to time to discuss any matters regarding the Loan Parties’ or their Subsidiaries’ assets, affairs, financial condition and operations, and shall direct and authorize, and hereby directs and authorizes, all such Loan Party Representatives to fully disclose to Lender and Consultant all information requested by Lender or Consultant regarding any Loan Party’s or their Subsidiaries’ assets, affairs, financial condition and operations. Each Loan Party waives and releases any Loan Party Representative from the operation and provisions of any confidentiality agreement with any Loan Party so that such Loan Party Representative is not prohibited from providing any information to Lender. Notwithstanding anything herein to the contrary, no Loan Party or Loan Party Representative shall be required to disclose any document, information or other matter that is subject to attorney-client or similar privilege.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(iv) Each Loan Party and their respective Subsidiaries shall cooperate in good faith with Lender and Consultant in order to provide Consultant with sufficient access to information reasonably requested by Consultant in order to enable Consultant to complete the Initial Projects on or prior to, with respect to the Initial Project described in clause (A) of the definition thereof, January 15, 2017, and with respect to all other aspects of the Initial Project, February 15, 2017.

(v) Upon the request of Lender, Borrowers shall arrange weekly telephone conferences between Lender, Borrowers, appropriate Loan Party Representatives, and Consultant.

(b) Budget and other Reporting. On Thursday of each week after January 15, 2017, the Loan Parties shall deliver to Lender (i) a statement of actual cash receipts and cash disbursements for Parent and its Subsidiaries on a consolidated basis for the immediately preceding week, together with a comparison to the Budget (as updated pursuant to this Section 8(b)) for such period and (ii) an updated 3-week Budget (on a week-by-week basis), in form and detail reasonably satisfactory to Lender and developed by Borrowers (with input from the Consultant as required by Lender), including a variance analysis of actual versus forecast for the preceding 3-weeks, together with a certificate of the chief financial officer of the Loan Parties, in form and substance satisfactory to Lender, certifying that such Budget represents the Loan Parties' good faith projections and estimates of their expenses for the period set forth therein, and each Loan Party in good faith believes the Budget will adequately provide for the Loan Parties' operations for such period.

(c) Perfection Certificate; Further Assurances. On or before January 21, 2017, the Loan Parties shall deliver to Lender an updated, completed and duly executed perfection certificate in form and substance reasonably satisfactory to Lender. The Loan Parties shall take, or cause each other Loan Party to take, such actions as shall be necessary or reasonably requested by Lender to create and perfect Lender's Liens in the assets of the Loan Parties, in each case, at the expense of Borrowers.

(d) German Security Confirmation Agreement. On or prior to January 31, 2017, the Loan Parties shall have executed and delivered German law governed (i) security confirmation agreements, (ii) supplemental pledge agreements, and (iii) share pledge agreements relative to the equity issued by Subsidiary Borrower, in each case reasonably requested by Lender, each in form and substance reasonably satisfactory to Lender.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(e) Compliance with the Loan Documents. Except to the extent compliance is expressly waived in Section 3 of this Agreement, each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring prompt payment of principal and interest amounts when due, in each case, subject to any applicable grace or cure periods, if any.

The Loan Parties acknowledge and agree that failure by any Loan Party to timely comply with any of the covenants contained in this Section 8 shall constitute an immediate Event of Default.

9. Bankruptcy Matters.

(a) Each Loan Party covenants with Lender that the Loan Parties and their Subsidiaries shall use its best efforts to provide Lender with not less than 7 Business Days prior written notice before filing any voluntary proceeding, or cooperating with or consenting to the filing for any involuntary proceeding, under any chapter of the Bankruptcy Code or in connection with any other Insolvency Proceeding, or any other voluntary or involuntary petition for relief under any Debtor Relief Law. Each Loan Party further agrees that during the notice periods described above and before commencing any Insolvency Proceeding, filing any voluntary proceeding, or cooperating with or consenting to the filing for any involuntary proceeding or involuntary Insolvency Proceeding, under any chapter of the Bankruptcy Code or any Debtor Relief Law, the Loan Parties and their Subsidiaries shall use their best efforts to cooperate in good faith with Lender in order to negotiate a mutually agreeable “cash collateral” budget and plan for proposal in the first day orders.

(b) Lender shall immediately become entitled, among other relief to which Lender may be entitled under the Loan Documents, and at law or in equity, to obtain upon ex parte application therefor and without further notice or action of any kind, (i) an order from any court of competent jurisdiction (the “Court”) prohibiting the use by the trustee in bankruptcy, or by such Loan Party as debtor-in-possession, of Lender’s “cash collateral” (as such term is defined in Section 363 of the Bankruptcy Code) in connection with the Loan Documents; and (ii) an order from the Court granting immediate relief from the automatic stay pursuant to Section 362 of the Bankruptcy Code so as to permit Lender to exercise all of Lender’s rights and remedies pursuant to the Loan Documents, and at law and in equity, and each Loan Party further acknowledges and agrees that (x) the occurrence or existence of any breach or default under this Agreement or any Event of Default under any other Loan Document shall, in and of itself, constitute “cause” for relief from the automatic stay pursuant to the provisions of Section 362(d)(1) of the Bankruptcy Code, and (y) in no event shall any Loan Party contest a motion to lift the automatic stay filed by Lender.

(c) Each Loan Party represents and warrants to Lender and agrees as follows: (i) the Loan Parties have assured Lender that if the consensual out-of-court restructuring contemplated by this Agreement cannot be carried out by the Loan Parties in accordance with the terms of this Agreement, then the Loan Parties intend to allow Lender to foreclose (or accept all or a portion of the Collateral in full or partial satisfaction of the Obligations) and exercise all of Lender’s other rights and remedies as a secured creditor; (ii) the Loan Parties do not intend to commence any Insolvency Proceeding and have no intention of seeking any non-consensual relief against Lender in any Insolvency Proceeding; (iii) if the Loan Parties are unable to reorganize their business and financial affairs prior to the occurrence of any Event of Default so that the Loan Parties are able to satisfy their obligations to Lender under this Agreement and the other Loan Documents, any further attempt or additional time to reorganize the Loan Parties’ financial affairs and to pay and perform the Loan Parties’ obligations to Lender would be fruitless and impracticable to achieve; (iv) any filing by any Loan Party of any Insolvency Proceeding or the exercise of like or similar rights by any Loan Party prior to satisfaction of the Obligations to Lender would be inconsistent with and contrary to the intentions of the parties hereto; (v) the Loan Parties cannot formulate or implement a successful plan of reorganization, restructuring or similar relief in any such Insolvency Proceeding that would adequately and sufficiently protect the rights of Lender or enable the Loan Parties to satisfy their obligations to Lender; (vi) in light of the foregoing, any such filing would be made in bad faith as such term is used by courts in construing the Bankruptcy Code; (vii) in light of the foregoing, if any Insolvency Proceeding is filed by or against any Loan Party, Lender shall have the right, among other things, to seek and obtain immediate relief from any stay as to the Collateral for the obligations secured thereby and to have the exclusivity period for the filing of any plan of reorganization terminated, and the Loan Parties shall be estopped from objecting to or opposing in any manner the relief requested by Lender or the termination of any such exclusivity period in a bankruptcy proceeding; and (viii) the Loan Parties will not solicit, assist or encourage any third party to file any Insolvency Proceeding petition against any Loan Party. The Lender is relying on, among other things, the representations and warranties contained in this Section 8 in entering into this Agreement.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

10. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Loan Party hereby acknowledges, confirms and agrees that as of the close of business on December 30, 2016, Borrowers were indebted to Lender for Revolving Loans, Term Loan, Letter of Credit Usage, and other extensions of credit and financial accommodations under the Loan Documents in the following amounts:

Revolving Loans:	\$10,000,000.00 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Term Loan:	\$8,195,017.72 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Letter of Credit Usage	\$400,00.00.00 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Total Obligations:	\$18,595,017.72 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents

All such Obligations owing by Loan Parties, together with interest accrued and accruing thereon, and all fees, costs, expenses and other charges now or hereafter payable by any Loan Party to Lender, are unconditionally and jointly and severally owing by the Borrowers to Lender, without offset, defense, withholding, counterclaim or deduction of any kind, nature or description whatsoever and shall be payable in accordance with the terms of the Credit Agreement and the other Loan Documents.

Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, including, without limitation, the Specified Defaults except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(b) Acknowledgement of Security Interests. Each Loan Party hereby acknowledges, confirms and agrees that Lender has and shall continue to have valid, enforceable and perfected first-priority Liens in the Collateral (or other similar term used in any Loan Document) of the Loan Parties under the Loan Documents, except in the case of (a) Permitted Liens, to the extent any such Permitted Liens would have priority over the Liens in favor of the Lender pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title) to the extent the Lender has not obtained or does not maintain possession of such Collateral.

(c) Binding Effect of Documents. Each Loan Party hereby acknowledges, confirms and agrees that: (i) each of the Loan Documents to which it is a party has been duly executed and delivered to Lender by such Loan Party, and each is in full force and effect as of the date hereof, (ii) the agreements and obligations of each Loan Party contained in this Agreement and the other Loan Documents constitute the legal, valid and binding obligations of such Loan Party and its successors and assigns, enforceable against such Loan Party and its successors and assigns in accordance with their respective terms, and such Loan Party and its successors and assigns have no valid defense to the enforcement of the Obligations and such guaranteed indebtedness, and (iii) Lender is and shall be entitled to the rights, remedies and benefits provided for in the Loan Documents (as such rights, remedies and benefits may be limited as set forth in this Agreement) and under applicable law or at equity.

(d) No Disregard of Loan Documents. Each Loan Party acknowledges that the parties hereto have not entered into a mutual disregard of the terms and provisions of the Credit Agreement or the other Loan Documents, or engaged in any course of dealing in variance with the terms and provisions of the Credit Agreement or the other Loan Documents, within the meaning of any applicable law of the State of California or otherwise.

(e) Loan Party Remain in Control. Each Loan Party acknowledges that it remains in control of its business and affairs and determines the business plan, for, and employment, management and operating directions and decisions for its business and affairs.

11. [Reserved].

12. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 12 shall survive the payment in full of the Obligations and shall be subject to any limitations set forth in Section 8(a)(ii) above.

13. Tolling of Statute of Limitations.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(a) Any and all statutes of limitations applicable to any and all rights, causes of action, claims and remedies, or equitable claim or laches, which Lender has or might have against any Loan Party arising out of or relating to the circumstances and events described in the recitals shall be and hereby are tolled and suspended effective at all times on and after the date of this Amendment.

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 13 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 13 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Amendment), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

14. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 15 below.

15. Governing Law; Jurisdiction and Venue; Jury Trial Waiver; Judicial Reference. **THIS AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING GOVERNING LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTIONS 9.20 AND 9.22 OF THE CREDIT AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.**

16. Waiver of Bond. **EACH LOAN PARTY WAIVES THE POSTING OF ANY BOND OTHERWISE REQUIRED OF LENDER IN CONNECTION WITH ANY RECEIVERSHIP INSTITUTED PURSUANT HERETO OR ANY OTHER LOAN DOCUMENT, ANY JUDICIAL PROCESS OR PROCEEDING OR TO ENFORCE ANY JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF LENDER OR TO ENFORCE BY SPECIFIC ENFORCEMENT, ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTIONS, OR THIS AGREEMENT.**

17. Time of Essence. Time is of the essence in the payment and performance of each of the obligations of Loan Parties and with respect to all covenants and conditions to be satisfied by any Loan Party in this Agreement, the other Loan Documents and all other documents, acknowledgments and instruments delivered in connection herewith.

18. Release by Loan Parties; Covenant not to Sue.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(a) Effective on the date hereof, each Loan Party, for itself and on behalf of its successors, assigns, officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby waives, releases, remises and forever discharges Lender, each of its Affiliates, and each of their respective successors in title, past, present and future officers, directors, employees, limited partners, general partners, investors, attorneys, assigns, subsidiaries, shareholders, trustees, agents, Consultant and other professionals and all other persons and entities to whom Lender would be liable if such persons or entities were found to be liable to any Loan Party (each a “Releasee” and collectively, the “Releasees”), from any and all past, present and future claims, suits, liens, lawsuits, adverse consequences, amounts paid in settlement, debts, deficiencies, diminution in value, disbursements, demands, obligations, liabilities, causes of action, damages, losses, costs and expenses of any kind or character, whether based in equity, law, contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law (each a “Claim” and collectively, the “Claims”), whether known or unknown, fixed or contingent, direct, indirect, or derivative, asserted or unasserted, matured or unmatured, foreseen or unforeseen, past or present, liquidated or unliquidated, suspected or unsuspected, which any Loan Party ever had from the beginning of the world, now has, or might hereafter have against any such Releasee which relates, directly or indirectly to the Credit Agreement, any other Loan Document, or to any acts or omissions of any such Releasee with respect to the Credit Agreement or any other Loan Document, or to the lender-borrower relationship evidenced by the Loan Documents; provided, that the releases set forth in this paragraph shall not release any Releasee from its duties and obligations from and after the date hereof that are set forth in the Credit Agreement, any Loan Document, or this Agreement. As to each and every Claim released hereunder, each Loan Party hereby represents that it has received the advice of legal counsel with regard to the releases contained herein, and having been so advised, specifically waives the benefit of the provisions of Section 1542 of the Civil Code of California which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

As to each and every Claim released hereunder, each Loan Party also waives the benefit of each other similar provision of applicable federal or state law of any applicable jurisdiction, if any, pertaining to general releases after having been advised by its legal counsel with respect thereto.

Each Loan Party acknowledges that it may hereafter discover facts different from or in addition to those now known or believed to be true with respect to such Claims and agrees that this instrument shall be and remain effective in all respects notwithstanding any such differences or additional facts. This release shall be and remain in full force and effect notwithstanding the discovery by any Loan Party after the date hereof (i) of any new or additional Claim against any Releasee, (ii) of any new or additional facts in any way relating to this release, (iii) that any fact relied upon by it was incorrect, or (iv) that any representation or warranty made by any Releasee was untrue or that any Releasee concealed any fact, circumstance or claim relevant to any Loan Party’s execution of this release. Each Loan Party understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 18; and (iii) any attempt to assert a Claim barred by the provisions of this Section 18 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender’s Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) The provisions of this Section 18 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

(d) Each Loan Party acknowledges that the foregoing release is a material inducement to Lender's decision to enter into this Agreement.

19. Specific Performance. It is understood and agreed by each of the parties hereto that money damages would not be a sufficient remedy for any breach of this Agreement by any party and each non-breaching party shall be entitled, without being required to demonstrate irreparable harm, likelihood of success on the merits or the insufficiency of money damages, and without (to the extent permitted by applicable law) posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy of any such breach.

20. Severability. In case any provision in this Agreement shall be invalid, illegal or unenforceable, such provision shall be severable from the remainder of this Agreement and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

21. Integration. This Agreement, and the terms and provisions hereof, which terms shall be deemed to include the annexes, exhibits, and schedules hereto, together with the other Loan Documents and the other documents delivered pursuant hereto (each as amended, supplemented or otherwise modified from time to time), incorporate all negotiations of the parties hereto with respect to the subject matter hereof and sets forth in full the terms of agreement between the parties and is intended as the full, complete and exclusive contract governing the relationship between the parties with respect to the transactions contemplated herein, superseding all other discussions, promises, representations, agreement and understandings, whether express or implied, oral or written, between the parties with respect thereto.

22. Submission of Agreement. The submission of this Agreement to the parties or their agents or attorneys for review or signature does not constitute a commitment by Lender to forbear from exercising any of their rights and remedies under the Loan Documents, and this Agreement shall have no binding force or effect until all of the conditions to the effectiveness of this Agreement have been satisfied as set forth herein.

23. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 23.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

24. Reaffirmation of Obligations. Each Loan Party hereby (a) acknowledges and reaffirms its obligations owing to Lender under each Loan Document to which it is a party, and (b) agrees that each of the Loan Documents to which it is a party is and shall remain in full force and effect. Each Loan Party hereby (i) further ratifies and reaffirms the validity and enforceability of all of the Liens and security interests heretofore granted, pursuant to and in connection with any Loan Document to Lender, as collateral security for the obligations under the Loan Documents in accordance with their respective terms, and (ii) acknowledges that all of such Liens and security interests, and all Collateral heretofore pledged as security for such obligations, continue to be and remain collateral for such obligations from and after the date hereof (including, without limitation, from after giving effect to this Agreement).

25. Ratification. Each Loan Party hereby restates, ratifies and reaffirms each and every term and condition set forth in the Credit Agreement and the Loan Documents effective as of the date hereof and as amended hereby.

26. Effect on Loan Documents.

(a) The Credit Agreement and each of the other Loan Documents shall be and remain in full force and effect in accordance with their respective terms (as amended by this Agreement) and hereby are ratified and confirmed in all respects. The execution, delivery, and performance of this Agreement shall not operate, except as expressly set forth herein, as a forbearance, waiver, consent or modification of any right, power, or remedy of Lender under the Credit Agreement or any other Loan Document. The waivers, consents and modifications herein are limited to the specifics hereof (including facts or occurrences on which the same are based), shall not apply with respect to any facts or occurrences other than those on which the same are based, and shall not (i) excuse future non-compliance with the Loan Documents, (ii) operate as a consent to any further or other matter under the Loan Documents, or (iii) operate as a waiver of any Default or Event of Default (other than the Specified Defaults). Lender is not obligated to consider or consent to any additional request by any Loan Party for any other waiver, consent or other modification with respect to the Credit Agreement. Except for the waivers, consents and other modifications expressly set forth above, the text of the Credit Agreement and all other existing Loan Documents shall remain unchanged and in full force and effect and Lender expressly reserves the right to require strict compliance with the terms of the Credit Agreement and the other Loan Documents.

(b) This Agreement is a Loan Document.

(c) Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, references to the masculine, feminine or neuter gender shall include each other, the terms “includes” and “including” are not limiting, and the term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or”.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

27. Survival. All covenants, representations and warranties, indemnities and releases contained in this Agreement shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, regardless of any investigation made by Lender or on any other Person on its behalf.

28. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

29. Notices. All notices, requests, and demands to or upon the respective parties hereto shall be given in accordance with the Credit Agreement.

30. Counterparts. This Agreement may be executed by one or more of the parties hereto on any number of separate counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic methods of transmission shall be as effective as delivery of a manually executed counterpart hereof. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

31. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Agreement.

32. Construction. This Agreement shall not be construed more strictly against Lender merely by virtue of the fact that the same has been prepared by Lender or its counsel, it being recognized that the Loan Parties and Lender have contributed substantially and materially to the preparation of this Agreement, and each party acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by any of the other parties hereto in entering into this Agreement.

33. Benefit. This Agreement shall be binding upon and shall inure to the benefit of the Borrowers, the Guarantors and Lender, and their respective successors and assigns, provided that none of the Borrowers shall have any right to assign any of its rights or duties under this Agreement.

34. Relationship of the Loan Parties and Lender. The relationship between the Borrowers and the Guarantors, on the one hand, and Lender, on the other hand, is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with any Borrower or Guarantor, and no term or condition of this Agreement or any other Loan Document shall be construed so as to deem the relationship between any Borrower or Guarantor and Lender to be other than that of debtor and creditor.

35. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 18 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

36. Lender Not Liable For Expenses. Nothing in this Agreement shall be intended or construed to hold Lender liable or responsible for any expense, disbursement, liability or obligation of any kind or nature whatsoever, including, without limitation, wages, salaries, payroll taxes, deposits, withholding, benefits or other amounts payable to or on behalf of any Loan Party.

37. Additional Waivers by the Loan Parties. Each Loan Party waives: (a) presentment, demand and protest and notice of presentment, protest, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Lender on which any Loan Party may in any way be liable and hereby ratifies and confirms whatever the Lender may do in this regard; (b) notice prior to taking possession or control of the Collateral; (c) the benefit of all valuation, appraisal and exemption laws; and (d) notice of acceptance hereof. Each Loan Party acknowledges that the foregoing waivers are a material inducement to the Lender entering into this Agreement and that the Lender is relying upon the foregoing waivers in its future dealings with the Loan Parties. Each Loan Party represents and warrants that it has fully reviewed and understands the foregoing waivers.

[signature pages follow]

[***] Omitted pursuant to a request for confidential treatment with the SEC.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized officers or representatives to execute and deliver this Agreement as of the day and year first written above.

BORROWERS:

OVERLAND STORAGE, INC.,
a California corporation, as Company and as a Borrower

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

TANDBERG DATA GMBH,
a limited liability company organized under the laws of Germany, as a
Borrower

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Geschäftsführer

[***] Omitted pursuant to a request for confidential treatment with the SEC.

GUARANTORS:

OVERLAND STORAGE, INC., a California corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D CORP., a corporation organized under the laws of Ontario
Canada, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D INC., a corporation organized under the laws of Canada, as a
Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP, CFO, and Secretary

V3 SYSTEMS HOLDINGS, INC., a Delaware corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Secretary and CFO

[***] Omitted pursuant to a request for confidential treatment with the SEC.

LENDER:

OPUS BANK, a California commercial bank, as Lender

By: /s/ Geoff Anfuso

Name: Geoff Anfuso

Its: Authorized Signatory

[***] Omitted pursuant to a request for confidential treatment with the SEC.

SCHEDULE A

Specified Defaults

<u>Section / Covenant</u>	<u>Required</u>
<u>Section 7.11(c)</u> – Minimum Asset Coverage Ratio	[***] as at the Fiscal Quarter ended October 31, 2016
<u>Section 7.11(c)</u> – Minimum Asset Coverage Ratio	[***] as at the Fiscal Quarter ended November 30, 2016

Exhibit A

Schedule D-1
Designated Account

Exhibit B

FORM OF COMPLIANCE CERTIFICATE
[see attached]

Exhibit C

FORM OF WARRANT
[see attached]

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT.

Void after 5:00 p.m. (Toronto time) on the Expiry Date.

WARRANT

For the purchase of Common Shares of

SPHERE 3D CORP.

(Organized under the laws of Ontario)

Number of Warrants: See Section 1

Warrant Certificate No. 38

This is to certify that, for value received, OPUS BANK, 19900 MacArthur Boulevard, 12th Floor, Irvine, California 92612 (the "**Holder**"), shall have the right to purchase from Sphere 3D Corp. (the "**Corporation**"), at any time and from time to time up to 5:00 p.m. (Toronto time) (the "**Expiry Time**") on December 30, 2022 (the "**Expiry Date**"), one fully paid and non-assessable Common Share (as defined below) for each Warrant (individually, a "**Warrant**") represented hereby at a price of US\$0.01 per Common Share (the "**Exercise Price**"), upon and subject to the terms and conditions set forth herein. The term "**Effective Date**" shall mean December 30, 2016.

1. For the purposes of this Warrant Certificate: (i) the term "**Common Shares**" means common shares without par value in the capital of the Corporation as constituted as of the date hereof, provided that in the event of a subdivision, redivision, reduction, combination or consolidation thereof or any other adjustment under Section 9 hereof, or successive such subdivisions, redivisions, reductions, combinations, consolidations or other adjustments, then subject to the adjustments, if any, having been made in accordance with the provisions of this Warrant Certificate, "**Common Shares**" shall thereafter mean the shares, other securities or other property resulting from such subdivision, redivision, reduction, combination or consolidation or other adjustment; and (ii) the number of Warrants represented hereby shall be equal to a fraction (rounded down to the nearest whole number) where (a) the numerator is equal to US\$250,000; provided, however, that such numerator shall be reduced to US\$200,000 in the event that the Payoff Date (as defined below) occurs prior to February 28, 2017 and (b) the denominator is equal to the difference between the Current Market Price as of the Effective Date and the Exercise Price.

2. All Warrant Certificates shall be signed by an officer of the Corporation holding office at the time of signing, or any successor or replacement of such person and notwithstanding any change in any of the persons holding said offices between the time of actual signing and the delivery of the Warrant Certificate, the Warrant Certificate so signed shall be valid and binding upon the Corporation.

3. All rights under any of the Warrants in respect of which the right of subscription and purchase therein provided for shall not theretofore have been exercised shall wholly cease and such Warrants shall be wholly void and of no valid or binding effect after the Expiry Time on the Expiry Date.

4. (a) Pursuant to the terms and conditions set forth in this Warrant, this Warrant is exercisable at any time, in whole or in part, at or before the Expiry Date, at the option of the Holder, upon surrender of this Warrant Certificate to the Corporation together with a duly completed and executed subscription substantially in the form attached as Schedule "A" (the "**Subscription Form**"), in the manner therein indicated, and payment of an amount equal to the Exercise Price multiplied by the number of Common Shares for which this Warrant is then being exercised ("**Warrant Shares**"), which payment may be satisfied, at the option of the Holder, (a) in cash, (b) through the exercise of Net Exercise Rights (as defined below), or (c) through any combination of the foregoing clauses (a) – (b). "**Shares**" as used herein means Common Shares, or any other equity securities into which such Common Shares are converted into or exchanged for in a Company Transaction (as defined below). Except as provided in the following sentence, any exercise of this Warrant hereunder shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant is surrendered to the Corporation as provided in this Warrant. Notwithstanding the foregoing, if an exercise of all or any portion of this Warrant is being made in connection with (i) a proposed public offering of any capital stock (or other securities) of the Corporation, (ii) a proposed Company Transaction, (iii) a proposed issuance or sale of capital stock or any other securities of the Corporation, or (iv) a proposed transfer of capital stock or other securities of the Corporation, then, at the election of the Holder, such exercise may be conditioned upon the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, in which case (A) such exercise shall be effective concurrently with the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, and (B) appropriate modifications will be made to the Subscription Form to reflect the conditionality specified in this sentence. At the effective time of any exercise of this Warrant, the person or persons in whose name or names any certificate for the Warrant Shares shall be issuable upon such exercise as provided in this Warrant shall be deemed to have become the holder or holders of record of the Warrant Shares represented by such certificate.
- (a) In lieu of exercising the purchase rights represented by this Warrant on a cash basis, the Holder may elect to exercise such rights represented by this Warrant at any time and from time to time during the term, in whole or in part, on a net-issue basis (the "**Net Exercise Right**") by electing to receive the number of Warrant Shares that are equal in value to the value of this Warrant as determined in accordance with Section 4(c) (or any portion thereof to be canceled in connection with such Net Exercise Right) at the time of any such exercise of the Net Exercise Right, by delivery to the principal offices of the Corporation of this Warrant and a completed and duly executed Notice of Exercise appropriately adjusted to indicate that the Holder is exercising the Net Exercise Right.
- (b) In the event that the Holder shall elect to exercise the rights represented by this Warrant in whole or in part pursuant to the Net Exercise Rights provided in this Section 4, the Corporation shall issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

where:

X = the number of Warrant Shares to be issued to the Holder in connection with such Net Exercise Right.

Y = the number of Warrant Shares purchasable in respect of which the Net Exercise Right is elected in connection with an exercise of Warrants by the Holder.

A = the Current Market Price of one Warrant Share.

B = the Warrant Price in effect as of the date of exercise of the Net Exercise Right (as adjusted pursuant to this Warrant).

- (c) This Warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiry Date set forth above. Notwithstanding any provision herein to the contrary, this Warrant shall automatically be deemed to be exercised in full through the exercise of the Net Exercise Right in the manner set forth in Sections 4(b) and (c) of this Warrant, without any further action on behalf of Holder on the earliest date immediately prior to the time this Warrant would otherwise expire.
- (d) Notwithstanding anything to the contrary set forth herein, the Corporation (in its sole discretion) may, on the earlier of the Payoff Date or the Maturity Date (as defined in the Credit Agreement), redeem all of the outstanding Warrants represented by this Warrant Certificate by paying to the Holder cash in an amount equal to \$250,000, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.

5. Upon delivery and payment as set forth in Section 4, the Corporation shall cause to be issued to the Holder the number of Common Shares subscribed for by the Holder and the Holder shall become a shareholder of the Corporation in respect of such Common Shares with effect from the date of such delivery and payment and shall be entitled to delivery of a certificate or certificates evidencing such shares. The Corporation shall cause such certificate or certificates to be mailed to the Holder at the address or addresses specified in the Subscription Form within five (5) business days of such delivery and payment as set forth in Section 4 or, if so instructed by the Holder, held for pick-up by the Holder at the principal office of the Corporation. Notwithstanding any adjustment provided for in Section 9 hereof, the Corporation shall not be required upon the exercise of any Warrants to issue fractional Common Shares in satisfaction of its obligations hereunder and the Holder understands and agrees that it will not be entitled to any cash payment or other form of compensation in respect of a fractional Common Share that might otherwise have been issued.

- 6. (a) The Holder shall have the right to include all or any portion of the Shares underlying the Warrants (collectively, the “**Registrable Securities**”) as part of any other registration of securities pursuant to a registration statement filed by the Corporation (other than in connection with a transaction of the type contemplated by Rule 145(a) promulgated under the U.S. Securities Act (as defined below), pursuant to Form S-8, F-4 or S-4 or any equivalent form, or in connection with the registration of securities as required by any agreement entered into by the Corporation prior to the Effective Date); provided, however, that if, in connection with any primary underwritten public offering for the account of the Corporation, the managing underwriter(s) thereof shall, in its reasonable discretion, impose a limitation on the number of Shares which may be included in the registration statement because, in such underwriter(s)’ judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Corporation shall be obligated to include in such registration statement only such limited portion of the Registrable Securities with respect to which the Holder requested inclusion hereunder as the underwriter shall reasonably permit. Any exclusion of Registrable Securities shall be made pro rata among the holders seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such holders.
-

- (a) The Corporation shall bear all fees and expenses attendant to registering the Registrable Securities pursuant to Section 6(a) hereof, but the holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the holders to represent them in connection with the sale of the Registrable Securities. In the event of such a proposed registration, the Corporation shall furnish the then-holders of outstanding Registrable Securities with not less than five (5) business days written notice prior to the proposed date of filing of such registration statement. Such notice to the holders shall continue to be given for each registration statement filed by the Corporation until the earlier of such time as all of the Registrable Securities have been (i) sold by the Holder or (ii) registered under a registration statement. The holders of the Registrable Securities shall exercise the "piggy-back" rights provided for herein by giving written notice within two (2) business days of the receipt of the Corporation's notice of its intention to file a registration statement. Notwithstanding anything contained in this Warrant Certificate to the contrary, the Corporation shall have no obligation pursuant to Section 6 hereof to register the Registrable Securities held by a Holder, other than the initial Holder of this Warrant Certificate or any of its permitted transferees, where such Holder would then be entitled to sell this Warrant Certificate and the Warrant Shares under Rule 144 promulgated under the U.S. Securities Act (or a successor rule thereto) without restriction (including, without limitation, volume restrictions) and without the need for current public information. No Holder shall have the right to participate in any of the foregoing offerings unless such Holder(s) has or shall furnish to the Corporation a completed and executed questionnaire provided by the Corporation to the Holder(s), at least seven (7) days in advance, requesting information customarily sought of selling security holders.
- (b) Should the registration statement or the effectiveness thereof required by Section 6(a) hereof be delayed by the Corporation or the Corporation otherwise fails to comply with such provisions, the Holder(s) shall, in addition to any other legal or other relief available to the Holder(s), be entitled to seek specific performance or other equitable (including injunctive) relief against the threatened breach of such provisions or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting bond or other security.

7. The holding of a Warrant shall not constitute the Holder a shareholder of the Corporation nor entitle such Holder to any right or interest in respect thereof except as herein expressly provided.

8. The Corporation covenants and agrees that until the Expiry Time, while any of the Warrants shall be outstanding, it shall reserve and there shall remain unissued out of its authorized capital a sufficient number of Common Shares to satisfy the right of purchase herein provided, as such right of purchase may be adjusted pursuant to the provisions of this Warrant Certificate. The Corporation further covenants and agrees that while any of the Warrants shall be outstanding, the Corporation shall (a) comply with the securities legislation applicable to it; and (b) use its commercially reasonable efforts to do or cause to be done all things necessary to preserve and maintain its corporate existence. All Common Shares which shall be issued upon the exercise of the right to purchase herein provided for, upon payment therefor of the amount at which such Common Shares may at the time be purchased pursuant to the provisions hereof, shall be issued as fully paid and non-assessable shares and the holders thereof shall not be liable to the Corporation or its creditors in respect thereof.

9. (a) As used in this Warrant Certificate:

“**Company Transaction**” means: (i) a merger, amalgamation, arrangement or consolidation of the Corporation with or into any other company, entity or person; (ii) a sale, lease, exchange or other transfer in one transaction or a series of related transactions undertaken with a common purpose of all or a majority of the Corporation’s then outstanding securities or all or substantially all the Corporation’s assets; or (iii) a corporate dissolution or liquidation; provided, however, that a Company Transaction shall not include (X) a merger, amalgamation, arrangement or consolidation of the Corporation in which the holders of the outstanding voting securities of the Corporation immediately prior to the merger, amalgamation, arrangement or consolidation hold at least a majority of the outstanding voting securities of the successor Corporation immediately after the merger, amalgamation, arrangement or consolidation, (Y) a sale, lease, exchange or other transfer of the Corporation’s assets to a majority-owned subsidiary company or (Z) a transaction undertaken for the principal purpose of restructuring the equity of the Corporation, including but not limited to, reincorporating the Corporation in a different jurisdiction or creating a holding company, but which in any event does not provide for any distribution of cash or cash equivalents in respect of any security.

“**Credit Agreement**” means that certain Credit Agreement, dated as of April 6, 2016, by and among Overland Storage, Inc., Tandberg Data GmbH and Holder, as amended, restated, supplemented, or otherwise modified from time to time.

“**Current Market Price**” of the Common Shares at any date means the price per share equal to the most recent closing price of the Common Shares traded on the Nasdaq Global Market (“**Nasdaq**”) or, if the Common shares are not then listed on the Nasdaq, on such other stock exchange on which the shares trade as may be selected by the directors of the Corporation for such purpose.

“**director**” means a director of the Corporation for the time being and, unless otherwise specified herein, a reference to action “by the directors” means action by the directors of the Corporation as a board or, whenever empowered, subject to applicable law, action by the executive committee of such board.

“**Payoff Date**” means the date on which all Obligations (as defined in the Credit Agreement) have been indefeasibly paid in full to Bank (as defined in the Credit Agreement) in immediately available funds and all Commitments (as defined in the Credit Agreement) of Bank to extend financial accommodations to any Borrower (as defined in the Credit Agreement) have been terminated.

- (a) If and whenever at any time after the date hereof and prior to the Expiry Time the Corporation shall (i) subdivide or redivide its then outstanding Common Shares into a greater number of Common Shares, (ii) reduce, combine or consolidate its then outstanding Common Shares into a lesser number of Common Shares or (iii) issue Common Shares (or securities exchangeable for or convertible into Common Shares) to the holders of all or substantially all of its then outstanding Common Shares by way of a stock dividend or other distribution (any of such events herein called a “**Common Share Reorganization**”), then the Exercise Price shall be adjusted effective immediately after the effective date of any such event in (i) or (ii) above or the record date at which the holders of Common Shares are determined for the purpose of any such dividend or distribution in (iii) above, as the case may be, by multiplying the Exercise Price in effect on such effective date or record date, as the case may be, by a fraction, the numerator of which shall be the number of Common Shares outstanding on such effective date or record date, as the case may be, before giving effect to such Common Share Reorganization and the denominator of which shall be the number of Common Shares outstanding immediately after giving effect to such Common Share Reorganization including, in the case where securities exchangeable for or convertible into Common Shares are distributed, the number of Common Shares that would be outstanding if such securities were exchanged for or converted into Common Shares.
-

- (b) If and whenever at any time after the date hereof and prior to the Expiry Time there is a capital reorganization of the Corporation or a reclassification or other change in the Common Shares (other than a Common Share Reorganization) or a consolidation or merger, amalgamation, arrangement or amalgamation of the Corporation with or into any other corporation or other entity (other than a consolidation, merger, amalgamation, arrangement or amalgamation which does not result in any reclassification of the outstanding Common Shares or a change of the Common Shares into other securities), or a transfer of all or substantially all of the Corporation's undertaking and assets to another corporation or other entity in which the holders of Common Shares are entitled to receive shares, other securities or other property) (any of such events being called a "**Capital Reorganization**"), after the effective date of the Capital Reorganization the Holder shall be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Common Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of Common Shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number of Common Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization, appropriate adjustments shall be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder such that the provisions of this Warrant Certificate shall thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the exercise of this Warrant Certificate.
- (c) If and whenever at any time after the date hereof and prior to the Expiry Time, any of the events set out in Sections 9(b) or (c) shall occur and the occurrence of such event results in an adjustment of the Exercise Price pursuant to the provisions of this Section 9, then the number of Common Shares purchasable pursuant to this Warrant shall be adjusted contemporaneously with the adjustment of the Exercise Price by multiplying the number of Common Shares then otherwise purchasable on the exercise thereof by a fraction, the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and the denominator of which shall be the Exercise Price resulting from such adjustment.
- (d) If the Corporation takes any action affecting its Common Shares to which the foregoing provisions of this Section 9, in the opinion of the board of directors of the Corporation, acting in good faith, are not strictly applicable, or if strictly applicable would not fairly adjust the rights of the Holder against dilution in accordance with the intent and purposes hereof, or would otherwise materially affect the rights of the Holder hereunder, then the Corporation shall, subject to the approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable), execute and deliver to the Holder an amendment hereto providing for an adjustment in the application of such provisions so as to adjust such rights as aforesaid in such manner as the board of directors of the Corporation may determine to be equitable in the circumstances, acting in good faith. The failure of the taking of action by the board of directors of the Corporation to so provide for any adjustment on or prior to the effective date of any action or occurrence giving rise to such state of facts will be conclusive evidence that the board of directors has determined that it is equitable to make no adjustment in the circumstances.
-

10. The following rules and procedures shall be applicable to the adjustments made pursuant to Section 9:

- (a) any Common Shares owned or held by or for the account of the Corporation shall be deemed not to be outstanding except that, for the purposes of Section 9, any Common Shares owned by a pension plan or profit sharing plan for employees of the Corporation or any of its subsidiaries shall not be considered to be owned or held by or for the account of the Corporation;
 - (b) no adjustment in the Exercise Price or the number of Common Shares purchasable pursuant to this Warrant shall be required unless a change of at least 1% of the prevailing Exercise Price or the number of Common Shares purchasable pursuant to this Warrant would result; provided, however, that any adjustment which, except for the provisions of this Section 10(b), would otherwise have been required to be made, shall be carried forward and taken into account in any subsequent adjustment;
 - (c) the adjustments provided for in Section 9 are cumulative and shall apply to successive subdivisions, consolidations, dividends, distributions and other events resulting in any adjustment under the provisions of such section;
 - (d) in the absence of a resolution of the board of directors of the Corporation fixing a record date for any dividend or distribution referred to in Section 9(b)(iii) above, the Corporation shall be deemed to have fixed as the record date therefor the date on which such dividend or distribution is effected;
 - (e) if the Corporation sets a record date to take any action and thereafter and before the taking of such action abandons its plan to take such action, then no adjustment to the Exercise Price will be required by reason of the setting of such record date;
 - (f) as a condition precedent to the taking of any action which would require any adjustment to the Warrants evidenced hereby, including the Exercise Price, the Corporation must take any corporate action which may be necessary in order that the Corporation shall have unissued and reserved in its authorized capital and may validly and legally issue as fully paid and non-assessable all of the shares or other securities which the Holder is entitled to receive on the full exercise thereof in accordance with the provisions hereof;
 - (g) forthwith, but no later than fourteen (14) days, after any adjustment to the Exercise Price or the number of Common Shares purchasable pursuant to the Warrants, the Corporation shall provide to the Holder a certificate of an officer of the Corporation certifying as to the amount of such adjustment and, in reasonable detail, describing the event requiring and the manner of computing or determining such adjustment;
 - (h) any question that at any time or from time to time arises with respect to the amount of any adjustment to the Exercise Price or other adjustment pursuant to Section 9 shall be conclusively determined by a firm of independent chartered accountants (who may be the Corporation's auditors) and shall be binding upon the Corporation and the Holder;
 - (i) any adjustment to the Exercise Price under the terms of this Warrant Certificate shall be subject to the prior approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable); and
-

- (j) in case the Corporation, after the date of issue of this Warrant Certificate, takes any action affecting the Common Shares, other than an action described in Section 9, which in the opinion of the directors of the Corporation would materially affect the rights of the Holder, the Exercise Price will be adjusted in such manner, if any, and at such time, by action by the directors of the Corporation but subject in all cases to any necessary regulatory approval, including approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable). Failure of the taking of action by the directors of the Corporation so as to provide for an adjustment on or prior to the effective date of any action by the Corporation affecting the Common Shares will be conclusive evidence that the board of directors of the Corporation has determined that it is equitable to make no adjustment in the circumstances.

11. At least twenty-one (21) days prior to the effective date or record date, as the case may be, of any event referred to in Section 9 herein, the Corporation shall notify the Holder of the particulars of such event and the estimated amount of any adjustment required as a result thereof.

12. On the happening of each and every such event set out in Section 9, the applicable provisions of this Warrant Certificate, including the Exercise Price, shall, *ipso facto*, be deemed to be amended accordingly and the Corporation shall take all necessary action so as to comply with such provisions as so amended.

13. The Corporation shall not be required to deliver certificates for Common Shares while the share transfer books of the Corporation are properly closed, having regard to the provisions of Sections 9 and 10 hereof, prior to any meeting of shareholders or for the payment of dividends or for any other purpose and in the event of the surrender of any Warrant in accordance with the provisions hereof and the making of any subscription and payment for the Common Shares called for thereby during any such period, delivery of certificates for Common Shares may be postponed for not more than five (5) business days after the date of the re-opening of said share transfer books; provided, however, that any such postponement of delivery of certificates shall be without prejudice to the right of the Holder so surrendering the same and making payment during such period to receive after the share transfer books shall have been re-opened such certificates for the Common Shares called for, as the same may be adjusted pursuant to Sections 9 and 10 hereof as a result of the completion of the event in respect of which the transfer books were closed.

14. Subject as hereinafter provided, all or any of the rights conferred upon the Holder by the terms hereof may be enforced by the Holder by appropriate legal proceedings. No recourse under or upon any obligation, covenant or agreement contained herein shall be had against any shareholder, director or officer of the Corporation either directly or through the Corporation, it being expressly agreed and declared that the obligations under the Warrants are solely corporate obligations and that no personal liability whatever shall attach to or be incurred by the shareholders, directors or officers of the Corporation or any of them in respect thereof, any and all rights and claims against every such shareholder, officer or director being hereby expressly waived as a condition of and as a consideration for the issue of the Warrants.

15. The Holder may subscribe for and purchase any lesser number of Common Shares than the number of Common Shares expressed in any Warrant Certificate. In the case of any subscription for a lesser number of Common Shares than expressed in any Warrant Certificate, the Holder hereof shall be entitled to receive, at no cost to the Holder, a new Warrant Certificate in respect of the balance of Warrants not then exercised. Such new Warrant Certificate shall be mailed to the Holder by the Corporation or, at its direction, the transfer agent of the Corporation, contemporaneously with the mailing of the certificate or certificates representing the Common Shares issued pursuant to Section 5.

16. If any Warrant Certificate becomes stolen, lost, mutilated or destroyed, the Corporation shall, on such terms as it may in its discretion impose, acting reasonably, issue and sign a new Warrant Certificate of like denomination, tenor and date as the Warrant Certificate so stolen, lost, mutilated or destroyed for delivery to the Holder. The applicant for the issue of a new Warrant Certificate pursuant to this Section 16 shall bear the cost of the issue thereof and in the case of mutilation shall as a condition precedent to the issue thereof, deliver to the Corporation the mutilated Warrant Certificate, and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Corporation such evidence of ownership and of the loss, destruction or theft of the Warrant Certificate so lost, destroyed or stolen as shall be satisfactory to the Corporation in its discretion and the applicant shall also be required to furnish an indemnity and surety bond in amount and form satisfactory to the Corporation in its discretion and shall pay the reasonable charges of the Corporation in connection therewith.

17. The Holder may transfer the Warrants represented hereby by:

- (a) duly completing and executing the transfer form attached as Schedule "B" ("**Transfer Form**"); and
- (b) surrendering this Warrant Certificate and the completed Transfer Form, together with such other documents as the Corporation may reasonably request, to the Corporation at the address set forth on the Transfer Form or such other office as may be specified by the Corporation, in a written notice to the Holder, from time to time,

provided that all such transfers shall be effected in accordance with all applicable securities laws, and provided that, after such transfer, the term "Holder" shall mean and include any transferee or assignee of the current or any future Holder. If only part of the Warrants evidenced hereby is transferred, the Corporation will deliver to the Holder and the transferee replacement Warrant Certificates substantially in the form of this Warrant Certificate.

18. Neither the issuance and sale of the securities represented by this Warrant Certificate nor the Common Shares into which these securities are exercisable have been registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**") or applicable state securities laws. These securities may not be offered for sale, sold, transferred or assigned unless registered under the U.S. Securities Act and any applicable state securities laws or unless an exemption from such registration is available, and the Corporation and its transfer agent has received an opinion of counsel of recognized standing in form and substance reasonably satisfactory to them to such effect.

19. Any certificate representing Common Shares issued upon the exercise of this Warrant may bear the following legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAVE RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT."

20. The Corporation will maintain a register of holders of Warrants at its principal office. The Corporation may deem and treat the registered holder of any Warrant Certificate as the absolute owner of the Warrants represented thereby for all purposes, and the Corporation shall not be affected by any notice or knowledge to the contrary except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. A Holder shall be entitled to the rights evidenced by such Warrant free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all persons may act accordingly and the receipt by any such Holder of the Common Shares purchasable pursuant to such Warrant shall be a good discharge to the Corporation for the same and the Corporation shall not be bound to inquire into the title of any such Holder except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.

21. The Corporation shall notify the Holder forthwith of any change of the Corporation's address.

22. All notices to be sent hereunder shall be deemed to be validly given to the registered holders of the Warrants if delivered personally or if sent by registered letter through the post addressed to such holders at their post office addresses appearing in the register of Warrant holders caused to be maintained by the Corporation, and such notice shall be deemed to have been given, if delivered personally when so delivered, and if sent by post on the fifth business day next following the post thereof.

23. If for any reason, other than the failure or default of the Holder, the Corporation is unable to issue and deliver the Common Shares or other securities as contemplated herein to the Holder upon the proper exercise by the Holder of the right to purchase any of the Common Shares purchasable upon exercise of the Warrants represented hereby, the Corporation may pay, at its option and in complete satisfaction of its obligations and the rights of the Holder hereunder, to the Holder, in cash, an amount equal to the difference between the Exercise Price and the Current Market Price of such Common Shares or other securities on the date of exercise by the Holder, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.

24. This Warrant Certificate shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable herein.

25. If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Warrant Certificate, but this Warrant Certificate shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

26. This Warrant Certificate shall enure to the benefit of and shall be binding upon the Holder and the Corporation and their respective successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Corporation has caused this Warrant Certificate to be signed by its duly authorized officer.

DATED as of the 30th day of December 2016.

SPHERE 3D CORP.

Per: /s/ Kurt Kalbfleisch
Kurt Kalbfleisch, Chief Financial Officer

[Signature Page to Warrant]

SUBSCRIPTION FORM

TO BE COMPLETED IF WARRANTS ARE TO BE EXERCISED:

TO: **SPHERE 3D CORP.**
240 Matheson Blvd E., Mississauga, Ontario, L4Z 1X1

The undersigned hereby subscribes for _____ Common Shares of Sphere 3D Corp. according to the terms and conditions set forth in the annexed Warrant Certificate (or such number of other securities or property to which such Warrant Certificate entitles the undersigned to acquire under the terms and conditions set forth in such Warrant Certificate).

Registered Name: _____

Address for Delivery of Common Shares: _____

Attention: _____

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____

OR

Exercise Price Tendered by exercise of Net Exercise Rights in accordance with Sections 4(b) and of the Warrant

OR

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____ in cash and the remainder through the exercise of Net Exercise Rights in accordance with Sections 4(b) and (c) of the Warrant

Capitalized terms not defined herein shall have the meanings assigned to them in the Warrant Certificate to which this subscription form is attached.

Dated at _____, this ____ day of _____, 20__.

WITNESS:

)
)
)
)
)
)
)
)
)

HOLDER'S NAME

AUTHORIZED SIGNATURE

TITLE (IF APPLICABLE)

Signature guaranteed¹:

1. If the Common Shares are to be registered in a name other than the name of the registered Warrant Holder, the signature of the Warrant Holder must be medallion guaranteed by a bank, trust company or a member of a stock exchange in Canada.

WARRANT TRANSFER FORM

FOR VALUE RECEIVED, subject to receipt of prior written approval of SPHERE 3D CORP. (the "**Company**"), the undersigned (the "**Transferor**") hereby sells, assigns and transfers unto (name) _____
(the "**Transferee**") of (residential address) _____

Warrants of the Company registered in the name of the undersigned represented by the within certificate, and irrevocably appoints the Company as the attorney of the undersigned to transfer the said securities on the register of transfers for the said Warrants, with full power of substitution.

NOTICE: The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by a bank, trust company or a member of a recognized stock exchange. The guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

DATED this ____ day of _____, 20__.

Signature Guaranteed

(Signature of transferring Warrantholder)

Name (please print)

Address

TRANSFeree ACKNOWLEDGMENT

In connection with this transfer the undersigned transferee is delivering a written opinion of U.S. Counsel acceptable to the Company to the effect that this transfer of Warrants has been registered under the U.S. Securities Act or is exempt from registration thereunder.

(Signature of Transferee)

Date

Name of Transferee (please print)

The Warrants and the common shares issuable upon exercise of the Warrants shall only be transferable in accordance with applicable laws. The Warrants may only be exercised in the manner required by the certificate representing the Warrants and the Warrant Exercise Form attached thereto. Any common shares acquired pursuant to this Warrant shall be subject to applicable hold periods and any certificate representing such common shares will bear restrictive legends.

**AMENDMENT NUMBER TWO TO CREDIT AGREEMENT, AMENDMENT NUMBER ONE TO AMENDMENT
NUMBER 1, WAIVER AND REAFFIRMATION**

This **AMENDMENT NUMBER TWO TO CREDIT AGREEMENT, AMENDMENT NUMBER ONE TO AMENDMENT NUMBER 1, WAIVER AND REAFFIRMATION** (this "Agreement") is made as of March 12, 2017, by and among **OVERLAND STORAGE, INC.**, a California corporation ("Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower") and, together with Company, collectively, "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and **OPUS BANK**, a California commercial bank, as Lender ("Lender").

W I T N E S S E T H:

WHEREAS, Borrowers and Lender are parties to that certain Credit Agreement, dated as of April 6, 2016 (such Credit Agreement as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement");

WHEREAS, Borrowers have notified Lender of certain Events of Default that have occurred and are continuing, which Events of Default are identified on Schedule A attached hereto (collectively, the "Specified Defaults"). For purposes of this Agreement and without further investigations by Lender with respect to the existence thereof, no other Default or Event of Default is, or shall be deemed to be, a Specified Default;

WHEREAS, Borrowers have requested that Lender (a) amend the Credit Agreement as set forth herein and (b) waive the Specified Defaults, in each case, as set forth herein; and

WHEREAS, on and subject to each of the terms and conditions set forth herein, Lender has agreed to accommodate Borrowers' requests;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and each intending to be bound hereby, the parties hereto agree as follows:

1. Capitalized Terms. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Credit Agreement.
2. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.
3. Waiver of Specified Defaults.
 - (a) Each Borrower and each Guarantor acknowledges and agrees that the Specified Defaults have occurred and are continuing.
 - (b) Notwithstanding any provisions of the Credit Agreement and the other Loan Documents to the contrary, subject to the satisfaction of the conditions precedent set forth in Section 6 hereof, Lender hereby waives the Specified Defaults; provided, that nothing herein, nor any communications among any Borrower, any Guarantor, or Lender, shall be deemed a waiver with respect to any Events of Default or any failure of any Borrower or any Guarantor to comply fully with any provision of the Credit Agreement or any provision of any other Loan Document (in each case other than with respect to the Specified Defaults), and in no event shall this waiver be deemed to be a waiver of enforcement of any of Lender's rights or remedies under the Credit Agreement and the other Loan Documents, at law (including under the Uniform Commercial Code), in equity, or otherwise including, without limitation, the right to declare all Obligations immediately due and payable pursuant to Section 8.02 of the Credit Agreement, with respect to any other Defaults or Events of Default now existing or hereafter arising. Except as expressly provided herein, Lender hereby reserves and preserves all of its rights and remedies against any Borrower and any Guarantor under the Credit Agreement and the other Loan Documents, at law (including under the Uniform Commercial Code), in equity, or otherwise including, without limitation, the right to declare all Obligations immediately due and payable pursuant to Section 8.02 of the Credit Agreement.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) The waivers in this Section 3 shall be effective only in the specific instances and for the specific purposes set forth herein and do not allow for any other or further departure from the terms and conditions of the Credit Agreement or any other Loan Document, which terms and conditions shall continue in full force and effect.

(d) The Loan Parties agree that neither the foregoing agreement by Lender nor the acceptance by Lender of any of the payments provided for hereunder or in the Loan Documents, nor any payment prior to the date hereof, shall excuse any Loan Party from any of its obligations under the Loan Documents. Each Loan Party agrees that it will not assert laches, waiver or any other defense to the enforcement of any of the Loan Documents based upon the foregoing agreement of Lender to waive or the acceptance by Lender of any of the payments provided for in the Loan Documents or any payment prior to the date hereof.

4. Amendments to Credit Agreement.

(a) Section 1.1 of the Credit Agreement is hereby amended by adding in proper alphabetical order, or amending and restating in their entirety, the following definitions: “

Amendment Number 2” means that certain Amendment Number Two to Credit Agreement, Amendment Number One to Amendment Number 1, Waiver and Reaffirmation, dated as of March 12, 2017, by and among Borrowers, Guarantors, and Lender.

“Amendment Number 2 Effective Date” means March 12, 2017.

“Interest Rate” means (a) in the case of the Revolving Loan, a fluctuating rate per annum equal to the higher of (i) the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as its “prime rate” (or the average prime rate if a high and a low prime rate are therein reported) plus 2.75% or (ii) (x) prior to March 31, 2017, 6.25% or (y) on and after March 31, 2017, 7.25%, and (b) in the case of the Term Loan, a fluctuating rate per annum equal to the higher of (i) the rate of interest in effect for such day as publicly announced from time to time by the Wall Street Journal as its “prime rate” (or the average prime rate if a high and a low prime rate are therein reported) plus 2.75% or (ii) (x) prior to March 31, 2017, 6.25% or (y) on and after March 31, 2017, 7.25% .

“Maturity Date” means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity or (ii) (x) if the Maturity Extension Trigger Date has not occurred on or before March 31, 2017, March 31, 2017 or (y) if the Maturity Extension Trigger Date has occurred on or before March 31, 2017, June 30, 2017, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity or (ii) (x) if the Maturity Extension Trigger Date has not occurred on or before March 31, 2017, March 31, 2017 or (y) if the Maturity Extension Trigger Date has occurred on or before March 31, 2017, June 30, 2017, or (iii) such earlier date upon which the Commitments may be terminated and/or the Obligations may be accelerated in accordance with the terms of this Agreement.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

“*Maturity Extension Trigger Date*” means the date upon which both of the following conditions have been satisfied: (a) Parent shall have received gross cash proceeds of at least \$3,000,000 from the Third Equity Raise and (b) Parent shall have contributed to the Company at least \$2,500,000 in immediately available funds from such Third Equity Raise by depositing such amount in the Designated Account.

(b) Section 2.02(c)(i) of the Credit Agreement is hereby amended and restated in its entirety as follows: “

(i) **Asset Sales.**

(A) No later than the fifth Business Day following the date of receipt by the Parent or any of its Subsidiaries of any Net Asset Sale Proceeds other than Net Asset Sale Proceeds from Asset Sales with respect to [***] (or on the 271st day if the first proviso hereto applies) if such Net Asset Sale Proceeds are equal to or in excess of \$500,000 received in any fiscal year through the applicable date of determination, Company shall prepay, subject to the provisions of Section 2.02(d) below, the Obligations in an aggregate amount equal to such Net Asset Sale Proceeds; provided that, so long as no Event of Default shall have occurred and be continuing, Company need not so apply such Net Asset Sale Proceeds so long as the Parent or one or more of its Subsidiaries invests such Net Asset Sale Proceeds within two hundred seventy (270) days of receipt thereof in assets of the general type used in the business of the Parent and its Subsidiaries (including acquisitions of assets by way of stock purchase, merger or acquisition of assets of a Borrower or business unit in compliance with Section 7.03) or the applicable Borrower or Guarantor enters into a binding commitment thereof within two hundred seventy (270) days from the date of the receipt of such Net Asset Sale Proceeds and subsequently makes such reinvestment within one hundred eighty (180) days from the date of such binding commitment;; provided, further, pending any such investment all such Net Asset Sale Proceeds shall be invested in Cash or Cash Equivalents and deposited in the Designated Deposit Account and held therein until such time as such Net Asset Sale Proceeds are applied in payment of such investment.

(B) Immediately upon the receipt by the Parent or any of its Subsidiaries of any Net Asset Sale Proceeds from Asset Sales with respect to [***], Company shall prepay, subject to the provisions of Section 2.02(d) below, the Obligations in an aggregate amount equal to such Net Asset Sale Proceeds.”

(c) Section 2.04 of the Credit Agreement is hereby amended adding the following new clauses (d) and (e) at

the end thereof:

“(d) **Amendment Number 2 First Extension Fee.** If on the first to occur of the Payoff Date (as defined in the First Additional Warrant (as defined in Amendment Number 2) or the Maturity Date, the Current Market Price (as defined in the First Additional Warrant (as defined in Amendment Number 2) determined immediately prior to the Payoff Date is less than the Current Market Price as of the Payoff Deadline (as defined in the First Additional Warrant (as defined in Amendment Number 2)), the Borrowers shall pay to the Lender on such date a success fee in immediately available funds in an amount equal to: (i) the difference between the Current Market Price as of the Payoff Deadline and the Current Market Price as of the Payoff Date; multiplied by (ii) the number of Common Shares (defined in the First Additional Warrant (as defined in Amendment Number 2)) underlying the Warrants (defined in the First Additional Warrant (as defined in Amendment Number 2)) represented by the Warrant defined in the First Additional Warrant (as defined in Amendment Number 2), which fee referenced is fully earned on the Amendment Number 2 Effective Date and due and payable on the first to occur of the Payoff Date or the Maturity Date; provided that no such Amendment 2 First Extension Fee shall be payable (y) in the event that the First Additional Warrant is redeemed by the Parent (in its sole discretion) on the earlier of Payoff Date or Maturity Date for a cash payment to Lender of \$75,000 in accordance with the terms of the First Additional Warrant or (z) in the event that the Payoff Date (as defined in the First Additional Warrant) occurs on or prior to April 17, 2017.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(e) **Amendment Number 2 Second Extension Fee.** If on the first to occur of the Payoff Date (as defined in the Second Additional Warrant (as defined in Amendment Number 2) or the Maturity Date, the Current Market Price (as defined in the Second Additional Warrant (as defined in Amendment Number 2) determined immediately prior to the Payoff Date is less than the Current Market Price as of the Payoff Deadline (as defined in the Second Additional Warrant (as defined in Amendment Number 2)), the Borrowers shall pay to the Lender on such date a success fee in immediately available funds in an amount equal to: (i) the difference between the Current Market Price as of the Payoff Deadline and the Current Market Price as of the Payoff Date; multiplied by (ii) the number of Common Shares (defined in the Second Additional Warrant (as defined in Amendment Number 2)) underlying the Warrants (defined in the Second Additional Warrant (as defined in Amendment Number 2)) represented by the Warrant defined in the Second Additional Warrant (as defined in Amendment Number 2), which fee referenced is fully earned on the Amendment Number 2 Effective Date and due and payable on the first to occur of the Payoff Date or the Maturity Date; provided that no such Amendment 2 Second Extension Fee shall be payable (y) in the event that the Second Additional Warrant is redeemed by the Parent (in its sole discretion) on the earlier of Payoff Date or Maturity Date for a cash payment to Lender of \$100,000 in accordance with the terms of the Second Additional Warrant or (z) in the event that the Payoff Date (as defined in the Second Additional Warrant) occurs on or prior to May 31, 2017.”

(d) Section 6.17 of the Credit Agreement is hereby amended by (a) deleting the “and” at the end of clause (e) thereto and (b) adding the following new clauses (f) and (g) thereto:

“(f) on or before April 28, 2017, documentation from one or more lenders demonstrating the continued efforts of the Company to obtain refinancing to repay the Obligations in full, which evidence shall include at least one or more executed letters of intent or commitment letters with respect to a proposed financing of one or more of the Loan Parties by a lender reasonably acceptable to Lender providing for a credit facility with proceeds sufficient to refinance the Obligations in full no later than the Maturity Date, which letter of intent or commitment letter has not expired or been terminated (and will not expire or terminate prior to the Maturity Date), and

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(g) [***]"

(e) Section 7.11 of the Credit Agreement is hereby amended and restated in its entirety as follows:

“7.11 Financial Covenants.

(a) **Minimum Consolidated Revenue.** Fail to achieve Consolidated Revenue of Parent and its Subsidiaries of at least the required amount set forth in the following table for the applicable period set forth opposite thereto measured as of the last day thereof:

Consolidated Revenue	Applicable Period
[\$***]	For the 1 month period ending February 28, 2017
[\$***]	For the 1 month period ending March 31, 2017
[\$***]	For the 1 month period ending April 30, 2017
[\$***]	For the 1 month period ending May 31, 2017 and the last day of each 1 month period ending thereafter

(b) **Minimum Consolidated Adjusted EBITDA.** Fail to achieve Consolidated Adjusted EBITDA of Parent and its Subsidiaries of at least the required amount set forth in the following table for the applicable period set forth opposite thereto measured as of the last day thereof:

Consolidated Adjusted EBITDA	Applicable Period
[\$***]	For the 1 month period ending February 28, 2017
[\$***]	For the 1 month period ending March 31, 2017
[\$***]	For the 1 month period ending April 30, 2017
[\$***]	For the 1 month period ending May 31, 2017 and the last day of each 1-month period ending thereafter

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(f) Section 8.01 of the Credit Agreement is hereby amended by amending and restating clauses (c) and (d) in their entirety as follows:

“(c) Any default occurs in the observance or performance of any agreement contained in Section 6.16, 6.17, or 7 of this Agreement or in any covenant contained in Amendment Number 1 (other than Section 8 thereof) or Amendment Number 2 (other than Section 8 thereof); or

(d) Any default occurs in the observance or performance of any agreement contained in Section 6.01 or 6.02 of this Agreement or Section 8 of Amendment Number 1 or Section 8 of Amendment Number 2 and such default continues for three (3) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Loan Party, or (ii) the date on which written notice thereof is given to Borrowers by Lender; or”.

5. Amendments to Amendment Number 1.

(a) Section 8(a)(ii) of Amendment Number 1 is hereby amended by replacing the reference to “\$40,000” with “\$65,000.”

(b) Section 8(a)(iv) of Amendment Number 1 is hereby amended by replacing the reference to “February 15, 2017” with “March 31, 2017.”

6. Conditions Precedent to Effectiveness. The satisfaction of each of the following shall constitute conditions precedent to the effectiveness of this Agreement and each and every provision hereof (such date being the “Agreement Effective Date”):

(a) Lender shall have received counterparts of this Agreement duly executed and delivered by each Borrower and each Guarantor;

(b) Lender shall have received, in form and substance satisfactory to Lender:

(i) a duly executed original common stock purchase warrant issued to Lender in the form of Exhibit A hereto (the “First Additional Warrant”),

(ii) a duly executed original common stock purchase warrant issued to Lender in the form of Exhibit B hereto (the “Second Additional Warrant”),

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Senior Officers of each Loan Party as Lender may require to establish the identities of and verify the authority and capacity of each Senior Officer thereof authorized to act as a Senior Officer thereof;

(iv) such evidence as Lender may reasonably require to verify that each Loan Party is duly organized or formed, validly existing, in good standing (to the extent such concept is applicable in the relevant jurisdiction) and qualified to engage in business in such Loan Party’s jurisdiction of organization and in each foreign jurisdiction in which such Loan Party is required to be qualified, including certified copies of such Loan Party’s Organization Documents, certificates of good standing and/or qualification to engage in business, tax clearance certificates, and the like,

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) except for representations and warranties which would otherwise fail to be true and correct solely as a result of the occurrence and continuance of the Specified Defaults, the representations and warranties herein and in the Credit Agreement and the other Loan Documents shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day);

(d) no Default or Event of Default (other than the Specified Defaults) shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein;

(e) no injunction, writ, restraining order or other order of any nature prohibiting, directly or indirectly, the consummation of the transactions contemplated herein shall have been issued and remain in force by any Governmental Authority against any Borrower or any Guarantor or Lender;

(f) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement, all fees, costs, expenses (including all attorney's fees and consultant fees) and taxes then payable pursuant to the Credit Agreement (including Section 2.04 of the Credit Agreement) and Section 12 of this Agreement;

(g) Lender shall have received, in immediately available funds, the Amendment Fee referred to in Section 11 of this Agreement; and

(h) all other documents and legal matters in connection with the transactions contemplated by this Agreement shall have been delivered, executed or recorded and shall be in form and substance reasonably satisfactory to Lender.

7. Representations and Warranties. Each Loan Party hereby represents and warrants to Lender as follows (and such representations and warranties shall survive the execution and delivery of this Agreement):

(a) Due Organization and Qualification. Each Loan Party (i) is duly organized and validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, (ii) is qualified to do business in any jurisdiction where the failure to be so qualified reasonably could be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Due Execution and Authority. Each Loan Party has the corporate or limited liability company, as applicable, power and authority and the legal right to make, deliver and perform this Agreement and each other Loan Document to which it is a party and each Loan Party has the corporate, limited liability company or other organizational, as applicable, power and authority to, and has taken all necessary action to, authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party. No consent or authorization of, filing with, or other act by or in respect of, any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents except for any filings or recordings in connection with the perfection of the Liens granted under the Loan Documents.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) No Legal Bar. The execution, delivery, and performance by each Borrower and each other Loan Party of this Agreement and each of the other Loan Documents to which it is a party and compliance with the provisions hereof and thereof have been duly authorized by all requisite action on the part of each such Borrower and each such other Loan Party and do not and will not (i) violate or conflict with, or result in a breach of, or require any consent under (x) any Organization Documents of a Borrower or any other Loan Party, (y) any material Laws, rules, or regulations or any order, writ, injunction, or decree of any Governmental Authority or arbitrator applicable to any of the Loan Parties or their respective businesses, or (z) any material Contractual Obligation of a Borrower or any other Loan Party or by which any of them or any of their property is bound or subject (after giving effect to any modifications, waivers or consents, the effectiveness of which may occur concurrently with the Closing Date), (ii) constitute a default under any such material agreement or instrument, or (iii) result in, or require, the creation or imposition of any Lien on any of the properties of a Borrower or other Loan Party (other than the Liens granted in connection herewith).

(d) Enforceability. This Agreement, the Credit Agreement and the other Loan Documents have been duly executed and delivered by each Borrower and Guarantor and are the legally valid and binding obligations of each Borrower and Guarantor, enforceable against such Borrower and Guarantor in accordance with their respective terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally and general principals of equity (whether considered in a proceeding in equity or law).

(e) No Injunctions or Other Orders. No injunction, writ, restraining order, or other order of any nature prohibiting, directly or indirectly, the consummation of the transactions contemplated herein has been issued and remains in force by any Governmental Authority against any Loan Party or Lender.

(f) Representations and Warranties. Except for representations and warranties which would otherwise fail to be true and correct solely as a result of the occurrence and continuance of the Specified Defaults, the representations and warranties herein and in the Credit Agreement and the other Loan Documents are true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on and as such date (except to the extent that such representations and warranties relate solely to an earlier day).

(g) No Default. No Default or Event of Default (other than the Specified Defaults) has occurred and is continuing on the date hereof or as of the date upon which the conditions precedent set forth herein are satisfied, nor will result from the consummation of the transactions contemplated herein.

(h) Performance. Except for the Specified Defaults, each Loan Party has performed in all material respects all agreements to be performed on its part on or before the date hereof as set forth in the Credit Agreement and the other Loan Documents.

(i) Financial Projections. All projections concerning the Loan Parties that have been or are hereafter made available to Lender by any Loan Party or any Loan Party's officers, management, shareholders, directors, employees, personnel, attorneys, accountants, advisors, auditors, consultants and other agents and representatives (each individually a "Loan Party Representative" and collectively the "Loan Party Representatives") in connection with the transactions contemplated hereby and by the other Loan Documents have been (or will be, in the case of projections made available after the date hereof) prepared in good faith based upon reasonable assumptions (it being recognized by Lender that the projections and forecasts provided are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(j) No Duress. This Agreement has been entered into without force or duress, of the free will of each Loan Party. Each Loan Party's decision to enter into this Agreement is a fully informed decision and each Loan Party is aware of all legal and other ramifications of such decision.

(k) Comprehension and Advice of Counsel. (i) Each Loan Party has thoroughly read and reviewed the terms and provisions of this Agreement in its full and final form and is familiar with same, (ii) the terms and provisions contained herein are clearly understood by the Loan Parties and have been fully and unconditionally consented to by the Loan Parties, (iii) the Loan Parties have had full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel of their own selection, in regard to understanding the terms, meaning and effect of this Agreement, (iv) this Agreement has been entered into by each Loan Party freely, voluntarily, and with full knowledge, and (v) in executing this Agreement, no Loan Party is relying on any representations, either written or oral, express or implied, made to any Loan Party by any other party hereto or Lender. Each Loan Party acknowledges that Lender's agreements set forth in this Agreement are adequate and sufficient consideration for the agreements of the Loan Parties set forth in this Agreement.

(l) Insolvency Proceedings. Each Loan Party represents and warrants to Lender that none of the Loan Parties has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it and the Loan Party Representatives have no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

8. Covenants. Each Loan Party hereby covenants and agrees with Lender as follows:

(a) Milestone Fee. Notwithstanding any provisions of the Credit Agreement and the other Loan Documents to the contrary, if the Commitments have not been terminated and the Obligations have not been paid in full in immediately available funds to Lender on or before March 31, 2017, Borrowers shall pay to Lender a fee in the amount of \$75,000 (the "Milestone Fee"), which Milestone Fee shall be retained by Lender (solely for its account) and shall be fully earned on the date hereof and non-refundable when paid.

(b) Further Assurances. The Loan Parties shall take, or cause each other Loan Party to take, such actions as shall be necessary or reasonably requested by Lender to create and perfect Lender's Liens in the assets of the Loan Parties, in each case, at the expense of Borrowers.

(c) German Security Confirmation Agreement. On or prior to April 30, 2017, the Loan Parties shall have executed and delivered German law governed (i) security confirmation agreements and (ii) supplemental pledge agreements, in each case reasonably requested by Lender, each in form and substance reasonably satisfactory to Lender.

(d) Compliance with the Loan Documents. Except to the extent compliance is expressly waived in Section 3 of this Agreement, each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring prompt payment of principal and interest amounts when due, in each case, subject to any applicable grace or cure periods, if any.

The Loan Parties acknowledge and agree that failure by any Loan Party to timely comply with any of the covenants contained in this Section 8 shall constitute an immediate Event of Default.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

9. Bankruptcy Matters.

(a) Each Loan Party covenants with Lender that the Loan Parties and their Subsidiaries shall use its best efforts to provide Lender with not less than 7 Business Days prior written notice before filing any voluntary proceeding, or cooperating with or consenting to the filing for any involuntary proceeding, under any chapter of the Bankruptcy Code or in connection with any other Insolvency Proceeding, or any other voluntary or involuntary petition for relief under any Debtor Relief Law. Each Loan Party further agrees that during the notice periods described above and before commencing any Insolvency Proceeding, filing any voluntary proceeding, or cooperating with or consenting to the filing for any involuntary proceeding or involuntary Insolvency Proceeding, under any chapter of the Bankruptcy Code or any Debtor Relief Law, the Loan Parties and their Subsidiaries shall use their best efforts to cooperate in good faith with Lender in order to negotiate a mutually agreeable “cash collateral” budget and plan for proposal in the first day orders.

(b) Lender shall immediately become entitled, among other relief to which Lender may be entitled under the Loan Documents, and at law or in equity, to obtain upon ex parte application therefor and without further notice or action of any kind, (i) an order from any court of competent jurisdiction (the “Court”) prohibiting the use by the trustee in bankruptcy, or by such Loan Party as debtor-in-possession, of Lender’s “cash collateral” (as such term is defined in Section 363 of the Bankruptcy Code) in connection with the Loan Documents; and (ii) an order from the Court granting immediate relief from the automatic stay pursuant to Section 362 of the Bankruptcy Code so as to permit Lender to exercise all of Lender’s rights and remedies pursuant to the Loan Documents, and at law and in equity, and each Loan Party further acknowledges and agrees that (x) the occurrence or existence of any breach or default under this Agreement or any Event of Default under any other Loan Document shall, in and of itself, constitute “cause” for relief from the automatic stay pursuant to the provisions of Section 362(d)(1) of the Bankruptcy Code, and (y) in no event shall any Loan Party contest a motion to lift the automatic stay filed by Lender.

(c) Each Loan Party represents and warrants to Lender and agrees as follows: (i) the Loan Parties have assured Lender that if the consensual out-of-court restructuring contemplated by this Agreement cannot be carried out by the Loan Parties in accordance with the terms of this Agreement, then the Loan Parties intend to allow Lender to foreclose (or accept all or a portion of the Collateral in full or partial satisfaction of the Obligations) and exercise all of Lender’s other rights and remedies as a secured creditor; (ii) the Loan Parties do not intend to commence any Insolvency Proceeding and have no intention of seeking any non-consensual relief against Lender in any Insolvency Proceeding; (iii) if the Loan Parties are unable to reorganize their business and financial affairs prior to the occurrence of any Event of Default so that the Loan Parties are able to satisfy their obligations to Lender under this Agreement and the other Loan Documents, any further attempt or additional time to reorganize the Loan Parties’ financial affairs and to pay and perform the Loan Parties’ obligations to Lender would be fruitless and impracticable to achieve; (iv) any filing by any Loan Party of any Insolvency Proceeding or the exercise of like or similar rights by any Loan Party prior to satisfaction of the Obligations to Lender would be inconsistent with and contrary to the intentions of the parties hereto; (v) the Loan Parties cannot formulate or implement a successful plan of reorganization, restructuring or similar relief in any such Insolvency Proceeding that would adequately and sufficiently protect the rights of Lender or enable the Loan Parties to satisfy their obligations to Lender; (vi) in light of the foregoing, any such filing would be made in bad faith as such term is used by courts in construing the Bankruptcy Code; (vii) in light of the foregoing, if any Insolvency Proceeding is filed by or against any Loan Party, Lender shall have the right, among other things, to seek and obtain immediate relief from any stay as to the Collateral for the obligations secured thereby and to have the exclusivity period for the filing of any plan of reorganization terminated, and the Loan Parties shall be estopped from objecting to or opposing in any manner the relief requested by Lender or the termination of any such exclusivity period in a bankruptcy proceeding; and (viii) the Loan Parties will not solicit, assist or encourage any third party to file any Insolvency Proceeding petition against any Loan Party. The Lender is relying on, among other things, the representations and warranties contained in this Section 7 in entering into this Agreement.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

10. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Loan Party hereby acknowledges, confirms and agrees that as of the close of business on March 10, 2017, Borrowers were indebted to Lender for Revolving Loans, Term Loan, Letter of Credit Usage, and other extensions of credit and financial accommodations under the Loan Documents in the following amounts:

Revolving Loans:	\$8,195,017.72 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Term Loan:	\$10,000,000.00 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Letter of Credit Usage	\$0.00 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents
Total Obligations:	\$18,195,017.72 <u>plus</u> accrued and unpaid interest thereon <u>plus</u> accrued and unpaid fees, costs and expenses due and owing under the Loan Documents

All such Obligations owing by Loan Parties, together with interest accrued and accruing thereon, and all fees, costs, expenses and other charges now or hereafter payable by any Loan Party to Lender, are unconditionally and jointly and severally owing by Borrowers to Lender, without offset, defense, withholding, counterclaim or deduction of any kind, nature or description whatsoever and shall be payable in accordance with the terms of the Credit Agreement and the other Loan Documents.

Each Borrower and each Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower or such Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and each Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to any Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, including, without limitation, the Specified Defaults except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(b) Acknowledgement of Security Interests. Each Loan Party hereby acknowledges, confirms and agrees that Lender has and shall continue to have valid, enforceable and perfected first-priority Liens in the Collateral (or other similar term used in any Loan Document) of the Loan Parties under the Loan Documents, except in the case of (a) Permitted Liens, to the extent any such Permitted Liens would have priority over the Liens in favor of the Lender pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title) to the extent the Lender has not obtained or does not maintain possession of such Collateral.

(c) Binding Effect of Documents. Each Loan Party hereby acknowledges, confirms and agrees that: (i) each of the Loan Documents to which it is a party has been duly executed and delivered to Lender by such Loan Party, and each is in full force and effect as of the date hereof, (ii) the agreements and obligations of each Loan Party contained in this Agreement and the other Loan Documents constitute the legal, valid and binding obligations of such Loan Party and its successors and assigns, enforceable against such Loan Party and its successors and assigns in accordance with their respective terms, and such Loan Party and its successors and assigns have no valid defense to the enforcement of the Obligations and such guaranteed indebtedness, and (iii) Lender is and shall be entitled to the rights, remedies and benefits provided for in the Loan Documents (as such rights, remedies and benefits may be limited as set forth in this Agreement) and under applicable law or at equity.

(d) No Disregard of Loan Documents. Each Loan Party acknowledges that the parties hereto have not entered into a mutual disregard of the terms and provisions of the Credit Agreement or the other Loan Documents, or engaged in any course of dealing in variance with the terms and provisions of the Credit Agreement or the other Loan Documents, within the meaning of any applicable law of the State of California or otherwise.

(e) Loan Party Remain in Control. Each Loan Party acknowledges that it remains in control of its business and affairs and determines the business plan, for, and employment, management and operating directions and decisions for its business and affairs.

11. Amendment Fee. On or before the date hereof, Borrowers shall pay to Lender an amendment fee in the amount of \$25,000 ("Amendment Fee") in immediately available funds, which Amendment Fee shall be retained by Lender for its sole account. Such Amendment Fee shall be fully earned and non-refundable on the date hereof.

12. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 12 shall survive the payment in full of the Obligations and shall be subject to any limitation set forth in Section 8(a)(ii) of Amendment Number 1 (as amended by this Agreement).

13. Tolling of Statute of Limitations.

(a) Any and all statutes of limitations applicable to any and all rights, causes of action, claims and remedies, or equitable claim or laches, which Lender has or might have against any Loan Party arising out of or relating to the circumstances and events described in the recitals shall be and hereby are tolled and suspended effective at all times on and after the date of this Amendment.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 13 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 13 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Amendment), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

14. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 15 below.

15. Governing Law; Jurisdiction and Venue; Jury Trial Waiver; Judicial Reference. **THIS AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING GOVERNING LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTIONS 9.20 AND 9.22 OF THE CREDIT AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.**

16. Waiver of Bond. **EACH LOAN PARTY WAIVES THE POSTING OF ANY BOND OTHERWISE REQUIRED OF LENDER IN CONNECTION WITH ANY RECEIVERSHIP INSTITUTED PURSUANT HERETO OR ANY OTHER LOAN DOCUMENT, ANY JUDICIAL PROCESS OR PROCEEDING OR TO ENFORCE ANY JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF LENDER OR TO ENFORCE BY SPECIFIC ENFORCEMENT, ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTIONS, OR THIS AGREEMENT.**

17. Time of Essence. Time is of the essence in the payment and performance of each of the obligations of Loan Parties and with respect to all covenants and conditions to be satisfied by any Loan Party in this Agreement, the other Loan Documents and all other documents, acknowledgments and instruments delivered in connection herewith.

18. Release by Loan Parties; Covenant not to Sue.

(a) Effective on the date hereof, each Loan Party, for itself and on behalf of its successors, assigns, officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby waives, releases, remises and forever discharges Lender, each of its Affiliates, and each of their respective successors in title, past, present and future officers, directors, employees, limited partners, general partners, investors, attorneys, assigns, subsidiaries, shareholders, trustees, agents, Consultant and other professionals and all other persons and entities to whom Lender would be liable if such persons or entities were found to be liable to any Loan Party (each a "Releasee" and collectively, the "Releasees"), from any and all past, present and future claims, suits, liens, lawsuits, adverse consequences, amounts paid in settlement, debts, deficiencies, diminution in value, disbursements, demands, obligations, liabilities, causes of action, damages, losses, costs and expenses of any kind or character, whether based in equity, law, contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law (each a "Claim" and collectively, the "Claims"), whether known or unknown, fixed or contingent, direct, indirect, or derivative, asserted or unasserted, matured or unmatured, foreseen or unforeseen, past or present, liquidated or unliquidated, suspected or unsuspected, which any Loan Party ever had from the beginning of the world, now has, or might hereafter have against any such Releasee which relates, directly or indirectly to the Credit Agreement, any other Loan Document, or to any acts or omissions of any such Releasee with respect to the Credit Agreement or any other Loan Document, or to the lender-borrower relationship evidenced by the Loan Documents; provided, that the releases set forth in this paragraph shall not release any Releasee from its duties and obligations from and after the date hereof that are set forth in the Credit Agreement, any Loan Document, or this Agreement. As to each and every Claim released hereunder, each Loan Party hereby represents that it has received the advice of legal counsel with regard to the releases contained herein, and having been so advised, specifically waives the benefit of the provisions of Section 1542 of the Civil Code of California which provides as follows:

[***] Omitted pursuant to a request for confidential treatment with the SEC.

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

As to each and every Claim released hereunder, each Loan Party also waives the benefit of each other similar provision of applicable federal or state law of any applicable jurisdiction, if any, pertaining to general releases after having been advised by its legal counsel with respect thereto.

Each Loan Party acknowledges that it may hereafter discover facts different from or in addition to those now known or believed to be true with respect to such Claims and agrees that this instrument shall be and remain effective in all respects notwithstanding any such differences or additional facts. This release shall be and remain in full force and effect notwithstanding the discovery by any Loan Party after the date hereof (i) of any new or additional Claim against any Releasee, (ii) of any new or additional facts in any way relating to this release, (iii) that any fact relied upon by it was incorrect, or (iv) that any representation or warranty made by any Releasee was untrue or that any Releasee concealed any fact, circumstance or claim relevant to any Loan Party's execution of this release. Each Loan Party understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 18; and (iii) any attempt to assert a Claim barred by the provisions of this Section 18 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

(c) The provisions of this Section 18 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

(d) Each Loan Party acknowledges that the foregoing release is a material inducement to Lender's decision to enter into this Agreement.

19. Specific Performance. It is understood and agreed by each of the parties hereto that money damages would not be a sufficient remedy for any breach of this Agreement by any party and each non-breaching party shall be entitled, without being required to demonstrate irreparable harm, likelihood of success on the merits or the insufficiency of money damages, and without (to the extent permitted by applicable law) posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy of any such breach.

20. Severability. In case any provision in this Agreement shall be invalid, illegal or unenforceable, such provision shall be severable from the remainder of this Agreement and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

21. Integration. This Agreement, and the terms and provisions hereof, which terms shall be deemed to include the annexes, exhibits, and schedules hereto, together with the other Loan Documents and the other documents delivered pursuant hereto (each as amended, supplemented or otherwise modified from time to time), incorporate all negotiations of the parties hereto with respect to the subject matter hereof and sets forth in full the terms of agreement between the parties and is intended as the full, complete and exclusive contract governing the relationship between the parties with respect to the transactions contemplated herein, superseding all other discussions, promises, representations, agreement and understandings, whether express or implied, oral or written, between the parties with respect thereto.

22. Submission of Agreement. The submission of this Agreement to the parties or their agents or attorneys for review or signature does not constitute a commitment by Lender to forbear from exercising any of their rights and remedies under the Loan Documents, and this Agreement shall have no binding force or effect until all of the conditions to the effectiveness of this Agreement have been satisfied as set forth herein.

23. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 23.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

24. Reaffirmation of Obligations. Each Loan Party hereby (a) acknowledges and reaffirms its obligations owing to Lender under each Loan Document to which it is a party, and (b) agrees that each of the Loan Documents to which it is a party is and shall remain in full force and effect. Each Loan Party hereby (i) further ratifies and reaffirms the validity and enforceability of all of the Liens and security interests heretofore granted, pursuant to and in connection with any Loan Document to Lender, as collateral security for the obligations under the Loan Documents in accordance with their respective terms, and (ii) acknowledges that all of such Liens and security interests, and all Collateral heretofore pledged as security for such obligations, continue to be and remain collateral for such obligations from and after the date hereof (including, without limitation, from after giving effect to this Agreement).

25. Ratification. Each Loan Party hereby restates, ratifies and reaffirms each and every term and condition set forth in the Credit Agreement and the Loan Documents effective as of the date hereof and as amended by this Agreement.

26. Effect on Loan Documents.

(a) The Credit Agreement and each of the other Loan Documents shall be and remain in full force and effect in accordance with their respective terms (as amended by this Agreement) and hereby are ratified and confirmed in all respects. The execution, delivery, and performance of this Agreement shall not operate, except as expressly set forth herein, as a forbearance, waiver, consent or modification of any right, power, or remedy of Lender under the Credit Agreement or any other Loan Document. The waivers, consents and modifications herein are limited to the specifics hereof (including facts or occurrences on which the same are based), shall not apply with respect to any facts or occurrences other than those on which the same are based, and shall not (i) excuse future non-compliance with the Loan Documents, (ii) operate as a consent to any further or other matter under the Loan Documents, or (iii) operate as a waiver of any Default or Event of Default (other than the Specified Defaults). Lender is not obligated to consider or consent to any additional request by any Loan Party for any other waiver, consent or other modification with respect to the Credit Agreement. Except for the waivers, consents and other modifications expressly set forth above, the text of the Credit Agreement and all other existing Loan Documents shall remain unchanged and in full force and effect and Lender expressly reserves the right to require strict compliance with the terms of the Credit Agreement and the other Loan Documents.

(b) This Agreement is a Loan Document.

(c) Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, references to the masculine, feminine or neuter gender shall include each other, the terms “includes” and “including” are not limiting, and the term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or”.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

27. Survival. All covenants, representations and warranties, indemnities and releases contained in this Agreement shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, regardless of any investigation made by Lender or on any other Person on its behalf.

28. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

29. Notices. All notices, requests, and demands to or upon the respective parties hereto shall be given in accordance with the Credit Agreement.

30. Counterparts. This Agreement may be executed by one or more of the parties hereto on any number of separate counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic methods of transmission shall be as effective as delivery of a manually executed counterpart hereof. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

31. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Agreement.

32. Construction. This Agreement shall not be construed more strictly against Lender merely by virtue of the fact that the same has been prepared by Lender or its counsel, it being recognized that the Loan Parties and Lender have contributed substantially and materially to the preparation of this Agreement, and each party acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by any of the other parties hereto in entering into this Agreement.

33. Benefit. This Agreement shall be binding upon and shall inure to the benefit of the Borrowers, the Guarantors and Lender, and their respective successors and assigns, provided that none of the Borrowers shall have any right to assign any of its rights or duties under this Agreement.

34. Relationship of the Loan Parties and Lender. The relationship between Borrowers and the Guarantors, on the one hand, and Lender, on the other hand, is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with any Borrower or Guarantor, and no term or condition of this Agreement or any other Loan Document shall be construed so as to deem the relationship between any Borrower or Guarantor and Lender to be other than that of debtor and creditor.

35. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 18 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

36. Lender Not Liable For Expenses. Nothing in this Agreement shall be intended or construed to hold Lender liable or responsible for any expense, disbursement, liability or obligation of any kind or nature whatsoever, including, without limitation, wages, salaries, payroll taxes, deposits, withholding, benefits or other amounts payable to or on behalf of any Loan Party.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

37. Additional Waivers by the Loan Parties. Each Loan Party waives: (a) presentment, demand and protest and notice of presentment, protest, default, non payment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Lender on which any Loan Party may in any way be liable and hereby ratifies and confirms whatever the Lender may do in this regard; (b) notice prior to taking possession or control of the Collateral; (c) the benefit of all valuation, appraisal and exemption laws; and (d) notice of acceptance hereof. Each Loan Party acknowledges that the foregoing waivers are a material inducement to the Lender entering into this Agreement and that the Lender is relying upon the foregoing waivers in its future dealings with the Loan Parties. Each Loan Party represents and warrants that it has fully reviewed and understands the foregoing waivers.

[signature pages follow]

[***] Omitted pursuant to a request for confidential treatment with the SEC.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized officers or representatives to execute and deliver this Agreement as of the day and year first written above.

BORROWERS:

OVERLAND STORAGE, INC.,
a California corporation, as Company and as a Borrower

By: s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

TANDBERG DATA GMBH,
a limited liability company organized under the laws of Germany, as a
Borrower

By: s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Geschäftsführer

[SIGNATURE PAGE TO AMENDMENT NUMBER TWO TO CREDIT AGREEMENT, AMENDMENT
NUMBER ONE TO AMENDMENT NUMBER 1, WAIVER AND REAFFIRMATION]

GUARANTORS:

OVERLAND STORAGE, INC., a California corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D CORP., a corporation organized under the laws of Ontario
Canada, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D INC., a corporation organized under the laws of Canada, as a
Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP, CFO, and Secretary

V3 SYSTEMS HOLDINGS, INC., a Delaware corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Secretary and CFO

[SIGNATURE PAGE TO AMENDMENT NUMBER TWO TO CREDIT AGREEMENT, AMENDMENT
NUMBER ONE TO AMENDMENT NUMBER 1, WAIVER AND REAFFIRMATION]

LENDER:

OPUS BANK, a California commercial bank, as Lender

By: /s/ Geoff Anfuso

Name: Geoff Anfuso

Its: Authorized Signatory

[SIGNATURE PAGE TO AMENDMENT NUMBER TWO TO CREDIT AGREEMENT, AMENDMENT
NUMBER ONE TO AMENDMENT NUMBER 1, WAIVER AND REAFFIRMATION]

SCHEDULE A

Specified Defaults

<u>Section / Covenant</u>	<u>Required</u>
Section 6.17(b)	On or before February 7, 2017, an executed letter of intent with respect to a proposed financing by [***] or one or more of its affiliates (or another lender reasonably acceptable to Lender) of one or more of the Loan Parties providing for a senior credit facility secured by current assets of at least \$10,000,000, permitting a separate senior financing secured by certain other long term assets and general intangibles of not less than \$7,000,000 provided by [***] or another lender reasonably acceptable to Lender, and providing for targeted a closing date of no later than March 31, 2017
Section 6.17(c)	On or before February 15, 2017, an executed letter of intent with respect to a proposed senior financing of one or more of the Loan Parties by [***] or one of its affiliates (or another lender reasonably acceptable to Lender), providing for a senior facility of at least \$7,000,000 secured by long term assets and general intangibles, permitting a separate senior financing of not less than \$10,000,000 provided by [***] or one or more of its affiliates (or another lender reasonably acceptable to Lender) and secured by current assets, and providing for targeted a closing date of no later than March 31, 2017

Exhibit A

FORM OF FIRST ADDITIONAL WARRANT

[see attached]

Exhibit B

FORM OF SECOND ADDITIONAL WARRANT

[see attached]

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT.

Void after 5:00 p.m. (Toronto time) on the Expiry Date.

WARRANT

For the purchase of Common Shares of

SPHERE 3D CORP.

(Organized under the laws of Ontario)

Number of Warrants: See Section 1

Warrant Certificate No. 69

This is to certify that, for value received, in the event that the Payoff Date (as defined below) shall not have occurred on or prior to April 17, 2017 (the "**Payoff Deadline**"), OPUS BANK, 19900 MacArthur Boulevard, 12th Floor, Irvine, California 92612 (the "**Holder**"), shall have the right to purchase from Sphere 3D Corp. (the "**Corporation**"), at any time and from time to time on or after the date immediately following the Payoff Deadline and up to 5:00 p.m. (Toronto time) (the "**Expiry Time**") on April 18, 2023 (the "**Expiry Date**"), one fully paid and non-assessable Common Share (as defined below) for each Warrant (individually, a "**Warrant**") represented hereby at a price of US\$0.01 per Common Share (the "**Exercise Price**"), upon and subject to the terms and conditions set forth herein. The term "**Effective Date**" shall mean March 12, 2017.

1. For the purposes of this Warrant Certificate: (i) the term "**Common Shares**" means common shares without par value in the capital of the Corporation as constituted as of the date hereof, provided that in the event of a subdivision, redivision, reduction, combination or consolidation thereof or any other adjustment under Section 9 hereof, or successive such subdivisions, redivisions, reductions, combinations, consolidations or other adjustments, then subject to the adjustments, if any, having been made in accordance with the provisions of this Warrant Certificate, "**Common Shares**" shall thereafter mean the shares, other securities or other property resulting from such subdivision, redivision, reduction, combination or consolidation or other adjustment; and (ii) the number of Warrants represented hereby shall be equal to a fraction (rounded down to the nearest whole number) where (a) the numerator is equal to US\$75,000 and (b) the denominator is equal to the difference between the Current Market Price as of the Payoff Deadline and the Exercise Price.

2. All Warrant Certificates shall be signed by an officer of the Corporation holding office at the time of signing, or any successor or replacement of such person and notwithstanding any change in any of the persons holding said offices between the time of actual signing and the delivery of the Warrant Certificate, the Warrant Certificate so signed shall be valid and binding upon the Corporation.

3. All rights under any of the Warrants in respect of which the right of subscription and purchase therein provided for shall not theretofore have been exercised shall wholly cease and such Warrants shall be wholly void and of no valid or binding effect after the Expiry Time on the Expiry Date.

4. (a) Pursuant to the terms and conditions set forth in this Warrant, this Warrant is exercisable at any time, in whole or in part, at or before the Expiry Date, at the option of the Holder, upon surrender of this Warrant Certificate to the Corporation together with a duly completed and executed subscription substantially in the form attached as Schedule "A" (the "**Subscription Form**"), in the manner therein indicated, and payment of an amount equal to the Exercise Price multiplied by the number of Common Shares for which this Warrant is then being exercised ("**Warrant Shares**"), which payment may be satisfied, at the option of the Holder, (a) in cash, (b) through the exercise of Net Exercise Rights (as defined below), or (c) through any combination of the foregoing clauses (a) – (b). "**Shares**" as used herein means Common Shares, or any other equity securities into which such Common Shares are converted into or exchanged for in a Company Transaction (as defined below). Except as provided in the following sentence, any exercise of this Warrant hereunder shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant is surrendered to the Corporation as provided in this Warrant. Notwithstanding the foregoing, if an exercise of all or any portion of this Warrant is being made in connection with (i) a proposed public offering of any capital stock (or other securities) of the Corporation, (ii) a proposed Company Transaction, (iii) a proposed issuance or sale of capital stock or any other securities of the Corporation, or (iv) a proposed transfer of capital stock or other securities of the Corporation, then, at the election of the Holder, such exercise may be conditioned upon the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, in which case (A) such exercise shall be effective concurrently with the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, and (B) appropriate modifications will be made to the Subscription Form to reflect the conditionality specified in this sentence. At the effective time of any exercise of this Warrant, the person or persons in whose name or names any certificate for the Warrant Shares shall be issuable upon such exercise as provided in this Warrant shall be deemed to have become the holder or holders of record of the Warrant Shares represented by such certificate.
- (b) In lieu of exercising the purchase rights represented by this Warrant on a cash basis, the Holder may elect to exercise such rights represented by this Warrant at any time and from time to time during the term, in whole or in part, on a net-issue basis (the "**Net Exercise Right**") by electing to receive the number of Warrant Shares that are equal in value to the value of this Warrant as determined in accordance with Section 4(c) (or any portion thereof to be canceled in connection with such Net Exercise Right) at the time of any such exercise of the Net Exercise Right, by delivery to the principal offices of the Corporation of this Warrant and a completed and duly executed Notice of Exercise appropriately adjusted to indicate that the Holder is exercising the Net Exercise Right.
- (c) In the event that the Holder shall elect to exercise the rights represented by this Warrant in whole or in part pursuant to the Net Exercise Rights provided in this Section 4, the Corporation shall issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

where:

X = the number of Warrant Shares to be issued to the Holder in connection with such Net Exercise Right.

Y = the number of Warrant Shares purchasable in respect of which the Net Exercise Right is elected in connection with an exercise of Warrants by the Holder.

A = the Current Market Price of one Warrant Share.

B = the Warrant Price in effect as of the date of exercise of the Net Exercise Right (as adjusted pursuant to this Warrant).

- (d) This Warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiry Date set forth above. Notwithstanding any provision herein to the contrary, this Warrant shall automatically be deemed to be exercised in full through the exercise of the Net Exercise Right in the manner set forth in Sections 4(b) and (c) of this Warrant, without any further action on behalf of Holder on the earliest date immediately prior to the time this Warrant would otherwise expire.
- (e) Notwithstanding anything to the contrary set forth herein, the Corporation (in its sole discretion) may, on the earlier of the Payoff Date or the Maturity Date (as defined in the Credit Agreement), redeem all of the outstanding Warrants represented by this Warrant Certificate by paying to the Holder cash in an amount equal to \$75,000, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.

5. Upon delivery and payment as set forth in Section 4, the Corporation shall cause to be issued to the Holder the number of Common Shares subscribed for by the Holder and the Holder shall become a shareholder of the Corporation in respect of such Common Shares with effect from the date of such delivery and payment and shall be entitled to delivery of a certificate or certificates evidencing such shares. The Corporation shall cause such certificate or certificates to be mailed to the Holder at the address or addresses specified in the Subscription Form within five (5) business days of such delivery and payment as set forth in Section 4 or, if so instructed by the Holder, held for pick-up by the Holder at the principal office of the Corporation. Notwithstanding any adjustment provided for in Section 9 hereof, the Corporation shall not be required upon the exercise of any Warrants to issue fractional Common Shares in satisfaction of its obligations hereunder and the Holder understands and agrees that it will not be entitled to any cash payment or other form of compensation in respect of a fractional Common Share that might otherwise have been issued.

- 6. (a) The Holder shall have the right to include all or any portion of the Shares underlying the Warrants (collectively, the “**Registrable Securities**”) as part of any other registration of securities pursuant to a registration statement filed by the Corporation (other than in connection with a transaction of the type contemplated by Rule 145(a) promulgated under the U.S. Securities Act (as defined below), pursuant to Form S-8, F-4 or S-4 or any equivalent form, or in connection with the registration of securities as required by any agreement entered into by the Corporation prior to the Effective Date); provided, however, that if, in connection with any primary underwritten public offering for the account of the Corporation, the managing underwriter(s) thereof shall, in its reasonable discretion, impose a limitation on the number of Shares which may be included in the registration statement because, in such underwriter(s)’ judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Corporation shall be obligated to include in such registration statement only such limited portion of the Registrable Securities with respect to which the Holder requested inclusion hereunder as the underwriter shall reasonably permit. Any exclusion of Registrable Securities shall be made pro rata among the holders seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such holders.
-

- (b) The Corporation shall bear all fees and expenses attendant to registering the Registrable Securities pursuant to Section 6(a) hereof, but the holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the holders to represent them in connection with the sale of the Registrable Securities. In the event of such a proposed registration, the Corporation shall furnish the then-holders of outstanding Registrable Securities with not less than five (5) business days written notice prior to the proposed date of filing of such registration statement. Such notice to the holders shall continue to be given for each registration statement filed by the Corporation until the earlier of such time as all of the Registrable Securities have been (i) sold by the Holder or (ii) registered under a registration statement. The holders of the Registrable Securities shall exercise the "piggy-back" rights provided for herein by giving written notice within two (2) business days of the receipt of the Corporation's notice of its intention to file a registration statement. Notwithstanding anything contained in this Warrant Certificate to the contrary, the Corporation shall have no obligation pursuant to Section 6 hereof to register the Registrable Securities held by a Holder, other than the initial Holder of this Warrant Certificate or any of its permitted transferees, where such Holder would then be entitled to sell this Warrant Certificate and the Warrant Shares under Rule 144 promulgated under the U.S. Securities Act (or a successor rule thereto) without restriction (including, without limitation, volume restrictions) and without the need for current public information. No Holder shall have the right to participate in any of the foregoing offerings unless such Holder(s) has or shall furnish to the Corporation a completed and executed questionnaire provided by the Corporation to the Holder(s), at least seven (7) days in advance, requesting information customarily sought of selling security holders.
- (c) Should the registration statement or the effectiveness thereof required by Section 6(a) hereof be delayed by the Corporation or the Corporation otherwise fails to comply with such provisions, the Holder(s) shall, in addition to any other legal or other relief available to the Holder(s), be entitled to seek specific performance or other equitable (including injunctive) relief against the threatened breach of such provisions or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting bond or other security.

7. The holding of a Warrant shall not constitute the Holder a shareholder of the Corporation nor entitle such Holder to any right or interest in respect thereof except as herein expressly provided.

8. The Corporation covenants and agrees that until the Expiry Time, while any of the Warrants shall be outstanding, it shall reserve and there shall remain unissued out of its authorized capital a sufficient number of Common Shares to satisfy the right of purchase herein provided, as such right of purchase may be adjusted pursuant to the provisions of this Warrant Certificate. The Corporation further covenants and agrees that while any of the Warrants shall be outstanding, the Corporation shall (a) comply with the securities legislation applicable to it; and (b) use its commercially reasonable efforts to do or cause to be done all things necessary to preserve and maintain its corporate existence. All Common Shares which shall be issued upon the exercise of the right to purchase herein provided for, upon payment therefor of the amount at which such Common Shares may at the time be purchased pursuant to the provisions hereof, shall be issued as fully paid and non-assessable shares and the holders thereof shall not be liable to the Corporation or its creditors in respect thereof.

9. (a) As used in this Warrant Certificate:

“**Company Transaction**” means: (i) a merger, amalgamation, arrangement or consolidation of the Corporation with or into any other company, entity or person; (ii) a sale, lease, exchange or other transfer in one transaction or a series of related transactions undertaken with a common purpose of all or a majority of the Corporation’s then outstanding securities or all or substantially all the Corporation’s assets; or (iii) a corporate dissolution or liquidation; provided, however, that a Company Transaction shall not include (X) a merger, amalgamation, arrangement or consolidation of the Corporation in which the holders of the outstanding voting securities of the Corporation immediately prior to the merger, amalgamation, arrangement or consolidation hold at least a majority of the outstanding voting securities of the successor Corporation immediately after the merger, amalgamation, arrangement or consolidation, (Y) a sale, lease, exchange or other transfer of the Corporation’s assets to a majority-owned subsidiary company or (Z) a transaction undertaken for the principal purpose of restructuring the equity of the Corporation, including but not limited to, reincorporating the Corporation in a different jurisdiction or creating a holding company, but which in any event does not provide for any distribution of cash or cash equivalents in respect of any security.

“**Credit Agreement**” means that certain Credit Agreement, dated as of April 6, 2016, by and among Overland Storage, Inc., Tandberg Data GmbH and Holder, as amended, restated, supplemented, or otherwise modified from time to time.

“**Current Market Price**” of the Common Shares at any date means the price per share equal to the most recent closing price of the Common Shares traded on the Nasdaq Global Market (“**Nasdaq**”) or, if the Common shares are not then listed on the Nasdaq, on such other stock exchange on which the shares trade as may be selected by the directors of the Corporation for such purpose.

“**director**” means a director of the Corporation for the time being and, unless otherwise specified herein, a reference to action “by the directors” means action by the directors of the Corporation as a board or, whenever empowered, subject to applicable law, action by the executive committee of such board.

“**Payoff Date**” means the date on which all Obligations (as defined in the Credit Agreement) have been indefeasibly paid in full to Bank (as defined in the Credit Agreement) in immediately available funds and all Commitments (as defined in the Credit Agreement) of Bank to extend financial accommodations to any Borrower (as defined in the Credit Agreement) have been terminated.

- (b) If and whenever at any time after the date hereof and prior to the Expiry Time the Corporation shall (i) subdivide or redivide its then outstanding Common Shares into a greater number of Common Shares, (ii) reduce, combine or consolidate its then outstanding Common Shares into a lesser number of Common Shares or (iii) issue Common Shares (or securities exchangeable for or convertible into Common Shares) to the holders of all or substantially all of its then outstanding Common Shares by way of a stock dividend or other distribution (any of such events herein called a “**Common Share Reorganization**”), then the Exercise Price shall be adjusted effective immediately after the effective date of any such event in (i) or (ii) above or the record date at which the holders of Common Shares are determined for the purpose of any such dividend or distribution in (iii) above, as the case may be, by multiplying the Exercise Price in effect on such effective date or record date, as the case may be, by a fraction, the numerator of which shall be the number of Common Shares outstanding on such effective date or record date, as the case may be, before giving effect to such Common Share Reorganization and the denominator of which shall be the number of Common Shares outstanding immediately after giving effect to such Common Share Reorganization including, in the case where securities exchangeable for or convertible into Common Shares are distributed, the number of Common Shares that would be outstanding if such securities were exchanged for or converted into Common Shares.
-

- (c) If and whenever at any time after the date hereof and prior to the Expiry Time there is a capital reorganization of the Corporation or a reclassification or other change in the Common Shares (other than a Common Share Reorganization) or a consolidation or merger, amalgamation, arrangement or amalgamation of the Corporation with or into any other corporation or other entity (other than a consolidation, merger, amalgamation, arrangement or amalgamation which does not result in any reclassification of the outstanding Common Shares or a change of the Common Shares into other securities), or a transfer of all or substantially all of the Corporation's undertaking and assets to another corporation or other entity in which the holders of Common Shares are entitled to receive shares, other securities or other property) (any of such events being called a "**Capital Reorganization**"), after the effective date of the Capital Reorganization the Holder shall be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Common Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of Common Shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number of Common Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization, appropriate adjustments shall be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder such that the provisions of this Warrant Certificate shall thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the exercise of this Warrant Certificate.
- (d) If and whenever at any time after the date hereof and prior to the Expiry Time, any of the events set out in Sections 9(b) or (c) shall occur and the occurrence of such event results in an adjustment of the Exercise Price pursuant to the provisions of this Section 9, then the number of Common Shares purchasable pursuant to this Warrant shall be adjusted contemporaneously with the adjustment of the Exercise Price by multiplying the number of Common Shares then otherwise purchasable on the exercise thereof by a fraction, the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and the denominator of which shall be the Exercise Price resulting from such adjustment.
- (e) If the Corporation takes any action affecting its Common Shares to which the foregoing provisions of this Section 9, in the opinion of the board of directors of the Corporation, acting in good faith, are not strictly applicable, or if strictly applicable would not fairly adjust the rights of the Holder against dilution in accordance with the intent and purposes hereof, or would otherwise materially affect the rights of the Holder hereunder, then the Corporation shall, subject to the approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable), execute and deliver to the Holder an amendment hereto providing for an adjustment in the application of such provisions so as to adjust such rights as aforesaid in such manner as the board of directors of the Corporation may determine to be equitable in the circumstances, acting in good faith. The failure of the taking of action by the board of directors of the Corporation to so provide for any adjustment on or prior to the effective date of any action or occurrence giving rise to such state of facts will be conclusive evidence that the board of directors has determined that it is equitable to make no adjustment in the circumstances.
-

10. The following rules and procedures shall be applicable to the adjustments made pursuant to Section 9:

- (a) any Common Shares owned or held by or for the account of the Corporation shall be deemed not to be outstanding except that, for the purposes of Section 9, any Common Shares owned by a pension plan or profit sharing plan for employees of the Corporation or any of its subsidiaries shall not be considered to be owned or held by or for the account of the Corporation;
 - (b) no adjustment in the Exercise Price or the number of Common Shares purchasable pursuant to this Warrant shall be required unless a change of at least 1% of the prevailing Exercise Price or the number of Common Shares purchasable pursuant to this Warrant would result; provided, however, that any adjustment which, except for the provisions of this Section 10(b), would otherwise have been required to be made, shall be carried forward and taken into account in any subsequent adjustment;
 - (c) the adjustments provided for in Section 9 are cumulative and shall apply to successive subdivisions, consolidations, dividends, distributions and other events resulting in any adjustment under the provisions of such section;
 - (d) in the absence of a resolution of the board of directors of the Corporation fixing a record date for any dividend or distribution referred to in Section 9(b)(iii) above, the Corporation shall be deemed to have fixed as the record date therefor the date on which such dividend or distribution is effected;
 - (e) if the Corporation sets a record date to take any action and thereafter and before the taking of such action abandons its plan to take such action, then no adjustment to the Exercise Price will be required by reason of the setting of such record date;
 - (f) as a condition precedent to the taking of any action which would require any adjustment to the Warrants evidenced hereby, including the Exercise Price, the Corporation must take any corporate action which may be necessary in order that the Corporation shall have unissued and reserved in its authorized capital and may validly and legally issue as fully paid and non-assessable all of the shares or other securities which the Holder is entitled to receive on the full exercise thereof in accordance with the provisions hereof;
 - (g) forthwith, but no later than fourteen (14) days, after any adjustment to the Exercise Price or the number of Common Shares purchasable pursuant to the Warrants, the Corporation shall provide to the Holder a certificate of an officer of the Corporation certifying as to the amount of such adjustment and, in reasonable detail, describing the event requiring and the manner of computing or determining such adjustment;
 - (h) any question that at any time or from time to time arises with respect to the amount of any adjustment to the Exercise Price or other adjustment pursuant to Section 9 shall be conclusively determined by a firm of independent chartered accountants (who may be the Corporation's auditors) and shall be binding upon the Corporation and the Holder;
 - (i) any adjustment to the Exercise Price under the terms of this Warrant Certificate shall be subject to the prior approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable); and
-

- (j) in case the Corporation, after the date of issue of this Warrant Certificate, takes any action affecting the Common Shares, other than an action described in Section 9, which in the opinion of the directors of the Corporation would materially affect the rights of the Holder, the Exercise Price will be adjusted in such manner, if any, and at such time, by action by the directors of the Corporation but subject in all cases to any necessary regulatory approval, including approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable). Failure of the taking of action by the directors of the Corporation so as to provide for an adjustment on or prior to the effective date of any action by the Corporation affecting the Common Shares will be conclusive evidence that the board of directors of the Corporation has determined that it is equitable to make no adjustment in the circumstances.

11. At least twenty-one (21) days prior to the effective date or record date, as the case may be, of any event referred to in Section 9 herein, the Corporation shall notify the Holder of the particulars of such event and the estimated amount of any adjustment required as a result thereof.

12. On the happening of each and every such event set out in Section 9, the applicable provisions of this Warrant Certificate, including the Exercise Price, shall, *ipso facto*, be deemed to be amended accordingly and the Corporation shall take all necessary action so as to comply with such provisions as so amended.

13. The Corporation shall not be required to deliver certificates for Common Shares while the share transfer books of the Corporation are properly closed, having regard to the provisions of Sections 9 and 10 hereof, prior to any meeting of shareholders or for the payment of dividends or for any other purpose and in the event of the surrender of any Warrant in accordance with the provisions hereof and the making of any subscription and payment for the Common Shares called for thereby during any such period, delivery of certificates for Common Shares may be postponed for not more than five (5) business days after the date of the re-opening of said share transfer books; provided, however, that any such postponement of delivery of certificates shall be without prejudice to the right of the Holder so surrendering the same and making payment during such period to receive after the share transfer books shall have been re-opened such certificates for the Common Shares called for, as the same may be adjusted pursuant to Sections 9 and 10 hereof as a result of the completion of the event in respect of which the transfer books were closed.

14. Subject as hereinafter provided, all or any of the rights conferred upon the Holder by the terms hereof may be enforced by the Holder by appropriate legal proceedings. No recourse under or upon any obligation, covenant or agreement contained herein shall be had against any shareholder, director or officer of the Corporation either directly or through the Corporation, it being expressly agreed and declared that the obligations under the Warrants are solely corporate obligations and that no personal liability whatever shall attach to or be incurred by the shareholders, directors or officers of the Corporation or any of them in respect thereof, any and all rights and claims against every such shareholder, officer or director being hereby expressly waived as a condition of and as a consideration for the issue of the Warrants.

15. The Holder may subscribe for and purchase any lesser number of Common Shares than the number of Common Shares expressed in any Warrant Certificate. In the case of any subscription for a lesser number of Common Shares than expressed in any Warrant Certificate, the Holder hereof shall be entitled to receive, at no cost to the Holder, a new Warrant Certificate in respect of the balance of Warrants not then exercised. Such new Warrant Certificate shall be mailed to the Holder by the Corporation or, at its direction, the transfer agent of the Corporation, contemporaneously with the mailing of the certificate or certificates representing the Common Shares issued pursuant to Section 5.

16. If any Warrant Certificate becomes stolen, lost, mutilated or destroyed, the Corporation shall, on such terms as it may in its discretion impose, acting reasonably, issue and sign a new Warrant Certificate of like denomination, tenor and date as the Warrant Certificate so stolen, lost, mutilated or destroyed for delivery to the Holder. The applicant for the issue of a new Warrant Certificate pursuant to this Section 16 shall bear the cost of the issue thereof and in the case of mutilation shall as a condition precedent to the issue thereof, deliver to the Corporation the mutilated Warrant Certificate, and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Corporation such evidence of ownership and of the loss, destruction or theft of the Warrant Certificate so lost, destroyed or stolen as shall be satisfactory to the Corporation in its discretion and the applicant shall also be required to furnish an indemnity and surety bond in amount and form satisfactory to the Corporation in its discretion and shall pay the reasonable charges of the Corporation in connection therewith.

17. The Holder may transfer the Warrants represented hereby by:

- (a) duly completing and executing the transfer form attached as Schedule "B" ("**Transfer Form**"); and
- (b) surrendering this Warrant Certificate and the completed Transfer Form, together with such other documents as the Corporation may reasonably request, to the Corporation at the address set forth on the Transfer Form or such other office as may be specified by the Corporation, in a written notice to the Holder, from time to time,

provided that all such transfers shall be effected in accordance with all applicable securities laws, and provided that, after such transfer, the term "Holder" shall mean and include any transferee or assignee of the current or any future Holder. If only part of the Warrants evidenced hereby is transferred, the Corporation will deliver to the Holder and the transferee replacement Warrant Certificates substantially in the form of this Warrant Certificate.

18. Neither the issuance and sale of the securities represented by this Warrant Certificate nor the Common Shares into which these securities are exercisable have been registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**") or applicable state securities laws. These securities may not be offered for sale, sold, transferred or assigned unless registered under the U.S. Securities Act and any applicable state securities laws or unless an exemption from such registration is available, and the Corporation and its transfer agent has received an opinion of counsel of recognized standing in form and substance reasonably satisfactory to them to such effect.

19. Any certificate representing Common Shares issued upon the exercise of this Warrant may bear the following legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAVE RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT."

20. The Corporation will maintain a register of holders of Warrants at its principal office. The Corporation may deem and treat the registered holder of any Warrant Certificate as the absolute owner of the Warrants represented thereby for all purposes, and the Corporation shall not be affected by any notice or knowledge to the contrary except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. A Holder shall be entitled to the rights evidenced by such Warrant free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all persons may act accordingly and the receipt by any such Holder of the Common Shares purchasable pursuant to such Warrant shall be a good discharge to the Corporation for the same and the Corporation shall not be bound to inquire into the title of any such Holder except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.

21. The Corporation shall notify the Holder forthwith of any change of the Corporation's address.

22. All notices to be sent hereunder shall be deemed to be validly given to the registered holders of the Warrants if delivered personally or if sent by registered letter through the post addressed to such holders at their post office addresses appearing in the register of Warrant holders caused to be maintained by the Corporation, and such notice shall be deemed to have been given, if delivered personally when so delivered, and if sent by post on the fifth business day next following the post thereof.

23. If for any reason, other than the failure or default of the Holder, the Corporation is unable to issue and deliver the Common Shares or other securities as contemplated herein to the Holder upon the proper exercise by the Holder of the right to purchase any of the Common Shares purchasable upon exercise of the Warrants represented hereby, the Corporation may pay, at its option and in complete satisfaction of its obligations and the rights of the Holder hereunder, to the Holder, in cash, an amount equal to the difference between the Exercise Price and the Current Market Price of such Common Shares or other securities on the date of exercise by the Holder, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.

24. This Warrant Certificate shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable herein.

25. If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Warrant Certificate, but this Warrant Certificate shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

26. This Warrant Certificate shall enure to the benefit of and shall be binding upon the Holder and the Corporation and their respective successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Corporation has caused this Warrant Certificate to be signed by its duly authorized officer as of the Effective Date.

SPHERE 3D CORP.

Per: /s/ Kurt Kalbfleisch
Kurt Kalbfleisch, Chief Financial Officer

[Signature Page to Warrant]

SUBSCRIPTION FORM

TO BE COMPLETED IF WARRANTS ARE TO BE EXERCISED:

TO: **SPHERE 3D CORP.**
240 Matheson Blvd E., Mississauga, Ontario, L4Z 1X1

The undersigned hereby subscribes for _____ Common Shares of Sphere 3D Corp. according to the terms and conditions set forth in the annexed Warrant Certificate (or such number of other securities or property to which such Warrant Certificate entitles the undersigned to acquire under the terms and conditions set forth in such Warrant Certificate).

Registered Name: _____

Address for Delivery of Common Shares: _____

Attention: _____

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____

OR

Exercise Price Tendered by exercise of Net Exercise Rights in accordance with Sections 4(b) and of the Warrant

OR

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____ in cash and the remainder through the exercise of Net Exercise Rights in accordance with Sections 4(b) and (c) of the Warrant

Capitalized terms not defined herein shall have the meanings assigned to them in the Warrant Certificate to which this subscription form is attached.

Dated at _____, this ___ day of _____, 20__.

WITNESS:

)
)
)
)
)
)
)
)
)

HOLDER'S NAME

AUTHORIZED SIGNATURE

TITLE (IF APPLICABLE)

Signature guaranteed¹ :

1. If the Common Shares are to be registered in a name other than the name of the registered Warrant Holder, the signature of the Warrant Holder must be medallion guaranteed by a bank, trust company or a member of a stock exchange in Canada.

Schedule "B"

WARRANT TRANSFER FORM

FOR VALUE RECEIVED, subject to receipt of prior written approval of SPHERE 3D CORP. (the "Company"), the undersigned (the "Transferor") hereby sells, assigns and transfers unto (name) _____ (the "Transferee") of _____ (residential address) _____

Warrants of the Company registered in the name of the undersigned represented by the within certificate, and irrevocably appoints the Company as the attorney of the undersigned to transfer the said securities on the register of transfers for the said Warrants, with full power of substitution.

NOTICE: The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by a bank, trust company or a member of a recognized stock exchange. The guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

DATED this ____ day of _____, 20__.

Signature Guaranteed

(Signature of transferring Warrantholder)

Name (please print)

Address

TRANSFeree ACKNOWLEDGMENT

In connection with this transfer the undersigned transferee is delivering a written opinion of U.S. Counsel acceptable to the Company to the effect that this transfer of Warrants has been registered under the U.S. Securities Act or is exempt from registration thereunder.

(Signature of Transferee)

Date

Name of Transferee (please print)

The Warrants and the common shares issuable upon exercise of the Warrants shall only be transferable in accordance with applicable laws. The Warrants may only be exercised in the manner required by the certificate representing the Warrants and the Warrant Exercise Form attached thereto. Any common shares acquired pursuant to this Warrant shall be subject to applicable hold periods and any certificate representing such common shares will bear restrictive legends.

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT.

Void after 5:00 p.m. (Toronto time) on the Expiry Date.

WARRANT

For the purchase of Common Shares of

SPHERE 3D CORP.

(Organized under the laws of Ontario)

Number of Warrants: See Section 1

Warrant Certificate No. 70

This is to certify that, for value received, in the event that the Payoff Date (as defined below) shall not have occurred on or prior to May 31, 2017 (the "**Payoff Deadline**"), OPUS BANK, 19900 MacArthur Boulevard, 12th Floor, Irvine, California 92612 (the "**Holder**"), shall have the right to purchase from Sphere 3D Corp. (the "**Corporation**"), at any time and from time to time on or after the date immediately following the Payoff Deadline and up to 5:00 p.m. (Toronto time) (the "**Expiry Time**") on June 1, 2023 (the "**Expiry Date**"), one fully paid and non-assessable Common Share (as defined below) for each Warrant (individually, a "**Warrant**") represented hereby at a price of US\$0.01 per Common Share (the "**Exercise Price**"), upon and subject to the terms and conditions set forth herein. The term "**Effective Date**" shall mean March 12, 2017.

1. For the purposes of this Warrant Certificate: (i) the term "**Common Shares**" means common shares without par value in the capital of the Corporation as constituted as of the date hereof, provided that in the event of a subdivision, redivision, reduction, combination or consolidation thereof or any other adjustment under Section 9 hereof, or successive such subdivisions, redivisions, reductions, combinations, consolidations or other adjustments, then subject to the adjustments, if any, having been made in accordance with the provisions of this Warrant Certificate, "**Common Shares**" shall thereafter mean the shares, other securities or other property resulting from such subdivision, redivision, reduction, combination or consolidation or other adjustment; and (ii) the number of Warrants represented hereby shall be equal to a fraction (rounded down to the nearest whole number) where (a) the numerator is equal to US\$100,000 and (b) the denominator is equal to the difference between the Current Market Price as of the Payoff Deadline and the Exercise Price.

2. All Warrant Certificates shall be signed by an officer of the Corporation holding office at the time of signing, or any successor or replacement of such person and notwithstanding any change in any of the persons holding said offices between the time of actual signing and the delivery of the Warrant Certificate, the Warrant Certificate so signed shall be valid and binding upon the Corporation.

3. All rights under any of the Warrants in respect of which the right of subscription and purchase therein provided for shall not theretofore have been exercised shall wholly cease and such Warrants shall be wholly void and of no valid or binding effect after the Expiry Time on the Expiry Date.

4. (a) Pursuant to the terms and conditions set forth in this Warrant, this Warrant is exercisable at any time, in whole or in part, at or before the Expiry Date, at the option of the Holder, upon surrender of this Warrant Certificate to the Corporation together with a duly completed and executed subscription substantially in the form attached as Schedule "A" (the "**Subscription Form**"), in the manner therein indicated, and payment of an amount equal to the Exercise Price multiplied by the number of Common Shares for which this Warrant is then being exercised ("**Warrant Shares**"), which payment may be satisfied, at the option of the Holder, (a) in cash, (b) through the exercise of Net Exercise Rights (as defined below), or (c) through any combination of the foregoing clauses (a) – (b). "**Shares**" as used herein means Common Shares, or any other equity securities into which such Common Shares are converted into or exchanged for in a Company Transaction (as defined below). Except as provided in the following sentence, any exercise of this Warrant hereunder shall be deemed to have been effected immediately prior to the close of business on the day on which this Warrant is surrendered to the Corporation as provided in this Warrant. Notwithstanding the foregoing, if an exercise of all or any portion of this Warrant is being made in connection with (i) a proposed public offering of any capital stock (or other securities) of the Corporation, (ii) a proposed Company Transaction, (iii) a proposed issuance or sale of capital stock or any other securities of the Corporation, or (iv) a proposed transfer of capital stock or other securities of the Corporation, then, at the election of the Holder, such exercise may be conditioned upon the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, in which case (A) such exercise shall be effective concurrently with the consummation of such public offering, Company Transaction, or issuance, sale or transfer of capital stock or other securities, and (B) appropriate modifications will be made to the Subscription Form to reflect the conditionality specified in this sentence. At the effective time of any exercise of this Warrant, the person or persons in whose name or names any certificate for the Warrant Shares shall be issuable upon such exercise as provided in this Warrant shall be deemed to have become the holder or holders of record of the Warrant Shares represented by such certificate.
- (b) In lieu of exercising the purchase rights represented by this Warrant on a cash basis, the Holder may elect to exercise such rights represented by this Warrant at any time and from time to time during the term, in whole or in part, on a net-issue basis (the "**Net Exercise Right**") by electing to receive the number of Warrant Shares that are equal in value to the value of this Warrant as determined in accordance with Section 4(c) (or any portion thereof to be canceled in connection with such Net Exercise Right) at the time of any such exercise of the Net Exercise Right, by delivery to the principal offices of the Corporation of this Warrant and a completed and duly executed Notice of Exercise appropriately adjusted to indicate that the Holder is exercising the Net Exercise Right.
- (c) In the event that the Holder shall elect to exercise the rights represented by this Warrant in whole or in part pursuant to the Net Exercise Rights provided in this Section 4, the Corporation shall issue to the Holder the number of Warrant Shares determined in accordance with the following formula:

$$X = \frac{Y(A-B)}{A}$$

where:

X = the number of Warrant Shares to be issued to the Holder in connection with such Net Exercise Right.

Y = the number of Warrant Shares purchasable in respect of which the Net Exercise Right is elected in connection with an exercise of Warrants by the Holder.

A = the Current Market Price of one Warrant Share.

B = the Warrant Price in effect as of the date of exercise of the Net Exercise Right (as adjusted pursuant to this Warrant).

- (d) This Warrant is exercisable in whole or in part, at any time and from time to time on or before the Expiry Date set forth above. Notwithstanding any provision herein to the contrary, this Warrant shall automatically be deemed to be exercised in full through the exercise of the Net Exercise Right in the manner set forth in Sections 4(b) and (c) of this Warrant, without any further action on behalf of Holder on the earliest date immediately prior to the time this Warrant would otherwise expire.
- (e) Notwithstanding anything to the contrary set forth herein, the Corporation (in its sole discretion) may, on the earlier of the Payoff Date or the Maturity Date (as defined in the Credit Agreement), redeem all of the outstanding Warrants represented by this Warrant Certificate by paying to the Holder cash in an amount equal to \$100,000, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.

5. Upon delivery and payment as set forth in Section 4, the Corporation shall cause to be issued to the Holder the number of Common Shares subscribed for by the Holder and the Holder shall become a shareholder of the Corporation in respect of such Common Shares with effect from the date of such delivery and payment and shall be entitled to delivery of a certificate or certificates evidencing such shares. The Corporation shall cause such certificate or certificates to be mailed to the Holder at the address or addresses specified in the Subscription Form within five (5) business days of such delivery and payment as set forth in Section 4 or, if so instructed by the Holder, held for pick-up by the Holder at the principal office of the Corporation. Notwithstanding any adjustment provided for in Section 9 hereof, the Corporation shall not be required upon the exercise of any Warrants to issue fractional Common Shares in satisfaction of its obligations hereunder and the Holder understands and agrees that it will not be entitled to any cash payment or other form of compensation in respect of a fractional Common Share that might otherwise have been issued.

6. (a) The Holder shall have the right to include all or any portion of the Shares underlying the Warrants (collectively, the “**Registrable Securities**”) as part of any other registration of securities pursuant to a registration statement filed by the Corporation (other than in connection with a transaction of the type contemplated by Rule 145(a) promulgated under the U.S. Securities Act (as defined below), pursuant to Form S-8, F-4 or S-4 or any equivalent form, or in connection with the registration of securities as required by any agreement entered into by the Corporation prior to the Effective Date); provided, however, that if, in connection with any primary underwritten public offering for the account of the Corporation, the managing underwriter(s) thereof shall, in its reasonable discretion, impose a limitation on the number of Shares which may be included in the registration statement because, in such underwriter(s)’ judgment, marketing or other factors dictate such limitation is necessary to facilitate public distribution, then the Corporation shall be obligated to include in such registration statement only such limited portion of the Registrable Securities with respect to which the Holder requested inclusion hereunder as the underwriter shall reasonably permit. Any exclusion of Registrable Securities shall be made pro rata among the holders seeking to include Registrable Securities in proportion to the number of Registrable Securities sought to be included by such holders.

- (b) The Corporation shall bear all fees and expenses attendant to registering the Registrable Securities pursuant to Section 6(a) hereof, but the holders shall pay any and all underwriting commissions and the expenses of any legal counsel selected by the holders to represent them in connection with the sale of the Registrable Securities. In the event of such a proposed registration, the Corporation shall furnish the then-holders of outstanding Registrable Securities with not less than five (5) business days written notice prior to the proposed date of filing of such registration statement. Such notice to the holders shall continue to be given for each registration statement filed by the Corporation until the earlier of such time as all of the Registrable Securities have been (i) sold by the Holder or (ii) registered under a registration statement. The holders of the Registrable Securities shall exercise the "piggy-back" rights provided for herein by giving written notice within two (2) business days of the receipt of the Corporation's notice of its intention to file a registration statement. Notwithstanding anything contained in this Warrant Certificate to the contrary, the Corporation shall have no obligation pursuant to Section 6 hereof to register the Registrable Securities held by a Holder, other than the initial Holder of this Warrant Certificate or any of its permitted transferees, where such Holder would then be entitled to sell this Warrant Certificate and the Warrant Shares under Rule 144 promulgated under the U.S. Securities Act (or a successor rule thereto) without restriction (including, without limitation, volume restrictions) and without the need for current public information. No Holder shall have the right to participate in any of the foregoing offerings unless such Holder(s) has or shall furnish to the Corporation a completed and executed questionnaire provided by the Corporation to the Holder(s), at least seven (7) days in advance, requesting information customarily sought of selling security holders.
- (c) Should the registration statement or the effectiveness thereof required by Section 6(a) hereof be delayed by the Corporation or the Corporation otherwise fails to comply with such provisions, the Holder(s) shall, in addition to any other legal or other relief available to the Holder(s), be entitled to seek specific performance or other equitable (including injunctive) relief against the threatened breach of such provisions or the continuation of any such breach, without the necessity of proving actual damages and without the necessity of posting bond or other security.

7. The holding of a Warrant shall not constitute the Holder a shareholder of the Corporation nor entitle such Holder to any right or interest in respect thereof except as herein expressly provided.

8. The Corporation covenants and agrees that until the Expiry Time, while any of the Warrants shall be outstanding, it shall reserve and there shall remain unissued out of its authorized capital a sufficient number of Common Shares to satisfy the right of purchase herein provided, as such right of purchase may be adjusted pursuant to the provisions of this Warrant Certificate. The Corporation further covenants and agrees that while any of the Warrants shall be outstanding, the Corporation shall (a) comply with the securities legislation applicable to it; and (b) use its commercially reasonable efforts to do or cause to be done all things necessary to preserve and maintain its corporate existence. All Common Shares which shall be issued upon the exercise of the right to purchase herein provided for, upon payment therefor of the amount at which such Common Shares may at the time be purchased pursuant to the provisions hereof, shall be issued as fully paid and non-assessable shares and the holders thereof shall not be liable to the Corporation or its creditors in respect thereof.

9. (a) As used in this Warrant Certificate:

“**Company Transaction**” means: (i) a merger, amalgamation, arrangement or consolidation of the Corporation with or into any other company, entity or person; (ii) a sale, lease, exchange or other transfer in one transaction or a series of related transactions undertaken with a common purpose of all or a majority of the Corporation’s then outstanding securities or all or substantially all the Corporation’s assets; or (iii) a corporate dissolution or liquidation; provided, however, that a Company Transaction shall not include (X) a merger, amalgamation, arrangement or consolidation of the Corporation in which the holders of the outstanding voting securities of the Corporation immediately prior to the merger, amalgamation, arrangement or consolidation hold at least a majority of the outstanding voting securities of the successor Corporation immediately after the merger, amalgamation, arrangement or consolidation, (Y) a sale, lease, exchange or other transfer of the Corporation’s assets to a majority-owned subsidiary company or (Z) a transaction undertaken for the principal purpose of restructuring the equity of the Corporation, including but not limited to, reincorporating the Corporation in a different jurisdiction or creating a holding company, but which in any event does not provide for any distribution of cash or cash equivalents in respect of any security.

“**Credit Agreement**” means that certain Credit Agreement, dated as of April 6, 2016, by and among Overland Storage, Inc., Tandberg Data GmbH and Holder, as amended, restated, supplemented, or otherwise modified from time to time.

“**Current Market Price**” of the Common Shares at any date means the price per share equal to the most recent closing price of the Common Shares traded on the Nasdaq Global Market (“**Nasdaq**”) or, if the Common shares are not then listed on the Nasdaq, on such other stock exchange on which the shares trade as may be selected by the directors of the Corporation for such purpose.

“**director**” means a director of the Corporation for the time being and, unless otherwise specified herein, a reference to action “by the directors” means action by the directors of the Corporation as a board or, whenever empowered, subject to applicable law, action by the executive committee of such board.

“**Payoff Date**” means the date on which all Obligations (as defined in the Credit Agreement) have been indefeasibly paid in full to Bank (as defined in the Credit Agreement) in immediately available funds and all Commitments (as defined in the Credit Agreement) of Bank to extend financial accommodations to any Borrower (as defined in the Credit Agreement) have been terminated.

- (b) If and whenever at any time after the date hereof and prior to the Expiry Time the Corporation shall (i) subdivide or redivide its then outstanding Common Shares into a greater number of Common Shares, (ii) reduce, combine or consolidate its then outstanding Common Shares into a lesser number of Common Shares or (iii) issue Common Shares (or securities exchangeable for or convertible into Common Shares) to the holders of all or substantially all of its then outstanding Common Shares by way of a stock dividend or other distribution (any of such events herein called a “**Common Share Reorganization**”), then the Exercise Price shall be adjusted effective immediately after the effective date of any such event in (i) or (ii) above or the record date at which the holders of Common Shares are determined for the purpose of any such dividend or distribution in (iii) above, as the case may be, by multiplying the Exercise Price in effect on such effective date or record date, as the case may be, by a fraction, the numerator of which shall be the number of Common Shares outstanding on such effective date or record date, as the case may be, before giving effect to such Common Share Reorganization and the denominator of which shall be the number of Common Shares outstanding immediately after giving effect to such Common Share Reorganization including, in the case where securities exchangeable for or convertible into Common Shares are distributed, the number of Common Shares that would be outstanding if such securities were exchanged for or converted into Common Shares.
-

- (c) If and whenever at any time after the date hereof and prior to the Expiry Time there is a capital reorganization of the Corporation or a reclassification or other change in the Common Shares (other than a Common Share Reorganization) or a consolidation or merger, amalgamation, arrangement or amalgamation of the Corporation with or into any other corporation or other entity (other than a consolidation, merger, amalgamation, arrangement or amalgamation which does not result in any reclassification of the outstanding Common Shares or a change of the Common Shares into other securities), or a transfer of all or substantially all of the Corporation's undertaking and assets to another corporation or other entity in which the holders of Common Shares are entitled to receive shares, other securities or other property) (any of such events being called a "**Capital Reorganization**"), after the effective date of the Capital Reorganization the Holder shall be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Common Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of Common Shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number of Common Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization, appropriate adjustments shall be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder such that the provisions of this Warrant Certificate shall thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the exercise of this Warrant Certificate.
- (d) If and whenever at any time after the date hereof and prior to the Expiry Time, any of the events set out in Sections 9(b) or (c) shall occur and the occurrence of such event results in an adjustment of the Exercise Price pursuant to the provisions of this Section 9, then the number of Common Shares purchasable pursuant to this Warrant shall be adjusted contemporaneously with the adjustment of the Exercise Price by multiplying the number of Common Shares then otherwise purchasable on the exercise thereof by a fraction, the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and the denominator of which shall be the Exercise Price resulting from such adjustment.
- (e) If the Corporation takes any action affecting its Common Shares to which the foregoing provisions of this Section 9, in the opinion of the board of directors of the Corporation, acting in good faith, are not strictly applicable, or if strictly applicable would not fairly adjust the rights of the Holder against dilution in accordance with the intent and purposes hereof, or would otherwise materially affect the rights of the Holder hereunder, then the Corporation shall, subject to the approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable), execute and deliver to the Holder an amendment hereto providing for an adjustment in the application of such provisions so as to adjust such rights as aforesaid in such manner as the board of directors of the Corporation may determine to be equitable in the circumstances, acting in good faith. The failure of the taking of action by the board of directors of the Corporation to so provide for any adjustment on or prior to the effective date of any action or occurrence giving rise to such state of facts will be conclusive evidence that the board of directors has determined that it is equitable to make no adjustment in the circumstances.
-

10. The following rules and procedures shall be applicable to the adjustments made pursuant to Section 9:

- (a) any Common Shares owned or held by or for the account of the Corporation shall be deemed not to be outstanding except that, for the purposes of Section 9, any Common Shares owned by a pension plan or profit sharing plan for employees of the Corporation or any of its subsidiaries shall not be considered to be owned or held by or for the account of the Corporation;
 - (b) no adjustment in the Exercise Price or the number of Common Shares purchasable pursuant to this Warrant shall be required unless a change of at least 1% of the prevailing Exercise Price or the number of Common Shares purchasable pursuant to this Warrant would result; provided, however, that any adjustment which, except for the provisions of this Section 10(b), would otherwise have been required to be made, shall be carried forward and taken into account in any subsequent adjustment;
 - (c) the adjustments provided for in Section 9 are cumulative and shall apply to successive subdivisions, consolidations, dividends, distributions and other events resulting in any adjustment under the provisions of such section;
 - (d) in the absence of a resolution of the board of directors of the Corporation fixing a record date for any dividend or distribution referred to in Section 9(b)(iii) above, the Corporation shall be deemed to have fixed as the record date therefor the date on which such dividend or distribution is effected;
 - (e) if the Corporation sets a record date to take any action and thereafter and before the taking of such action abandons its plan to take such action, then no adjustment to the Exercise Price will be required by reason of the setting of such record date;
 - (f) as a condition precedent to the taking of any action which would require any adjustment to the Warrants evidenced hereby, including the Exercise Price, the Corporation must take any corporate action which may be necessary in order that the Corporation shall have unissued and reserved in its authorized capital and may validly and legally issue as fully paid and non-assessable all of the shares or other securities which the Holder is entitled to receive on the full exercise thereof in accordance with the provisions hereof;
 - (g) forthwith, but no later than fourteen (14) days, after any adjustment to the Exercise Price or the number of Common Shares purchasable pursuant to the Warrants, the Corporation shall provide to the Holder a certificate of an officer of the Corporation certifying as to the amount of such adjustment and, in reasonable detail, describing the event requiring and the manner of computing or determining such adjustment;
 - (h) any question that at any time or from time to time arises with respect to the amount of any adjustment to the Exercise Price or other adjustment pursuant to Section 9 shall be conclusively determined by a firm of independent chartered accountants (who may be the Corporation's auditors) and shall be binding upon the Corporation and the Holder;
 - (i) any adjustment to the Exercise Price under the terms of this Warrant Certificate shall be subject to the prior approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable); and
-

- (j) in case the Corporation, after the date of issue of this Warrant Certificate, takes any action affecting the Common Shares, other than an action described in Section 9, which in the opinion of the directors of the Corporation would materially affect the rights of the Holder, the Exercise Price will be adjusted in such manner, if any, and at such time, by action by the directors of the Corporation but subject in all cases to any necessary regulatory approval, including approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable). Failure of the taking of action by the directors of the Corporation so as to provide for an adjustment on or prior to the effective date of any action by the Corporation affecting the Common Shares will be conclusive evidence that the board of directors of the Corporation has determined that it is equitable to make no adjustment in the circumstances.

11. At least twenty-one (21) days prior to the effective date or record date, as the case may be, of any event referred to in Section 9 herein, the Corporation shall notify the Holder of the particulars of such event and the estimated amount of any adjustment required as a result thereof.

12. On the happening of each and every such event set out in Section 9, the applicable provisions of this Warrant Certificate, including the Exercise Price, shall, *ipso facto*, be deemed to be amended accordingly and the Corporation shall take all necessary action so as to comply with such provisions as so amended.

13. The Corporation shall not be required to deliver certificates for Common Shares while the share transfer books of the Corporation are properly closed, having regard to the provisions of Sections 9 and 10 hereof, prior to any meeting of shareholders or for the payment of dividends or for any other purpose and in the event of the surrender of any Warrant in accordance with the provisions hereof and the making of any subscription and payment for the Common Shares called for thereby during any such period, delivery of certificates for Common Shares may be postponed for not more than five (5) business days after the date of the re-opening of said share transfer books; provided, however, that any such postponement of delivery of certificates shall be without prejudice to the right of the Holder so surrendering the same and making payment during such period to receive after the share transfer books shall have been re-opened such certificates for the Common Shares called for, as the same may be adjusted pursuant to Sections 9 and 10 hereof as a result of the completion of the event in respect of which the transfer books were closed.

14. Subject as hereinafter provided, all or any of the rights conferred upon the Holder by the terms hereof may be enforced by the Holder by appropriate legal proceedings. No recourse under or upon any obligation, covenant or agreement contained herein shall be had against any shareholder, director or officer of the Corporation either directly or through the Corporation, it being expressly agreed and declared that the obligations under the Warrants are solely corporate obligations and that no personal liability whatever shall attach to or be incurred by the shareholders, directors or officers of the Corporation or any of them in respect thereof, any and all rights and claims against every such shareholder, officer or director being hereby expressly waived as a condition of and as a consideration for the issue of the Warrants.

15. The Holder may subscribe for and purchase any lesser number of Common Shares than the number of Common Shares expressed in any Warrant Certificate. In the case of any subscription for a lesser number of Common Shares than expressed in any Warrant Certificate, the Holder hereof shall be entitled to receive, at no cost to the Holder, a new Warrant Certificate in respect of the balance of Warrants not then exercised. Such new Warrant Certificate shall be mailed to the Holder by the Corporation or, at its direction, the transfer agent of the Corporation, contemporaneously with the mailing of the certificate or certificates representing the Common Shares issued pursuant to Section 5.

16. If any Warrant Certificate becomes stolen, lost, mutilated or destroyed, the Corporation shall, on such terms as it may in its discretion impose, acting reasonably, issue and sign a new Warrant Certificate of like denomination, tenor and date as the Warrant Certificate so stolen, lost, mutilated or destroyed for delivery to the Holder. The applicant for the issue of a new Warrant Certificate pursuant to this Section 16 shall bear the cost of the issue thereof and in the case of mutilation shall as a condition precedent to the issue thereof, deliver to the Corporation the mutilated Warrant Certificate, and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Corporation such evidence of ownership and of the loss, destruction or theft of the Warrant Certificate so lost, destroyed or stolen as shall be satisfactory to the Corporation in its discretion and the applicant shall also be required to furnish an indemnity and surety bond in amount and form satisfactory to the Corporation in its discretion and shall pay the reasonable charges of the Corporation in connection therewith.

17. The Holder may transfer the Warrants represented hereby by:

- (a) duly completing and executing the transfer form attached as Schedule "B" ("**Transfer Form**"); and
- (b) surrendering this Warrant Certificate and the completed Transfer Form, together with such other documents as the Corporation may reasonably request, to the Corporation at the address set forth on the Transfer Form or such other office as may be specified by the Corporation, in a written notice to the Holder, from time to time,

provided that all such transfers shall be effected in accordance with all applicable securities laws, and provided that, after such transfer, the term "Holder" shall mean and include any transferee or assignee of the current or any future Holder. If only part of the Warrants evidenced hereby is transferred, the Corporation will deliver to the Holder and the transferee replacement Warrant Certificates substantially in the form of this Warrant Certificate.

18. Neither the issuance and sale of the securities represented by this Warrant Certificate nor the Common Shares into which these securities are exercisable have been registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**") or applicable state securities laws. These securities may not be offered for sale, sold, transferred or assigned unless registered under the U.S. Securities Act and any applicable state securities laws or unless an exemption from such registration is available, and the Corporation and its transfer agent has received an opinion of counsel of recognized standing in form and substance reasonably satisfactory to them to such effect.

19. Any certificate representing Common Shares issued upon the exercise of this Warrant may bear the following legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE DISTRIBUTION.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAVE RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT."

20. The Corporation will maintain a register of holders of Warrants at its principal office. The Corporation may deem and treat the registered holder of any Warrant Certificate as the absolute owner of the Warrants represented thereby for all purposes, and the Corporation shall not be affected by any notice or knowledge to the contrary except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. A Holder shall be entitled to the rights evidenced by such Warrant free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all persons may act accordingly and the receipt by any such Holder of the Common Shares purchasable pursuant to such Warrant shall be a good discharge to the Corporation for the same and the Corporation shall not be bound to inquire into the title of any such Holder except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.
21. The Corporation shall notify the Holder forthwith of any change of the Corporation's address.
22. All notices to be sent hereunder shall be deemed to be validly given to the registered holders of the Warrants if delivered personally or if sent by registered letter through the post addressed to such holders at their post office addresses appearing in the register of Warrant holders caused to be maintained by the Corporation, and such notice shall be deemed to have been given, if delivered personally when so delivered, and if sent by post on the fifth business day next following the post thereof.
23. If for any reason, other than the failure or default of the Holder, the Corporation is unable to issue and deliver the Common Shares or other securities as contemplated herein to the Holder upon the proper exercise by the Holder of the right to purchase any of the Common Shares purchasable upon exercise of the Warrants represented hereby, the Corporation may pay, at its option and in complete satisfaction of its obligations and the rights of the Holder hereunder, to the Holder, in cash, an amount equal to the difference between the Exercise Price and the Current Market Price of such Common Shares or other securities on the date of exercise by the Holder, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.
24. This Warrant Certificate shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable herein.
25. If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Warrant Certificate, but this Warrant Certificate shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
26. This Warrant Certificate shall enure to the benefit of and shall be binding upon the Holder and the Corporation and their respective successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the Corporation has caused this Warrant Certificate to be signed by its duly authorized officer as of the Effective Date.

SPHERE 3D CORP.

Per: /s/ Kurt Kalbfleisch
Kurt Kalbfleisch, Chief Financial Officer

[Signature Page to Warrant]

SUBSCRIPTION FORM

TO BE COMPLETED IF WARRANTS ARE TO BE EXERCISED:

TO: **SPHERE 3D CORP.**
240 Matheson Blvd E., Mississauga, Ontario, L4Z 1X1

The undersigned hereby subscribes for _____ Common Shares of Sphere 3D Corp. according to the terms and conditions set forth in the annexed Warrant Certificate (or such number of other securities or property to which such Warrant Certificate entitles the undersigned to acquire under the terms and conditions set forth in such Warrant Certificate).

Registered Name: _____

Address for Delivery of Common Shares: _____

Attention: _____

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____

OR

Exercise Price Tendered by exercise of Net Exercise Rights in accordance with Sections 4(b) and of the Warrant

OR

Exercise Price Tendered (US\$0.01 per Common Share or as adjusted) of \$ _____ in cash and the remainder through the exercise of Net Exercise Rights in accordance with Sections 4(b) and (c) of the Warrant

Capitalized terms not defined herein shall have the meanings assigned to them in the Warrant Certificate to which this subscription form is attached.

Dated at _____, this ___ day of _____, 20__.

WITNESS:

)
)
)
)
)
)
)
)
)

HOLDER'S NAME

AUTHORIZED SIGNATURE

TITLE (IF APPLICABLE)

Signature guaranteed¹:

1. If the Common Shares are to be registered in a name other than the name of the registered Warrant Holder, the signature of the Warrant Holder must be medallion guaranteed by a bank, trust company or a member of a stock exchange in Canada.

WARRANT TRANSFER FORM

FOR VALUE RECEIVED, subject to receipt of prior written approval of SPHERE 3D CORP. (the "**Company**"), the undersigned (the "**Transferor**") hereby sells, assigns and transfers unto (name) _____
(the "**Transferee**") of (residential address) _____

Warrants of the Company registered in the name of the undersigned represented by the within certificate, and irrevocably appoints the Company as the attorney of the undersigned to transfer the said securities on the register of transfers for the said Warrants, with full power of substitution.

NOTICE: The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by a bank, trust company or a member of a recognized stock exchange. The guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

DATED this ____ day of _____, 20__.

Signature Guaranteed

(Signature of transferring Warrantholder)

Name (please print)

Address

TRANSFeree ACKNOWLEDGMENT

In connection with this transfer the undersigned transferee is delivering a written opinion of U.S. Counsel acceptable to the Company to the effect that this transfer of Warrants has been registered under the U.S. Securities Act or is exempt from registration thereunder.

(Signature of Transferee)

Date

Name of Transferee (please print)

The Warrants and the common shares issuable upon exercise of the Warrants shall only be transferable in accordance with applicable laws. The Warrants may only be exercised in the manner required by the certificate representing the Warrants and the Warrant Exercise Form attached thereto. Any common shares acquired pursuant to this Warrant shall be subject to applicable hold periods and any certificate representing such common shares will bear restrictive legends.

AMENDMENT NUMBER THREE TO CREDIT AGREEMENT AND REAFFIRMATION

This **AMENDMENT NUMBER THREE AND REAFFIRMATION** (this “Agreement”) is made as of March 22, 2017, by and among **OVERLAND STORAGE, INC.**, a California corporation (“Company”), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 (“Subsidiary Borrower”) and, together with Company, collectively, “Borrowers” and each individually a “Borrower”), each undersigned Guarantor signatory hereto, and **OPUS BANK**, a California commercial bank, as Lender (“Lender”).

W I T N E S S E T H:

WHEREAS, Borrowers and Lender are parties to that certain Credit Agreement, dated as of April 6, 2016 (such Credit Agreement as amended, restated, supplemented, or otherwise modified from time to time, the “Credit Agreement”);

WHEREAS, Borrowers have requested that Lender amend the Credit Agreement as set forth herein; and

WHEREAS, on and subject to each of the terms and conditions set forth herein, Lender has agreed to accommodate Borrowers’ requests;

NOW, THEREFORE, in consideration of the premises set forth above, the terms and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and each intending to be bound hereby, the parties hereto agree as follows:

1. Capitalized Terms. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Credit Agreement.

2. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.

3. Amendment to Credit Agreement.

(a) Clause (g) of Section 6.17 of the Credit Agreement is hereby amended and restated in its entirety as follows:

“(g) on or before May 1, 2017, an executed engagement letter with an investment bank or other financial advisor, in either case acceptable to Lender, with respect to a proposed sale by the Loan Parties of the [***] of the Loan Parties, which engagement letter shall be in form and substance satisfactory to Lender.”

4. Conditions Precedent to Effectiveness. The satisfaction of each of the following shall constitute conditions precedent to the effectiveness of this Agreement and each and every provision hereof (such date being the “Agreement Effective Date”):

(a) Lender shall have received counterparts of this Agreement duly executed and delivered by each Borrower and each Guarantor.

[***] Omitted pursuant to a request for confidential treatment with the SEC.

5. Representations and Warranties. Each Loan Party hereby represents and warrants to Lender as follows (and such representations and warranties shall survive the execution and delivery of this Agreement):

(a) Due Organization and Qualification. Each Loan Party (i) is duly organized and validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization, (ii) is qualified to do business in any jurisdiction where the failure to be so qualified reasonably could be expected to result in a Material Adverse Effect, and (iii) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby.

(b) Due Execution and Authority. Each Loan Party has the corporate or limited liability company, as applicable, power and authority and the legal right to make, deliver and perform this Agreement and each other Loan Document to which it is a party and each Loan Party has the corporate, limited liability company or other organizational, as applicable, power and authority to, and has taken all necessary action to, authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party. No consent or authorization of, filing with, or other act by or in respect of, any Governmental Authority is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents except for any filings or recordings in connection with the perfection of the Liens granted under the Loan Documents.

(c) No Legal Bar. The execution, delivery, and performance by each Borrower and each other Loan Party of this Agreement and each of the other Loan Documents to which it is a party and compliance with the provisions hereof and thereof have been duly authorized by all requisite action on the part of each such Borrower and each such other Loan Party and do not and will not (i) violate or conflict with, or result in a breach of, or require any consent under (x) any Organization Documents of a Borrower or any other Loan Party, (y) any material Laws, rules, or regulations or any order, writ, injunction, or decree of any Governmental Authority or arbitrator applicable to any of the Loan Parties or their respective businesses, or (z) any material Contractual Obligation of a Borrower or any other Loan Party or by which any of them or any of their property is bound or subject (after giving effect to any modifications, waivers or consents, the effectiveness of which may occur concurrently with the Closing Date), (ii) constitute a default under any such material agreement or instrument, or (iii) result in, or require, the creation or imposition of any Lien on any of the properties of a Borrower or other Loan Party (other than the Liens granted in connection herewith).

(d) Enforceability. This Agreement, the Credit Agreement and the other Loan Documents have been duly executed and delivered by each Borrower and Guarantor and are the legally valid and binding obligations of each Borrower and Guarantor, enforceable against such Borrower and Guarantor in accordance with their respective terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws relating to or affecting creditors' rights generally and general principals of equity (whether considered in a proceeding in equity or law).

(e) No Injunctions or Other Orders. No injunction, writ, restraining order, or other order of any nature prohibiting, directly or indirectly, the consummation of the transactions contemplated herein has been issued and remains in force by any Governmental Authority against any Loan Party or Lender.

(f) Representations and Warranties. The representations and warranties herein and in the Credit Agreement and the other Loan Documents are true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on and as such date (except to the extent that such representations and warranties relate solely to an earlier day).

(g) No Default. No Default or Event of Default has occurred and is continuing on the date hereof or as of the date upon which the conditions precedent set forth herein are satisfied, nor will result from the consummation of the transactions contemplated herein.

(h) Performance. Each Loan Party has performed in all material respects all agreements to be performed on its part on or before the date hereof as set forth in the Credit Agreement and the other Loan Documents.

(i) Financial Projections. All projections concerning the Loan Parties that have been or are hereafter made available to Lender by any Loan Party or any Loan Party's officers, management, shareholders, directors, employees, personnel, attorneys, accountants, advisors, auditors, consultants and other agents and representatives (each individually a "Loan Party Representative" and collectively the "Loan Party Representatives") in connection with the transactions contemplated hereby and by the other Loan Documents have been (or will be, in the case of projections made available after the date hereof) prepared in good faith based upon reasonable assumptions (it being recognized by Lender that the projections and forecasts provided are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

(j) No Duress. This Agreement has been entered into without force or duress, of the free will of each Loan Party. Each Loan Party's decision to enter into this Agreement is a fully informed decision and each Loan Party is aware of all legal and other ramifications of such decision.

(k) Comprehension and Advice of Counsel. (i) Each Loan Party has thoroughly read and reviewed the terms and provisions of this Agreement in its full and final form and is familiar with same, (ii) the terms and provisions contained herein are clearly understood by the Loan Parties and have been fully and unconditionally consented to by the Loan Parties, (iii) the Loan Parties have had full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel of their own selection, in regard to understanding the terms, meaning and effect of this Agreement, (iv) this Agreement has been entered into by each Loan Party freely, voluntarily, and with full knowledge, and (v) in executing this Agreement, no Loan Party is relying on any representations, either written or oral, express or implied, made to any Loan Party by any other party hereto or Lender. Each Loan Party acknowledges that Lender's agreements set forth in this Agreement are adequate and sufficient consideration for the agreements of the Loan Parties set forth in this Agreement.

(l) Insolvency Proceedings. Each Loan Party represents and warrants to Lender that none of the Loan Parties has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it and the Loan Party Representatives have no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

6. [Reserved]

7. [Reserved]

8. [Reserved]

9. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender).

10. [Reserved]

11. [Reserved]

12. Governing Law; Jurisdiction and Venue; Jury Trial Waiver; Judicial Reference. **THIS AGREEMENT SHALL BE SUBJECT TO THE PROVISIONS REGARDING GOVERNING LAW AND VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE SET FORTH IN SECTIONS 9.20 AND 9.22 OF THE CREDIT AGREEMENT, AND SUCH PROVISIONS ARE INCORPORATED HEREIN BY THIS REFERENCE, *MUTATIS MUTANDIS*.**

13. Waiver of Bond. **EACH LOAN PARTY WAIVES THE POSTING OF ANY BOND OTHERWISE REQUIRED OF LENDER IN CONNECTION WITH ANY RECEIVERSHIP INSTITUTED PURSUANT HERETO OR ANY OTHER LOAN DOCUMENT, ANY JUDICIAL PROCESS OR PROCEEDING OR TO ENFORCE ANY JUDGMENT OR OTHER COURT ORDER ENTERED IN FAVOR OF LENDER OR TO ENFORCE BY SPECIFIC ENFORCEMENT, ANY TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTIONS, OR THIS AGREEMENT.**

14. Time of Essence. Time is of the essence in the payment and performance of each of the obligations of Loan Parties and with respect to all covenants and conditions to be satisfied by any Loan Party in this Agreement, the other Loan Documents and all other documents, acknowledgments and instruments delivered in connection herewith.

15. Release by Loan Parties; Covenant not to Sue.

(a) Effective on the date hereof, each Loan Party, for itself and on behalf of its successors, assigns, officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby waives, releases, remises and forever discharges Lender, each of its Affiliates, and each of their respective successors in title, past, present and future officers, directors, employees, limited partners, general partners, investors, attorneys, assigns, subsidiaries, shareholders, trustees, agents, Consultant and other professionals and all other persons and entities to whom Lender would be liable if such persons or entities were found to be liable to any Loan Party (each a "Releasee" and collectively, the "Releasees"), from any and all past, present and future claims, suits, liens, lawsuits, adverse consequences, amounts paid in settlement, debts, deficiencies, diminution in value, disbursements, demands, obligations, liabilities, causes of action, damages, losses, costs and expenses of any kind or character, whether based in equity, law, contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law (each a "Claim" and collectively, the "Claims"), whether known or unknown, fixed or contingent, direct, indirect, or derivative, asserted or unasserted, matured or unmatured, foreseen or unforeseen, past or present, liquidated or unliquidated, suspected or unsuspected, which any Loan Party ever had from the beginning of the world, now has, or might hereafter have against any such Releasee which relates, directly or indirectly to the Credit Agreement, any other Loan Document, or to any acts or omissions of any such Releasee with respect to the Credit Agreement or any other Loan Document, or to the lender-borrower relationship evidenced by the Loan Documents; provided, that the releases set forth in this paragraph shall not release any Releasee from its duties and obligations from and after the date hereof that are set forth in the Credit Agreement, any Loan Document, or this Agreement. As to each and every Claim released hereunder, each Loan Party hereby represents that it has received the advice of legal counsel with regard to the releases contained herein, and having been so advised, specifically waives the benefit of the provisions of Section 1542 of the Civil Code of California which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A

CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

As to each and every Claim released hereunder, each Loan Party also waives the benefit of each other similar provision of applicable federal or state law of any applicable jurisdiction, if any, pertaining to general releases after having been advised by its legal counsel with respect thereto.

Each Loan Party acknowledges that it may hereafter discover facts different from or in addition to those now known or believed to be true with respect to such Claims and agrees that this instrument shall be and remain effective in all respects notwithstanding any such differences or additional facts. This release shall be and remain in full force and effect notwithstanding the discovery by any Loan Party after the date hereof (i) of any new or additional Claim against any Releasee, (ii) of any new or additional facts in any way relating to this release, (iii) that any fact relied upon by it was incorrect, or (iv) that any representation or warranty made by any Releasee was untrue or that any Releasee concealed any fact, circumstance or claim relevant to any Loan Party’s execution of this release. Each Loan Party understands, acknowledges and agrees that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 15; and (iii) any attempt to assert a Claim barred by the provisions of this Section 15 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender’s Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 15 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

(d) Each Loan Party acknowledges that the foregoing release is a material inducement to Lender's decision to enter into this Agreement.

16. Specific Performance. It is understood and agreed by each of the parties hereto that money damages would not be a sufficient remedy for any breach of this Agreement by any party and each non-breaching party shall be entitled, without being required to demonstrate irreparable harm, likelihood of success on the merits or the insufficiency of money damages, and without (to the extent permitted by applicable law) posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy of any such breach.

17. Severability. In case any provision in this Agreement shall be invalid, illegal or unenforceable, such provision shall be severable from the remainder of this Agreement and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

18. Integration. This Agreement, and the terms and provisions hereof, which terms shall be deemed to include the annexes, exhibits, and schedules hereto, together with the other Loan Documents and the other documents delivered pursuant hereto (each as amended, supplemented or otherwise modified from time to time), incorporate all negotiations of the parties hereto with respect to the subject matter hereof and sets forth in full the terms of agreement between the parties and is intended as the full, complete and exclusive contract governing the relationship between the parties with respect to the transactions contemplated herein, superseding all other discussions, promises, representations, agreement and understandings, whether express or implied, oral or written, between the parties with respect thereto.

19. Submission of Agreement. The submission of this Agreement to the parties or their agents or attorneys for review or signature does not constitute a commitment by Lender to forbear from exercising any of their rights and remedies under the Loan Documents, and this Agreement shall have no binding force or effect until all of the conditions to the effectiveness of this Agreement have been satisfied as set forth herein.

20. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 20.

21. Reaffirmation of Obligations. Each Loan Party hereby (a) acknowledges and reaffirms its obligations owing to Lender under each Loan Document to which it is a party, and (b) agrees that each of the Loan Documents to which it is a party is and shall remain in full force and effect. Each Loan Party hereby (i) further ratifies and reaffirms the validity and enforceability of all of the Liens and security interests heretofore granted, pursuant to and in connection with any Loan Document to Lender, as collateral security for the obligations under the Loan Documents in accordance with their respective terms, and (ii) acknowledges that all of such Liens and security interests, and all Collateral heretofore pledged as security for such obligations, continue to be and remain collateral for such obligations from and after the date hereof (including, without limitation, from after giving effect to this Agreement).

22. Ratification. Each Loan Party hereby restates, ratifies and reaffirms each and every term and condition set forth in the Credit Agreement and the Loan Documents effective as of the date hereof and as amended by this Agreement.

23. Effect on Loan Documents.

(a) The Credit Agreement and each of the other Loan Documents shall be and remain in full force and effect in accordance with their respective terms (as amended by this Agreement) and hereby are ratified and confirmed in all respects. The execution, delivery, and performance of this Agreement shall not operate, except as expressly set forth herein, as a forbearance, waiver, consent or modification of any right, power, or remedy of Lender under the Credit Agreement or any other Loan Document. The waivers, consents and modifications herein are limited to the specifics hereof (including facts or occurrences on which the same are based), shall not apply with respect to any facts or occurrences other than those on which the same are based, and shall not (i) excuse future non-compliance with the Loan Documents, (ii) operate as a consent to any further or other matter under the Loan Documents, or (iii) operate as a waiver of any Default or Event of Default. Lender is not obligated to consider or consent to any additional request by any Loan Party for any other waiver, consent or other modification with respect to the Credit Agreement. Except for the waivers, consents and other modifications expressly set forth above, the text of the Credit Agreement and all other existing Loan Documents shall remain unchanged and in full force and effect and Lender expressly reserves the right to require strict compliance with the terms of the Credit Agreement and the other Loan Documents.

(b) This Agreement is a Loan Document.

(c) Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, references to the masculine, feminine or neuter gender shall include each other, the terms “includes” and “including” are not limiting, and the term “or” has, except where otherwise indicated, the inclusive meaning represented by the phrase “and/or”.

24. Survival. All covenants, representations and warranties, indemnities and releases contained in this Agreement shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby, regardless of any investigation made by Lender or on any other Person on its behalf.

25. No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

26. Notices. All notices, requests, and demands to or upon the respective parties hereto shall be given in accordance with the Credit Agreement.

27. Counterparts. This Agreement may be executed by one or more of the parties hereto on any number of separate counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic methods of transmission shall be as effective as delivery of a manually executed counterpart hereof. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

28. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Agreement.

29. Construction. This Agreement shall not be construed more strictly against Lender merely by virtue of the fact that the same has been prepared by Lender or its counsel, it being recognized that the Loan Parties and Lender have contributed substantially and materially to the preparation of this Agreement, and each party acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by any of the other parties hereto in entering into this Agreement.

30. Benefit. This Agreement shall be binding upon and shall inure to the benefit of the Borrowers, the Guarantors and Lender, and their respective successors and assigns, provided that none of the Borrowers shall have any right to assign any of its rights or duties under this Agreement.

31. Relationship of the Loan Parties and Lender. The relationship between Borrowers and the Guarantors, on the one hand, and Lender, on the other hand, is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with any Borrower or Guarantor, and no term or condition of this Agreement or any other Loan Document shall be construed so as to deem the relationship between any Borrower or Guarantor and Lender to be other than that of debtor and creditor.

32. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 15 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

33. Lender Not Liable For Expenses. Nothing in this Agreement shall be intended or construed to hold Lender liable or responsible for any expense, disbursement, liability or obligation of any kind or nature whatsoever, including, without limitation, wages, salaries, payroll taxes, deposits, withholding, benefits or other amounts payable to or on behalf of any Loan Party.

34. Additional Waivers by the Loan Parties. Each Loan Party waives: (a) presentment, demand and protest and notice of presentment, protest, default, non payment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by the Lender on which any Loan Party may in any way be liable and hereby ratifies and confirms whatever the Lender may do in this regard; (b) notice prior to taking possession or control of the Collateral; (c) the benefit of all valuation, appraisal and exemption laws; and (d) notice of acceptance hereof. Each Loan Party acknowledges that the foregoing waivers are a material inducement to the Lender entering into this Agreement and that the Lender is relying upon the foregoing waivers in its future dealings with the Loan Parties. Each Loan Party represents and warrants that it has fully reviewed and understands the foregoing waivers.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized officers or representatives to execute and deliver this Agreement as of the day and year first written above.

BORROWERS:

OVERLAND STORAGE, INC.,
a California corporation, as Company and as a Borrower

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

TANDBERG DATA GMBH,
a limited liability company organized under the laws of Germany, as a
Borrower

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Geschäftsführer

[AMENDMENT NUMBER THREE TO CREDIT AGREEMENT AND REAFFIRMATION]

GUARANTORS:

OVERLAND STORAGE, INC., a California corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D CORP., a corporation organized under the laws of Ontario Canada, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP and CFO

SPHERE 3D INC., a corporation organized under the laws of Canada, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: SVP, CFO, and Secretary

V3 SYSTEMS HOLDINGS, INC., a Delaware corporation, as a Guarantor

By: /s/ Kurt Kalbfleisch
Name: Kurt Kalbfleisch
Title: Secretary and CFO

[AMENDMENT NUMBER THREE TO CREDIT AGREEMENT AND REAFFIRMATION]

LENDER:

OPUS BANK, a California commercial bank, as Lender

By: /s/ Alex Ebkarian

Name: Alex Ebkarian

Its: Authorized Signatory

[AMENDMENT NUMBER THREE TO CREDIT AGREEMENT AND REAFFIRMATION]

**THIS INSTRUMENT IS SUBJECT TO THE TERMS OF A SUBORDINATION
AGREEMENT DATED AS OF APRIL 6, 2016 IN FAVOR OF OPUS BANK, AS LENDER,
WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IN
INCORPORATED HEREIN BY REFERENCE**

TERM LOAN AGREEMENT

THIS TERM LOAN AGREEMENT, dated as of September 16, 2016, between SPHERE 3D CORP., a corporation incorporated under the laws of the Province of Ontario, Canada (the “Borrower”) and FBC HOLDINGS S.À R.L., a company incorporated under the laws of Luxembourg (the “Lender”). The parties hereto, intending to be legally bound hereby, agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms.

(a) Defined Terms. In addition to terms defined elsewhere in this Agreement, as used in this Agreement, the following terms have the following meanings:

“Affiliate”: As applied to any Person (the “Specified Person”), any other Person directly or indirectly controlling, controlled by, or under common control with, the Specified Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlling”, “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Specified Person, whether through the ownership of voting securities or by contract or otherwise.

“Bankruptcy Laws”: (i) Title 11 of the United States Code entitled “Bankruptcy”, as now and hereafter in effect, or any successor statute, or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect and any equivalent legislation in any applicable jurisdiction, or (ii) the *Bankruptcy and Insolvency Act* (Canada), the *Winding-Up Act* (Canada) or the *Companies’ Creditors Arrangement Act* (Canada)..

“Borrower’s Knowledge”: The actual knowledge of the executive officers (as defined in Rule 405 under the Securities Act) of the Borrower, after due inquiry.

“Borrowing”: The borrowing of the Loan under Section 2.1.

“Business Day”: A day other than a Saturday, Sunday or a day on which commercial banks in Luxembourg and New York City are authorized or required by Law to close.

“Capital Lease”: As applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or is required to be accounted for as a capital lease on the balance sheet of that Person.

“Charge Over IP”: The Charge Over IP granted by TDH in favour of the Lender on or around the date hereof.

“Closing Date”: The date the initial Loan is made under this Agreement.

“Code”: The Internal Revenue Code of 1986, as amended, and any successor statute or provision thereof.

“Commitment”: The commitment of the Lender to make the Loan to the Borrower pursuant to Article II in the amount referred to therein.

“Default Rate”: 5% above the highest rate which would otherwise be applicable to the Loan pursuant to Section 2.3.

“Dollars” and “\$”: The lawful currency of the United States of America.

“Domestic Subsidiary”: A Subsidiary of the Borrower organized under the laws of the United States, any state or territory thereof or the District of Columbia or the Province of Ontario; provided that no Person that is a direct or indirect Subsidiary of a Foreign Subsidiary shall be a Domestic Subsidiary.

“Environmental Laws”: Any and all current or future Laws, or any other requirements of Governmental Authorities relating to (a) environmental matters, or (b) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to the Borrower or any of its Subsidiaries or any facility owned, leased or operated by the Borrower or any of its Subsidiaries.

“Equity Interests”: With respect to any Person, (a) all of the shares of capital stock of, or other ownership or profit interests in, such Person, whether voting or non-voting, and including any partnership, membership or trust interests, (b) all securities or Debt convertible into or exchangeable for any of the foregoing, whether directly or indirectly, and (c) all warrants, options and other rights to purchase or acquire any of the foregoing, whether directly or indirectly.

“Excluded Taxes”: Any of the following Taxes imposed on or with respect to the Lender or required to be withheld or deducted from a payment to the Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) Canadian federal withholding Taxes imposed on amounts payable to or for the account of the Lender with respect to an applicable interest on the Loan pursuant to a law in effect on the date on which (i) the Lender acquires such interest in the Loan or (ii) the Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.5, amounts with respect to such Taxes were payable either to the Lender’s assignor immediately before the Lender became a party hereto or to Lender immediately before it changed its lending office and (c) Taxes attributable to the Lender’s failure to comply with Section 2.5(iv) .

“Foreign Subsidiary”: A Subsidiary that is not a Domestic Subsidiary.

“GAAP”: United States generally accepted accounting principles applied on a consistent basis.

“General Security Agreement” means the security agreement between the Borrower, Overland and the Lender dated on or about the date hereof as amended, modified or supplemented.

“Global Debenture”: The 8% Senior Secured Convertible Debenture of the Borrower due March 31, 2018 as amended from time to time.

“Governmental Approval”: Any approval, order, consent, authorization, certificate, license, permit or validation of, or exemption or other action by, or filing, recording or registration with, or notice to, any Governmental Authority.

“Governmental Authority”: Any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of either, or any court, tribunal, grand jury or arbitrator, in each case whether foreign or domestic.

“Hedging Contract”: Any rate or currency swap, cap or collar agreement or any other agreement designed to hedge risk with respect to interest rate or currency fluctuations, whether or not pursuant to a Master Agreement.

“Indebtedness”: As applied to any Person, (a) all indebtedness for borrowed money, that portion of obligations with respect to Capital Leases which is properly classified as a liability on a balance sheet in conformity with GAAP, (c) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (d) any obligation owed for all or any part of the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business for which payment is due and is made within 120 days or less), (e) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured has been assumed by that Person or is nonrecourse to the credit of that Person, (f) obligations in respect of letters of credit, (g) obligations under Hedging Contracts (the amount of which shall be determined by reference to the termination cost on the date of determination), and (h) guarantees of, or similar obligations with respect to, any of the foregoing of any other Person.

“Indemnified Liabilities”: As defined in Section 9.5.

“Indemnified Taxes”: (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Intellectual Property”: Any patent, copyright, service mark, trademark, trade name or other intellectual property or rights therein or licenses thereof.

“Interest Rate”: 20% per annum.

“Law”: Any law (including common law), constitution, statute, treaty, convention, regulation, rule, ordinance, order, injunction, writ, decree or award of any Governmental Authority.

“Lien”: Any lien, mortgage, deed of trust, pledge, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any agreement to give any security interest).

“Loan Documents”: This Agreement, the Security Documents and each additional document, notice or certificate delivered to the Lender by or on behalf of a Loan Party in connection with this Agreement and/or the credit extended hereunder.

“Loan Party”: The Borrower and any other Person from time to time executing a Loan Document (other than the Lender), and “Loan Parties” means all such Persons, collectively.

“Loan”: The Loan as defined in Section 2.1(a) .

“Material Adverse Effect”: A material adverse effect on (i) the assets, liabilities, results of operations, condition (financial or otherwise), or business of the Borrower and its Subsidiaries taken as a whole, (ii) the legality, validity, enforceability or binding effect of the Loan Documents, or (iii) the ability of the Borrower to perform its obligations under the Loan Documents.

“Maturity Date”: January 31, 2018.

“Obligations”: All obligations of every nature of the Loan Parties from time to time owed to the Lender under the Loan Documents, whether for principal interest, fees, expenses, indemnification or otherwise.

“Officer’s Certificate”: A certificate signed by the Chief Financial Officer of the Borrower.

“Opus Credit Agreement”: That certain Credit Agreement dated as of April 6, 2016, by and among Opus Bank, Tandberg Data GmbH and Overland, as amended, restated, modified or supplemented from time to time.

“OSC”: The Ontario Securities Commission.

“Other Connection Taxes”: With respect to the Lender, Taxes imposed as a result of a present or former connection between such Lender and the jurisdiction imposing such Tax (other than connections arising from the Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan Document).

“Other Taxes”: All present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.6) .

“Overland”: Overland Storage, Inc., a California corporation.

“Permitted Encumbrance”: The following types of Liens:

(i) Liens granted to the Lender to secure the Obligations;

(ii) Liens granted to Opus Bank to secure obligations of Borrower and its subsidiaries under the Opus Credit Agreement and any extension, renewal or refinancing of such obligations;

(iii) Liens securing the Global Debenture and any extension, renewal or refinancing of such obligations permitted hereunder;

(iv) Liens existing on the Closing Date disclosed to the Lender;

(v) Liens for taxes, fees, assessments or other government charges or levies, either (a) not due and payable or (b) being contested in good faith and for which the Borrower maintains adequate reserves on its books, provided that no notice of any such Lien has been filed or recorded under the Code;

(vi) purchase money Liens (a) on equipment acquired or held by the Borrower or its Subsidiaries incurred for financing the acquisition of the equipment securing no more than One Hundred Thousand (\$100,000.00) in the aggregate amount outstanding, or (b) existing on equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the equipment;

(vii) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to inventory, securing liabilities in the aggregate amount not to exceed One Hundred Thousand Dollars (\$100,000.00) and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(viii) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business;

(ix) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (i) through (viii), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;

(x) leases or subleases of real property granted in the ordinary course of the Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than intellectual property) granted in the ordinary course of the Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business);

(xi) (a) non-exclusive licenses of intellectual property granted to third parties in the ordinary course of business, and (b) exclusive licenses of intellectual property in exchange for fair value as reasonably determined by the Borrower's board of Directors;

(xii) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Section 8.1;

(xiii) Liens in favor of other financial institutions arising in connection with the Borrower's deposit and/or securities accounts held at such institutions;

(xiv) deposits to secure the performance of bids, tenders, trade contracts (other than for borrowed money), leases, government contracts, statutory obligations, surety, stay, customs and appeal bonds, performance and return of money bonds and other obligations of a like nature incurred in the ordinary course of business;

(xv) easements, rights-of-way, restrictions (including zoning restrictions), covenants, licenses, encroachments, protrusions and other similar charges or encumbrances or minor title deficiencies incurred in the ordinary course of business that, in the aggregate, are not substantial in amount and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary course of business;

(xvi) any interest or title of a lessor under any operating lease entered into by the Borrower or any of its Subsidiaries in the ordinary course of its business and covering only the assets so leased;

(xvii) deposits made in the ordinary course of business to secure liability for premiums to insurance carriers;

(xviii) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of custom duties in connection with the importation of goods;

(xix) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business;

(xx) Liens on assets of foreign Subsidiaries securing Indebtedness otherwise permitted under Section 7.1 pursuant to clause (ix) of the definition of Permitted Indebtedness;

(xxi) the filing of UCC financing statements solely as a precautionary measure in connection with operating leases or consignment of goods; and

(xxii) Liens not otherwise permitted by Section 7.1 so long as neither (a) the aggregate outstanding principal amount of the obligations secured thereby nor (b) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds Two Hundred Thousand Dollars (\$200,000) at any one time.

“Permitted Indebtedness”:

(i) the Obligations;

(ii) Indebtedness existing on the Closing Date disclosed to the Lender in writing;

(iii) the “Senior Indebtedness” as such terms in defined in Section 2.4 of the Global Debenture;

(iv) Indebtedness arising under the Global Debenture;

(v) unsecured subordinated Indebtedness permitted under Section 2.15 of the Global Debenture and subordinated Indebtedness to the extent consented to by the Lender;

(vi) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(vii) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(viii) Indebtedness of the Borrower to any Subsidiary and Indebtedness of any Subsidiary of Borrower to the Borrower or any other Subsidiary of the Borrower;

(ix) Indebtedness of any Person that is acquired or merged with or into or consolidated with the Borrower or any of its Subsidiaries (and not created in anticipation or contemplation thereof) and existing on the date of such acquisition, merger or consolidation, provided that such Indebtedness shall not exceed in the aggregate Two Hundred Thousand Dollars (\$200,000.00) at any time outstanding;

(x) Indebtedness owing to sureties arising from bid, performance or surety bonds or letters of credit supporting such bid, performance or surety obligations issued on behalf of the Borrower as support for, among other things, contracts with customers;

(xi) Indebtedness of Foreign Subsidiaries in an aggregate principal amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00);

(xii) Indebtedness of the Borrower and any of its Domestic Subsidiaries in an aggregate principal amount not to exceed Two Hundred and Fifty Thousand Dollars (US\$250,000.00);

(xiii) extensions, refinancings, modifications, amendments and restatements of any items of Permitted Indebtedness (i) through (xii) above, provided that the principal amount thereof is not increased or the terms thereof are not modified to impose more burdensome terms upon the Borrower or its Subsidiary, as the case may be; and

(xiv) any future obligations of the Borrower in connection with the issuance of a credit facility with a third party commercial lender on market terms so long as the aggregate principal amount is not increased to an amount in excess of \$3,000,000.

“Person”: An individual, partnership, corporation, limited liability Borrower, business trust, joint stock Borrower, trust, unincorporated association, joint venture, Governmental Authority or other entity of whatever nature.

“Potential Event of Default”: A condition or event which, after the giving of notice or the lapse of time or both, would constitute an Event of Default.

“SEC”: The U.S. Securities and Exchange Commission.

“Security Documents” means the General Security Agreement, the Charge over IP and the UK IP Security Agreement and any other document executed from time to time to secure repayment of the Obligations.

“Standard Notice”: An irrevocable written notice provided to the Lender not less than three Business Days (or such shorted period as the Lender may allow) prior to the borrowing or prepayment of a Loan. A Standard Notice must be provided no later than 12 noon, New York time, on the last day permitted for such notice.

“Subsidiary”: A corporation, partnership, trust, limited liability company or other business entity of which more than 50% of the shares of stock or other ownership interests having ordinary voting power (without regard to the occurrence of any contingency) to elect a majority of the board of directors or other managers of such entity are at the time owned, directly, or indirectly through one or more Subsidiaries, or both, by the Borrower.

“Taxes”: All present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“TDH”: Tandberg Data Holdings S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated in the Grand Duchy of Luxembourg and registered with the Luxembourg Register of Commerce and Companies (*Registre de Commerce et des Sociétés*).

“US IP Security Agreement”: The US IP Security Agreement dated on or about the date hereof between TDH and the Lender.

1.2 Other Definitional Provisions.

(a) Accounting Principles. As used herein and in any certificate or other document made or delivered pursuant hereto, accounting terms not defined in Section 1.1, and accounting terms partly defined in Section 1.1 to the extent not defined, shall have the respective meanings given to them under GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and the Borrower or Lender shall so request, the Lender and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein.

(b) Subsidiaries. So long as the Borrower does not have any Subsidiaries, references to a Subsidiary or Subsidiaries in this Agreement shall be deemed to be deleted.

ARTICLE II
THE LOAN, INTEREST AND TAX

2.1 The Loan.

(a) The Commitment. The Lender agrees, on the terms and conditions hereinafter set forth, to make a loan (the "Loan") to the Borrower during the period from the date hereof to but excluding the date ten days after such date in an aggregate amount not to exceed US\$2,500,000.

(b) Making the Loan. The Borrower may borrow under the Commitment on any Business Day, by providing Standard Notice to the Lender, specifying (A) the amount of the proposed Borrowing and (B) the requested date of the Borrowing. Upon satisfaction of the applicable conditions set forth in Article V, the Lender will make available the proceeds of the Loan to the Borrower by crediting the account of the Borrower on the books of the Lender. The Lender's failure to receive Standard Notice of a Borrowing shall not relieve the Borrower of its obligations to repay the Borrowing and to pay interest thereon.

2.2 Repayment. The principal amount of the Loan shall be repayable in equal monthly installments payable on the last day of each month with the first installment being payable on 31 January 2017. To the extent not due and payable earlier, the Loan, together with accrued interest thereon, shall be payable in full on the Maturity Date.

2.3 Interest. The unpaid principal amount of the Loan shall bear interest for each day until due at the Interest Rate. Interest shall be payable in cash monthly in arrears on the last day of each calendar month of each year and on the Maturity Date.

2.4 Optional Prepayments. The Borrower may at its option repay the Loan, in whole or in part, at any time and from time to time, by giving Standard Notice to the Lender, in each case specifying the date and the amount of payment. Payments which are partial prepayments of the Loan shall be applied to the principal installments of the Loan pro rata across the remaining scheduled installments thereof.

2.5 Taxes.

(i) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of the Borrower) requires the deduction or withholding of any Tax from any such payment by the Borrower, then the Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(ii) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law any Other Taxes.

(iii) Indemnification by the Borrower. The Borrower shall indemnify the Lender, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by the Lender or required to be withheld or deducted from a payment to the Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered by the Borrower to the Lender shall be conclusive absent any manifest error.

(iv) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section 2.5, the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

(v) Status of Lender. If the Lender is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document, the Lender shall deliver to the Borrower, at the time or times reasonably requested by the Borrower, such properly completed and executed documentation reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, the Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as will enable the Borrower to determine whether or not the Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject the Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of the Lender.

(vi) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.5 (including by the payment of additional amounts pursuant to this Section 2.5), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (v) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (vii), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (v) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(vii) Survival. Each party's obligations under this Section 2.5 shall survive the assignment of rights by, or the replacement of, the Lender and the repayment, satisfaction or discharge of all Obligations.

ARTICLE III GENERAL PROVISIONS CONCERNING THE LOAN

3.1 Use of Proceeds. The proceeds of the Loan hereunder shall be used by the Borrower for working capital and general corporate purposes.

3.2 Transactional Amounts. Except as otherwise set forth in this Agreement, every payment or prepayment of the Loan shall be in a principal amount of at least \$100,000 or a higher integral multiple of \$100,000 or, if less, the remaining principal amount of the Loan outstanding.

3.3 Default Interest. Notwithstanding anything to the contrary contained in Section 2.3, if an Event of Default has occurred and is continuing, the unpaid principal amount of the Loan and, to the extent permitted by law, interest accrued thereon and any fees, indemnity or other amounts due hereunder shall bear interest at the Default Rate.

3.4 Computation of Interest and Fees; Determinations by Lender.

(a) Calculations. Interest and other fees shall be calculated on the basis of a 360 day year for the actual days elapsed.

(b) Determination by Lender. Each determination of an interest rate, fee, cost, indemnification or other amount by the Lender pursuant to any provision of this Agreement shall be conclusive and binding on the Borrower in the absence of manifest error.

3.5 Payments. The Borrower shall make each payment of principal, interest, fees, indemnity, expenses or other amount hereunder or under any Loan Document, without setoff or counterclaim, not later than 12:00 noon, New York time, on the day when due in Dollars to the Lender at the office of the Lender designated from time to time, in immediately available funds, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue, and without setoff, counterclaim, withholding or other deduction of any kind. Any payment received by the Lender after 12:00 noon, New York time, on any day shall be deemed to have been received on the next succeeding Business Day.

3.6 Payment on Non-Business Days. Whenever any payment to be made hereunder shall be stated to be due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall be included in computing interest or fees, if any, in connection with such payment.

3.7 Increased Cost and Reduced Return; Capital Adequacy.

(a) Costs and Returns. If the Lender determines that as a result of the introduction of or any change in, or in the interpretation of, any Law, or the Lender's compliance therewith, there shall be any increase in the cost to the Lender of agreeing to make or making, funding or maintaining the Loan or a reduction in the amount received or receivable by the Lender in connection with any of the foregoing (excluding any such increased costs or reduction in amount resulting from changes in the basis of taxation of overall net income or overall gross income by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which the Lender is organized or has its principal lending office) then from time to time upon demand of the Lender, the Borrower shall pay to the Lender such additional amounts as will compensate the Lender for such increased cost or reduction.

(b) Capital Adequacy. If the Lender determines that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, or compliance by the Lender (or its principal lending office) therewith, has the effect of reducing the rate of return on the capital of the Lender or any corporation controlling the Lender as a consequence of the Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and the Lender's desired return on capital), then from time to time upon demand of the Lender, the Borrower shall pay to the Lender such additional amounts as will compensate the Lender for such reduction.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Lender as follows:

4.1 Organization. The Borrower is a corporation duly incorporated and validly existing under the laws of the Province of Ontario. The Borrower is duly qualified, registered or licensed in all jurisdictions where such qualification, registration or licensing is required for the Borrower to carry on its business. Each Loan Party has all requisite capacity, power and authority to own, hold under licence or lease its properties, to carry on its business and to otherwise enter into, and carry out the transactions contemplated hereby except to the extent the lack thereof would not reasonably be expected to have a Material Adverse Effect.

4.2 Authorization. All necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party. Each Loan Party has duly executed and delivered the Loan Documents to which they are a party. The Loan Documents to which they are a party constitute legal, valid and binding obligations of that Loan Party enforceable against that Loan Party by the Lender in accordance with their terms, except to the extent that the enforceability thereof may be limited by (i) applicable bankruptcy, insolvency, moratorium, reorganization and other laws of general application limiting the enforcement of creditors' rights generally and (ii) the fact that the courts may deny the granting or enforcement of equitable rights.

4.3 No Conflict. The execution, delivery and performance by each of the Loan Party of the Loan Documents to which they are a party, and the consummation of the transactions contemplated thereby, do not and will not conflict with, result in any breach or violation of, or constitute a default under the terms, conditions or provisions of the articles of incorporation or bylaws of that Loan Party (as applicable), any applicable law or any material agreement, lease, licence, permit or other instrument to which that Loan Party is a party or is otherwise bound or by which the that Loan Party benefits or to which its property is subject and do not require the consent or approval of any stock exchange, securities regulatory or any other person or governmental authority.

4.4 Material Adverse Change

(a) Since December 31, 2015, there has not been:

(i) any change in the consolidated assets, liabilities, financial condition or operating results of the Borrower from that reflected in the financial statements of the Borrower and its Subsidiaries as at December 31, 2015 as furnished to the Lender, except for (i) changes in the ordinary course of business which have not had and could not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate, (ii) changes that have otherwise been disclosed in writing to Lender, or (iii) except as disclosed in the public filings of the Borrower or its Subsidiaries;

(ii) any material damage, destruction or loss, whether or not covered by insurance to any assets or properties of the Borrower or its Subsidiaries;

(iii) any waiver, not in the ordinary course of business, by the Borrower or any Subsidiary of a material right or of a material debt owed to it;

(iv) any satisfaction or discharge of any lien, claim or encumbrance or payment of any obligation by the Borrower or a Subsidiary, except in the ordinary course of business and which is not material to the assets, properties, financial condition, operating results or business of the Borrower and its Subsidiaries taken as a whole (as such business is presently conducted and as it is proposed to be conducted);

(v) any change or amendment to the Articles of Incorporation (other than in connection with the transactions contemplated hereby) or Bylaws, or material change to any material contract or arrangement by which the Borrower or any Subsidiary is bound or to which any of their respective assets or properties is subject;

(vi) any material labor difficulties or labor union organizing activities with respect to employees of the Borrower or any Subsidiary;

(vii) any material transaction entered into by the Borrower or a Subsidiary other than in the ordinary course of business;

(viii) the loss of the services of any key employee, or material change in the composition or duties of the senior management of the Borrower or any Subsidiary;

(ix) the loss or, to the Borrower's Knowledge, threatened loss of any customer which has had or could reasonably be expected to have a Material Adverse Effect; or

(x) any other event or condition of any character that has had or could reasonably be expected to have a Material Adverse Effect.

4.5 Insurance. The Borrower and each Subsidiary maintains in full force and effect insurance coverage that is customary for comparably situated companies for the business being conducted and properties owned or leased by the Borrower and each Subsidiary.

4.6 Litigation. Except as set forth in Schedule 4.6, there are no pending actions, suits or proceedings against or affecting the Borrower, its Subsidiaries or any of its or their properties; and to the Borrower's Knowledge, no such actions, suits or proceedings are threatened, except any such proceeding, which if resolved adversely to the Borrower or any Subsidiary, could not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate. Except as set forth in Schedule 4.6, neither the Borrower nor any Subsidiary, nor any director or officer thereof, is or since December 31, 2015 has been the subject of any action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the Borrower's Knowledge, there is not pending or contemplated, any investigation by the OSC or SEC involving the Borrower or any current or former director or officer of the Borrower. Neither the OSC or the SEC has issued any stop order or other order suspending the effectiveness of any registration statement filed by the Borrower or any Subsidiary under the Securities Act and Exchange Act or the *Securities Act* (Ontario), as applicable.

4.7 Environmental Matters. To the Borrower's Knowledge, neither the Borrower nor any Subsidiary is in violation of any statute, rule, regulation, decision or order of any governmental agency or body or any court, domestic or foreign, relating to the use, disposal or release of hazardous or toxic substances or relating to the protection or restoration of the environment or human exposure to hazardous or toxic substances (collectively, "Environmental Laws"), owns or operates any real property contaminated with any substance that is subject to any Environmental Laws, is liable for any off-site disposal or contamination pursuant to any Environmental Laws, or is subject to any claim relating to any Environmental Laws, which violation, contamination, liability or claim has had or could reasonably be expected to have a Material Adverse Effect, individually or in the aggregate; and there is no pending or, to the Borrower's Knowledge, threatened investigation that might lead to such a claim.

4.8 Title to Properties; Liens. Except as disclosed in the public filings of the Borrower or its Subsidiaries, the Borrower and its Subsidiaries have (a) good, sufficient and legal title to (in the case of fee interests in real property), (b) valid leasehold interests in (in the case of leasehold interests in real or personal property), or (c) good title to (in the case of all other personal property), all of their respective properties and assets reflected in the financial statements referred to in Section 4.6 or in the most recent financial statements delivered to the Lender, in each case except for assets disposed of since the date of such financial statements in the ordinary course of business. All such properties and assets are free and clear of Liens, other than Permitted Encumbrances.

4.9 Payment of Taxes. The Borrower and each Subsidiary has prepared and filed (or filed applicable extensions therefore) all tax returns required to have been filed by the Borrower or such Subsidiary with all appropriate governmental agencies and paid all taxes shown thereon or otherwise owed by it, other than any such taxes which the Borrower or any Subsidiary are contesting in good faith and for which adequate reserves have been provided and reflected in the Borrower's financial statements. The charges, accruals and reserves on the books of the Borrower in respect of taxes for all fiscal periods are adequate in all material respects, and there are no material unpaid assessments against the Borrower or any Subsidiary nor, to the Borrower's Knowledge, any basis for the assessment of any additional taxes, penalties or interest for any fiscal period or audits by any federal, state or local taxing authority except for any assessment which is not material to the Borrower and its Subsidiaries, taken as a whole. All taxes and other assessments and levies that the Borrower or any Subsidiary is required to withhold or to collect for payment have been duly withheld and collected and paid to the proper governmental entity or third party when due, other than any such taxes which the Borrower or any Subsidiary are contesting in good faith and for which adequate reserves have been provided and reflected in the Borrower's financial statements. Except for claims related to real estate transfer taxes in Germany to be assessed in connection with the mergers pursuant to that certain Agreement and Plan of Merger dated May 15, 2014 by and among the Borrower, Overland and S3D Acquisition Company, as amended, there are no tax liens or claims pending or, to the Borrower's Knowledge, threatened in writing against the Borrower or any Subsidiary or any of their respective assets or property. There are no outstanding tax sharing agreements or other such arrangements between the Borrower and any Subsidiary or other corporation or entity.

4.10 Intellectual Property. The Borrower and the Subsidiaries own, or have obtained valid and enforceable licenses for, or other rights to use, the Intellectual Property necessary for the conduct of the business of the Borrower and the Subsidiaries as currently conducted, except where the failure to own, license or have such rights could not reasonably be expected to result in a Material Adverse Effect, individually or in the aggregate. Except as disclosed in the public filings of the Borrower or its Subsidiaries, to the Borrower's Knowledge, there are no third parties who have or will be able to establish rights to any Intellectual Property, except for the ownership rights of the owners of the Intellectual Property which is licensed to the Borrower as disclosed to the Lender prior to the date of this Agreement or where such rights could not reasonably be expected to result in a Material Adverse Effect, individually or in the aggregate; (ii) there is no pending or, to the Borrower's Knowledge, threat of any, action, suit, proceeding or claim by others challenging the Borrower or any Subsidiary's rights in or to, or the validity, enforceability, or scope of, any Intellectual Property owned by or licensed to the Borrower or any Subsidiary or claiming that the use of any Intellectual Property by the Borrower or any Subsidiary in their respective businesses as currently conducted infringes, violates or otherwise conflicts with the intellectual property rights of any third party; and (iii) to the Borrower's Knowledge, the use by the Borrower or any Subsidiary of any Intellectual Property by the Borrower or any Subsidiary in their respective businesses as currently conducted does not infringe, violate or otherwise conflict with the intellectual property rights of any third party.

4.11 Labor Disputes and Casualties.

(a) The Borrower is not a party to or bound by any collective bargaining agreements or other agreements with labor organizations. The Borrower has not violated in any material respect any laws, regulations, orders or contract terms, affecting the collective bargaining rights of employees, labor organizations or any laws, regulations or orders affecting employment discrimination, equal opportunity employment, or employees' health, safety, welfare, wages and hours.

(b) (i) There are no labor disputes existing, or to the Borrower's Knowledge, threatened, involving strikes, slow-downs, work stoppages, job actions, disputes, lockouts or any other disruptions of or by the Borrower's employees, (ii) there are no unfair labor practices or petitions for election pending or, to the Borrower's Knowledge, threatened before the applicable national regulatory body or any other federal, state or local labor commission relating to the Borrower's employees, (iii) no demand for recognition or certification heretofore made by any labor organization or group of employees is pending with respect to the Borrower and (iv) to the Borrower's Knowledge, the Borrower enjoys good labor and employee relations with its employees and labor organizations.

(c) The Borrower is, and at all times has been, in compliance with all applicable laws respecting employment (including laws relating to classification of employees and independent contractors) and employment practices, terms and conditions of employment, wages and hours, and immigration and naturalization, except where the failure to so comply could not reasonably be expected to have a Material Adverse Effect, individually or in the aggregate. There are no claims pending against the Borrower before the Equal Employment Opportunity Commission or any other administrative body or in any court asserting any violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967, 42 U.S.C. §§ 1981 or 1983 or any other federal, state or local law, statute or ordinance barring discrimination in employment or under any equivalent law in any applicable jurisdiction.

(d) To the Borrower's Knowledge, the Borrower has no liability for the improper classification by the Borrower of its employees as independent contractors or leased employees prior to the Closing Date.

4.12 Compliance. The Borrower and each of its Subsidiaries is in compliance in all material respects with all requirements imposed by law, regulation or rule, whether foreign, federal, state or local, that are applicable to it, its operations, or its properties and assets.

4.13 Solvency. No Loan Party has:

(i) admitted its inability to pay its debts generally as they become due or failed to pay its debts generally as they become due;

(ii) in respect of itself, filed an assignment or petition in bankruptcy or a petition to take advantage of any insolvency statute;

(iii) made an assignment for the benefit of its creditors;

(iv) consented to the appointment of a receiver, receiver and manager, monitor, custodian or official with similar powers been appointed by court order or privately of the whole or any substantial part of its assets;

(v) filed a petition or answer seeking a reorganization, arrangement, adjustment or composition in respect of itself under applicable bankruptcy laws or any other applicable law or statute of Canada or any subdivision thereof; or

(vi) been adjudged by a court having jurisdiction a bankrupt or insolvent, nor has a decree or order of a court having jurisdiction been entered for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy of the Borrower with such decree or order having remained in force and undischarged or unstayed for a period of thirty days.

4.14 Disclosure. No representation or warranty of the Borrower or any of its Subsidiaries contained in any Loan Document and none of the statements contained in any other document, certificate, report, financial statement or written statement furnished to the Lender by or on behalf of the Borrower or any of its Subsidiaries pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact (known to Borrower, in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by the Borrower to be reasonable at the time made.

ARTICLE V CONDITIONS OF LENDING

5.1 Conditions Precedent to the Loan. The obligation of the Lender to make the Loan is subject to the following conditions precedent:

(a) **Loan Documents.** The Lender shall have received copies of all Loan Documents executed by the relevant Loan Party in form and substance satisfactory to the Lender.

(b) **Corporate Action.** The Lender shall have received the following, each dated the Closing Date:

(i) Copies of the Articles of Incorporation or other organizational documents of the Loan Parties and, in respect of Overland Storage Inc and V3 Systems Holdings, Inc a good standing certificate from its state of organization;

(ii) Copies of (A) the bylaws or similar governing documents, if any, of the Loan Parties, and (B) resolutions of the board of directors or other authorizing documents of the Loan Parties, in form and substance satisfactory to the Lender, approving the Loan Documents and the Borrowings hereunder, certified by the Secretary or an Assistant Secretary of the relevant Loan Party (as applicable);

(iii) An incumbency certificate executed by the Secretary or an Assistant Secretary of the Loan Parties, certifying the names and signatures of the officers of that Loan Party authorized to sign the Loan Documents; and

(iv) An Officer's Certificate certifying as to the matters set forth in Section 5.1.

(c) **General.** All corporate and legal proceedings and all instruments and documents in connection with the transactions contemplated by this Agreement shall be reasonably satisfactory in content, form and substance to the Lender and its counsel, and the Lender and the Lender's counsel shall have received any and all further information and documents which the Lender or such counsel may reasonably have requested in connection therewith.

(d) **Representations.** The representations and warranties contained in Article IV or any other Loan Document are correct in all respects when made and on and as of the date of such Borrowing as though made on and as of such date.

(e) **No Default.** No event or condition has occurred and is continuing, or would result from such Borrowing, which constitutes an Event of Default or Potential Event of Default.

(f) **Standard Notice.** Standard Notice of such Borrowing shall have been delivered to the Lender at least 3 Business Days prior to the date of the proposed Loan (or such earlier date as the Lender may agree).

A request for the Loan submitted by the Borrower, under this Agreement shall be deemed to be a representation and warranty that the foregoing conditions have been satisfied on and as of the date of the Borrowing.

ARTICLE VI AFFIRMATIVE COVENANTS

So long as any Obligation shall remain unpaid or the Lender shall have any Commitment hereunder, the Borrower will, unless the Lender shall otherwise consent in writing:

6.1 Reports. The Borrower will furnish to the Lender and/or its assignees such information relating to the Borrower and its Subsidiaries as from time to time may reasonably be requested by the Lender and/or its assignees; provided, however, that the Borrower shall not disclose material nonpublic information to the Lender, or to advisors to or representatives of the Lender, unless prior to disclosure of such information the Borrower identifies such information as being material nonpublic information and provides the Lender, such advisors and representatives with the opportunity to accept or refuse to accept such material nonpublic information for review and if the Lender wishes to obtain such information, it enters into an appropriate confidentiality agreement with the Borrower with respect thereto.

6.2 No Conflicting Agreements. No Loan Party will take any action, enter into any agreement or make any commitment that would conflict or interfere in any material respect with its obligations to the Lender under the Loan Documents.

6.3 Compliance with Laws. Each Loan Party will comply in all material respects with all applicable laws, rules, regulations, orders and decrees of all governmental authorities.

6.4 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Subsidiary; (b) all lawful claims which, if unpaid, would by Law become a Lien upon its property other than Permitted Encumbrances; and (c) all Obligations, as and when due and payable subject to any applicable grace or cure periods.

6.5 Maintenance of Properties. Maintain or cause to be maintained in good repair, working order and condition (ordinary wear and tear excepted) all material properties used or useful in the business of the Borrower and its Subsidiaries and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

6.6 Insurance. The Borrower shall keep its business for risks and in amounts standard for companies in the Borrower's industry and location. Insurance policies shall be in a form, with companies, and in amounts that are reasonably satisfactory to the Lender. As of the date hereof, the Lender agrees that the insurance policies of the Borrower are in forms, with companies, and in amounts that are reasonably satisfactory to the Lender. No later than fifteen (15) days after the Funding Date, (i) all property policies of the Borrower shall have a lender's loss payable endorsement showing Lender as a lender loss payee and waive subrogation against the Lender; (ii) all liability policies of the Borrower shall show, or have endorsements showing, the Lender as an additional insured; and (iii) all policies of the Borrower (or their respective endorsements) shall provide that the insurer shall give the Lender at least thirty (30) days' notice before canceling, amending, or declining to renew its policy. At the Lender's request, the Borrower shall deliver certified copies of policies and evidence of all premium payments. Notwithstanding the foregoing, (a) so long as no Event of Default, the Borrower shall have the right to retain the proceeds under all policies, and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of the Lender, be payable to the Lender on account of the Obligations. If the Borrower fails to obtain insurance as required under this Section 6.6 or to pay any amount or furnish any required proof of payment to third persons and the Lender, the Lender may upon concurrent notice to the Lender make all or part of such payment or obtain such insurance policies required in this Section 6.6, and take any action under the policies the Lender deems prudent.

6.7 Inspection. Permit any authorized representatives designated by the Lender and at the expense of the Lender to visit and inspect any of the properties of the Borrower or any of its Subsidiaries, including its and their financial and accounting records, and to make copies and take extracts therefrom, and to discuss its and their affairs, finances and accounts with its and their officers, members, employees, representatives and independent public accountants, all at such reasonable times during normal business hours and as often as may be reasonably requested; provided, that when an Event of Default exists, the foregoing shall be at the expense of the Borrower.

6.8 Books and Records. Maintain proper records and accounts in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower and its Subsidiaries.

6.9 Formation or Acquisition of Subsidiaries. (i) At the time that the Borrower forms any direct or indirect Domestic Subsidiary or acquires any direct or indirect domestic Subsidiary after the date hereof, the Borrower shall pledge all of the direct or beneficial ownership interest in such new Domestic Subsidiary, in form and substance satisfactory to the Lender, and (ii) to the extent requested by the Lender, provide to the Lender all other documentation in form and substance reasonably satisfactory to the Lender, including one or more opinions of counsel reasonably satisfactory to the Lender, which in its opinion is customary with respect to the execution and delivery of the applicable documentation referred to above. Any document, agreement, or instrument executed or issued pursuant to this Section 6.9 shall be a Loan Document.

(ii) At the time that the Borrower or Overland forms any direct Foreign Subsidiary or acquires any direct Foreign Subsidiary after the date hereof, the Borrower shall or shall procure that Overland shall (as applicable) shall provide to the Lender certificates and powers and financing statements, pledging 65% of the direct or beneficial ownership interest in such new direct Foreign Subsidiary, in form and substance reasonably satisfactory to the Lender, and if requested by the Lender, a stock pledge agreement governed by the local law of the jurisdiction of formation of such Foreign Subsidiary in a form reasonably satisfactory to the Lender.

ARTICLE VII NEGATIVE COVENANTS

So long as any Obligation shall remain unpaid or the Lender shall have any Commitment hereunder, the Borrower will not, without the written consent of the Lender:

7.1 Liens, Etc. The Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of the Borrower or any of its Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the UCC or under any similar recording or notice statute, except Permitted Encumbrances.

7.2 Indebtedness. Create or suffer to exist, or permit any of its Subsidiaries to create or suffer to exist, any Indebtedness, other than Permitted Indebtedness.

7.3 Fundamental Changes. (a) Change its corporate structure; (b) consolidate with or merge into any other corporation or entity, except that a Subsidiary may merge with and into any other Subsidiary or the Borrower; (c) acquire a substantial portion of the assets, business or Equity Interests of another Person except (i) where (x) total consideration including cash and the value of any non-cash consideration for such transaction does not exceed Two Million Dollars (\$2,000,000.00) in the aggregate in any fiscal year of Borrower, (y) no Event of Default has occurred and is continuing or would exist immediately after giving effect to any such transaction, and (z) in the case of a merger, Borrower or such Subsidiary, as the case may be, is the surviving legal entity; and (ii) as permitted under clause (b); (d) liquidate, windup or dissolve; or (d) create any Subsidiary except to the extent Section 6.9 is satisfied.

7.4 Asset Sales. Convey, sell, lease, transfer or otherwise dispose of, or permit any Subsidiary to convey, sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its or its Subsidiary's business, properties or assets outside the ordinary course of business (including Equity Interests of a Subsidiary), whether now owned or hereafter acquired except for transfers (a) of worn-out or obsolete equipment; (b) in connection with Permitted Encumbrances, investments, and any dividends or distributions not prohibited by this Agreement; (c) of non-exclusive licenses for the use of the property of Borrower or its Subsidiaries in the ordinary course of business; (d) involving exclusive licenses of intellectual property in exchange for fair value as reasonably determined by Borrower's board of directors or other managers; (e) of intellectual property not material to the business of Borrower either alone or in the aggregate in exchange for fair value as reasonably determined by Borrower's board of directors or other managers; (f) of cash or cash equivalents in a manner that is not prohibited by the terms of this Agreement; (g) permitted in accordance with Section 7.3 (h) involving leases of real or personal property in the ordinary course of business; and (i) of other property sold at fair market value not to exceed Five Hundred Thousand Dollars (\$500,000.00) in the aggregate in any fiscal year of Borrower.

7.5 Transactions with Affiliates. Enter into or permit to exist, or permit any of its Subsidiaries to enter into or permit to exist, any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Borrower on terms that are less favorable to Borrower or that Subsidiary, as the case may be, than those that might be obtained at the time from Persons who are not such an Affiliate.

7.6 Conduct of Business. Engage in any business, or permit any of its Subsidiaries to engage in any business, other than the businesses engaged in by the Borrower and its Subsidiaries on the date hereof and similar or directly related businesses.

ARTICLE VIII EVENTS OF DEFAULT

8.1 Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) Failure to Pay. Failure by the Borrower to pay: (i) any portion of the principal of the Loan when due and payable or when declared due and payable in accordance with this Agreement, or (ii) any accrued interest or other amount payable by the Borrower under this Agreement within five (5) days after the date when due and payable or when declared due and payable in accordance with this Agreement; or

(b) Certain Covenant Defaults. Default by any Loan Party in the performance of or compliance with any term contained in any Loan Document, other than any such term referred to in any other subsection of this Section 8, and such default shall not have been remedied or waived within thirty (30) days after the receipt by the Borrower of notice from the Lender of such default.

(c) Involuntary Bankruptcy; Appointment of Receiver, etc.

(i) A court having jurisdiction shall enter a decree or order for relief in respect of the Borrower or any of its Subsidiaries in an involuntary case under Bankruptcy Laws, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or

(ii) An involuntary case shall be commenced against the Borrower or any of its Subsidiaries under the Bankruptcy Laws; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over the Borrower or any of its Subsidiaries, or over all or a substantial part of their property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of the Borrower or any of its Subsidiaries for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of the Borrower, and any such event described in this clause (ii) shall continue for 60 days unless dismissed, bonded or discharged; or

(d) Voluntary Bankruptcy; Appointment of Receiver, etc.

(i) The Borrower or any of its Subsidiaries shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Laws, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or the Borrower or any of its Subsidiaries shall make any assignment for the benefit of creditors; or

(ii) The Borrower or TDH shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the board (or any committee thereof or similar governing body of any Subsidiary) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clause (i) above or this clause (ii); or

(e) Dissolution. Any order, judgment or decree shall be entered against the Borrower or any of its Subsidiaries decreeing the dissolution or split up of the Borrower or any of its Subsidiaries and such order shall remain undischarged or unstayed for a period in excess of 30 days; or

(f) Representations and Warranties. Any representation, warranty, certification or other statement made by the Borrower or any of its Subsidiaries in any Loan Document or in any statement or certificate at any time given by the Borrower or any of its Subsidiaries in pursuant hereto or thereto or in connection herewith or therewith shall have been false in any material respect on the date as of which made; or

(g) Judgments. Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of \$1,000,000 over the amount covered by independent third-party insurance as to which liability has been accepted by the applicable insurance carrier or (ii) in the aggregate at any time an amount in excess of \$1,000,000 over the amount covered by independent third-party insurance as to which liability has been accepted by the applicable insurance carrier, shall be entered or filed against the Borrower or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of 60 days (or in any event later than five days prior to the date of any proposed sale thereunder); or

(h) Cross-Default.

(i) The Borrower or any of its Subsidiaries shall fail to pay when due any principal of or interest on or any other amount payable in respect of (a) the Opus Credit Agreement, (b) the Global Debenture or (c) one or more items of Indebtedness in an individual principal amount of \$500,000 or more or with an aggregate principal amount of \$500,000 or more; or

(ii) The breach or default by the Borrower or any of its Subsidiaries with respect to any other term of (a) one or more items of Indebtedness in the individual or aggregate principal amounts referred to in clause (i) above or (b) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders) to cause, that Indebtedness to become or be declared due and payable prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be (upon the giving or receiving of notice, lapse of time, both, or otherwise);

THEN, (i) upon the occurrence of any Event of Default described in clause (c), (d) or (e) above, the Commitment shall immediately terminate and the Loan hereunder with accrued interest thereon, and all other Obligations under this Agreement and the other Loan Documents shall automatically become due and payable; (ii) upon the occurrence of any other Event of Default, the Lender may, by notice to the Borrower, declare the Commitment to be terminated forthwith, whereupon the Commitment shall immediately terminate, and/or, by notice to the Borrower, declare the Loan hereunder, together with accrued interest thereon, and all other Obligations under this Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable and (iii) upon the occurrence of any Event of Default, exercise the remedies available to it under the other Loan Documents, and at law or in equity.

8.2 Application of Funds. After exercise of remedies under Section 8.1, any amounts received on account of Obligations shall be applied by the Lender in such order as it elects in its sole discretion.

ARTICLE IX MISCELLANEOUS

9.1 Amendments, Etc. No amendment to or waiver of any provision of this Agreement, and no consent to any departure by the Borrower herefrom, shall in any event be effective unless in a writing manually signed by or on behalf of the Lender. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

9.2 No Implied Waiver; Remedies Cumulative. No delay or failure of the Lender in exercising any right or remedy under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies of the Lender under this Agreement are cumulative and not exclusive of any other rights or remedies available hereunder, under any other agreement, at law, or otherwise.

9.3 Notices. All notices and other communications (collectively, "notices") under this Agreement shall be in writing (including facsimile transmission) and shall be sent by first-class mail, by nationally-recognized overnight courier, by personal delivery, by facsimile transmission, or by e-mail, in all cases with charges prepaid. All notices shall be sent to a party at its address specified on the signature page hereof, or to such other address as shall have been designated by the applicable party by notice to the other party hereto. Any properly given notice shall be deemed given or made upon the earliest of: (i) if delivered by hand or by courier, when signed for by or on behalf of the relevant party ; (ii) if delivered by mail, four Business Days after deposit in the mails, or (iii) if delivered by facsimile or e-mail, when sent and receipt has been confirmed by telephone; provided, that notices to the Lender pursuant to Article II shall not be effective until actually received by the Lender. The Lender may rely on any notice, including any notice of Borrowing (whether or not made in a manner contemplated by this Agreement), purportedly made by or on behalf of the Borrower, and the Lender shall have no duty to verify the identity or authority of the Person giving such notice.

9.4 Expenses. The Borrower agrees to pay upon demand all costs and expenses (including fees and expenses of counsel and a reasonable estimate of the allocated cost of in-house counsel and staff, auditors, appraisers and other professional, accounting and consulting costs and costs associated with recording, filing, searching liens and all post-judgment collection costs and expenses) which the Lender may incur from time to time in connection with the preparation, amendment, modification, enforcement or restructuring or preservation of rights or remedies under the Loan Documents.

9.5 Indemnity. The Borrower agrees to defend, indemnify, pay and hold the Lender, and the shareholders, officers, directors, employees and agents of the Lender, harmless from and against any and all claims, liabilities, losses, damages, costs and expenses (whether or not any of the foregoing Persons is a party to any litigation), and costs of investigation, document production, attendance at a deposition, or other discovery, with respect to or arising out of this Agreement or the Loan Documents or any use of proceeds hereunder, or any exercise by the Lender of its rights and remedies under this Agreement and the other Loan Documents or any claim, demand, action or cause of action being asserted against the Borrower or any of its Subsidiaries, including without limitation any violation of any Environmental Law or other Law or any environmental claim based upon the management, use, control, ownership or operation of property of the Borrower (or any other Loan Party) (collectively, the “**Indemnified Liabilities**”), provided that the Borrower shall have no obligation hereunder with respect to Indemnified Liabilities arising from the gross negligence or willful misconduct of an indemnified party. This covenant shall survive termination of this Agreement and repayment of the Loan.

9.6 Successors and Assigns. The Lender may not assign or otherwise transfer any of its rights or obligations hereunder except pursuant to the terms of this Agreement (and any other attempted assignment or transfer by any party hereto shall be null and void). This Agreement may not be assigned by a party hereto without the prior written consent of the Borrower or the Lender, as applicable, provided, however, that the Lender may assign its rights and delegate its duties hereunder in whole or in part to an Affiliate or to a third party acquiring some or all of the Lender’s existing debt without the prior written consent of the Borrower, provided that the parties to each assignment shall execute and deliver to the Borrower an assignment and assumption agreement. The provisions of this Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. Without limiting the generality of the foregoing, in the event that the Borrower is a party to a merger, consolidation, share exchange or similar business combination transaction in which the Common Stock is converted into the equity securities of another Person, from and after the effective time of such transaction, such Person shall, by virtue of such transaction, be deemed to have assumed the obligations of the Borrower hereunder, the term “Borrower” shall be deemed to refer to such Person and the term “Common Stock” shall be deemed to refer to the securities received by the Lender in connection with such transaction. 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. The Borrower shall maintain at one of its offices located in the Province of Ontario a register for the recordation of the names and addresses of the Lender, and the principal amounts (and stated interest thereon) owing to the Lender pursuant to the terms hereof from time to time (the “Register”). Absent demonstrable error, the entries in the Register shall be conclusive, and the Borrower and the Lender shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as the Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by any Holder, at any reasonable time and from time to time upon reasonable prior notice.

9.7 Entire Agreement. This Agreement, together with the Exhibits and the Schedules hereto, and the other Loan Documents, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements.

9.8 Survival. All representations and warranties of the Borrower contained in or made in connection with this Agreement or in any other Loan Documents shall survive, and shall not be waived by, the execution and delivery of this Agreement, any investigation by or knowledge of the Lender, any extension of credit, or any other event or circumstance whatever.

9.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all such counterparts shall constitute but one and the same agreement.

9.10 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be in any way be affected or impaired thereby.

9.11 Headings. Section headings in this Agreement are included for convenience of reference only and shall not be given any substantive effect.

9.12 Disclosure of Information to Affiliates. The Lender may disclose information relating to the Borrower and its Subsidiaries or any of their respective businesses, including information regarding the financial condition and property, and the amount of Debt owed to the Lender and the terms, conditions and other provisions applicable thereto to its Affiliates and to any of its partners, directors, officers, employees, agents, trustees, advisors and representatives or to any other Persons as the Lender shall deem advisable for the conduct of its business.

9.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Borrower, the Lender and their respective successors and permitted assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lender.

9.14 Governing Law; Consent to Jurisdiction; Waiver of Jury Trial. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the courts of the State of New York located in New York County and the United States District Court for the Southern District of New York 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. TO THE EXTENT ALLOWABLE UNDER APPLICABLE LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT TO REQUEST A TRIAL BY JURY IN ANY LITIGATION WITH RESPECT TO THIS AGREEMENT AND THE NOTES AND REPRESENTS THAT COUNSEL HAS BEEN CONSULTED SPECIFICALLY AS TO THIS WAIVER.

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

SPHERE 3D CORP.

By: /s/ Kurt Kalbfleisch _____

Name: Kurt Kalbfleisch

Title: Chief Financial Officer

Address:

9112 Spectrum Center Boulevard

San Diego, CA 92123 USA

Attention: Kurt Kalbfleisch, CFO

Fax. (858) 495-4267

E-mail: kkalbfleisch@overlandstorage.com

[Term Loan Agreement]

FBC HOLDINGS S.À R.L.

By: /s/Sébastien Rimlinger

Name: Manacor (Luxembourg) SA

Title: Manager A

By: /s/Patrick van Denzen

Name: Cyrus Capital Partners, LP

Title: Manager B

Address: FBC Holdings S.à r.l.

c/o Cyrus Capital Partners, LP

399 Park Avenue

New York, New York 10022

Attention: David Collins

Fax: (212) 380-5801

E-Mail: ops@cyruscapital.com

[Term Loan Agreement]

Schedule 4.6

In December 2010, we entered into a litigation funding agreement (the “Funding Agreement”) with Special Situations Fund III QP, L.P., Special Situations Private Equity Fund, L.P., Special Situations Technology Fund, L.P., and Special Situations Technology Fund II, L.P. (collectively, the “Special Situations Funds”) pursuant to which the Special Situations Funds agreed to fund certain patent litigation brought by the Company. In May 2014, the Special Situations Funds filed a complaint against us in the Supreme Court for New York County, alleging breach of the Funding Agreement. The Special Situations Funds allege that our January 2014 acquisition of Tandberg Data entitled the Special Situation Funds to a \$6.0 million payment under the Funding Agreement, and therefore the Company’s refusal to make the payment constitutes a breach of the Funding Agreement by us. In November 2014, the Special Situations Funds amended their complaint to allege that we breached the Funding Agreement’s implied covenant of good faith and fair dealing by settling the patent litigation with BDT in bad faith to avoid a payment obligation under the Funding Agreement. The Special Situations Funds are seeking \$6.0 million in contractual damages as well as costs and fees.

In April 2015, we filed a proof of claim in connection with bankruptcy proceedings of V3 Systems, Inc. (“V3”) based on breaches by V3 of the Asset Purchase Agreement entered into between V3 and the Company dated February 11, 2014 (the “APA”). On October 6, 2015, U.S. Dissolution Liquidating Trust (“UD Trust”), the apparent successor to V3, filed a complaint against us and certain of our current and former directors in the U.S. Bankruptcy Court for the District of Utah Central Division objecting to our proof of claim and asserting claims for affirmative relief against us and our directors. This complaint alleges, among other things, that Sphere breached the APA and engaged in certain other actions and/or omissions that caused V3 to be unable to timely sell the Sphere common shares received by V3 pursuant to the APA. The plaintiff seeks, among other things, monetary damages for the loss of the potential earn-out consideration, the value of the common shares held back by us pursuant to the APA and costs and fees.

[Term Loan Agreement]

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements on Form F-3 (No. 333-206357, No. 333-206358, No. 333-206359, No. 333-207384) and Form S-8 (No. 333-203149, No. 333-203151, No. 333-205236, No. 333-209251) of Sphere 3D Corp. (the "Company") of our report dated March 30, 2016, relating to the consolidated financial statements of the Company (which report expresses an unqualified opinion and includes an explanatory paragraph regarding the Company's going concern uncertainty), appearing in the Company's Annual Report on Form 40-F for the year ended December 31, 2015, filed with the Securities and Exchange Commission.

/s/ Moss Adams LLP

San Diego, California
March 23, 2017
