
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
SCHEDULE 14A
PROXY STATEMENT PURSUANT TO SECTION 14(a)
OF THE SECURITIES EXCHANGE ACT OF 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-12

Sphere 3D Corp.

(Name of Registrant as Specified in its Charter)
(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check all boxes that apply):

- No fee required
 - Fee paid previously with preliminary materials
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Sphere 3D Corp.
243 Tresser Boulevard, 17th Floor
Stamford, CT 06901

April 5, 2024

To the Shareholders of Sphere 3D Corp.:

You are cordially invited to attend the special and annual meeting of shareholders of Sphere 3D Corp. to be held by virtual electronic means only, on Wednesday, May 15, 2024 at 11:30 a.m. Eastern Time. Details regarding the business to be conducted at the meeting are described in the Notice of the Meeting and Proxy Statement.

Shareholders will receive a notice describing how to access the proxy materials over the Internet and how to request a paper copy of the proxy materials.

The Notice of Special and Annual Meeting and Proxy Statement include the agenda for the meeting, explain the matters that we will discuss at the meeting and provide general information.

Your vote is very important. If you are a registered shareholder (that is, if your shares are registered in your own name), then you may vote electronically via the Internet by following the instructions included in the Notice of Internet Availability of Proxy Materials. If your shares are registered in the name of a broker or other nominee, your nominee may be participating in a program that allows you to vote by telephone or via the Internet. If so, the voting instruction form that your nominee sends you will provide voting instructions.

Thank you for your ongoing support of Sphere 3D Corp.

Sincerely,

A handwritten signature in blue ink that reads "Patricia Trompeter".

PATRICIA TROMPETER
Chief Executive Officer and Director

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SPHERE 3D CORP.
NOTICE OF SPECIAL AND ANNUAL MEETING OF SHAREHOLDERS
TO BE HELD ON WEDNESDAY, MAY 15, 2024

The special and annual meeting of shareholders of Sphere 3D Corp. will be held by virtual electronic means only, on Wednesday, May 15, 2024 at 11:30 a.m. Eastern Time (the “**Meeting**”).

The Meeting will be a virtual meeting via a live webcast on the Internet. You will be able to attend the Meeting, vote and submit questions during the Meeting by (i) visiting <https://virtual-meetings.tsxtrust.com/en/1613>; (ii) entering the password: sphere3d2024 (case sensitive); and (iii) entering the control number included in the Notice of Internet Availability of Proxy Material or proxy card that you receive.

The purpose of the Meeting is to consider and vote upon the following matters:

1. to set the size of the board at four members and to elect four directors who will serve until the next annual shareholder meeting;
2. to ratify the selection of MaloneBailey LLP as our independent registered public accounting firm who will serve until the next annual shareholder meeting;
3. to approve the Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares;
4. to approve, by a non-binding advisory vote, of the compensation of our executive officers (“**Say-on-Pay**”);
5. to receive the audited financial statements of the Company for the year ended December 31, 2023, including the auditor’s report thereon; and
6. to transact such other business as may properly come before the Meeting or any adjournment thereof.

The aforementioned proposals numbered 1 and 4 will each be determined by a majority of votes cast on the applicable proposal at the Meeting. The Company’s by-laws provide that a quorum at the Meeting shall consist of at least two persons present and holding or representing by proxy not less than 33⅓% of the total number of outstanding common shares having voting rights at the Meeting.

Particulars of the foregoing matters are set forth in the proxy statement and management information circular (the “**Proxy Statement**”) under the section identified as such. The proxy materials are available over the Internet. Shareholders will receive a Notice of Internet Availability of Proxy Materials (the “**Notice**”) on or about April 5, 2024, to comply with the 40-calendar day requirement pursuant to Rule 14a-16(a) of the Securities and Exchange Act of 1934, as amended (the “**Exchange Act**”). The Notice contains instructions on how to access the proxy materials, including the Proxy Statement, in connection with the Meeting and how to submit your proxy or vote authorization form. The Notice also provides information on how to request paper copies of the proxy materials. If you have previously requested a paper copy of the proxy materials, you will receive a paper copy of the proxy materials by mail. If you have previously elected to receive the proxy materials electronically, you will continue to receive these materials electronically unless you elect otherwise. If you receive more than one Notice, it means that your shares are registered in more than one name or are registered in different accounts. In order to vote the shares you own, you must vote pursuant to the instructions on each Notice.

In addition to the above proposals, the Company’s management, on behalf of the board of directors (the “**Board**”), will submit to the shareholders at the Meeting the Consolidated Financial Statements of the Company for the fiscal year ended December 31, 2023 including the Auditor’s Report thereon. No vote by the shareholders is required or proposed to be taken. The Consolidated Financial Statements, including the Auditor’s Report thereon, are available over the Internet with the proxy materials or have been mailed to shareholders with this Proxy Statement if requested.

The Board has fixed the close of business on March 26, 2024 as the record date for the determination of shareholders entitled to notice of and to vote at the Meeting and at any adjournment or postponement thereof.

Please review the Proxy Statement carefully and in full prior to voting in relation to the matters set out above as the Proxy Statement has been prepared to help you make an informed decision on such matters.

To be used at the Meeting, your proxy must be received by TSX Trust Company not less than 48 hours (excluding Saturday, Sunday and statutory holidays in the province of Ontario) preceding the Meeting or an adjournment or postponement of the Meeting. Notwithstanding the foregoing, the Chair of the Meeting has the discretion to accept proxies received after such deadline. The time limit for deposit of proxies may be waived or extended by the Chair of the Meeting at his or her discretion, without notice. Proxies may also be deposited with the Chair of the Meeting prior to the commencement of the Meeting. If a registered shareholder receives more than one proxy or voting instruction form because such shareholder owns shares registered in different names or addresses, each proxy or voting instruction form should be completed and returned.

Whether or not you plan to participate, to ensure that your shares are represented and voted at the meeting, either vote your shares: (i) electronically over the Internet or (ii) by completing and returning your proxy card mailed to you together with this Proxy Statement (if requested and received by mail). Voting instructions can be found on your proxy card, vote authorization form or the Notice of Internet Availability of Proxy Materials. Please vote as promptly as possible in order to ensure your representation at the Meeting. Submitting your instructions by any of these methods will not affect your right to attend the Meeting.

DATED as of the 5th day of April 2024

BY ORDER OF THE BOARD



Duncan McEwan
Chair of the Board of Directors

Sphere 3D Corp.
243 Tresser Boulevard, 17th Floor
Stamford, CT 06901

PROXY STATEMENT AND MANAGEMENT INFORMATION CIRCULAR

April 5, 2024

General Information

The board of directors (the “**Board**”) of Sphere 3D Corp. (the “**Company**,” “**we**,” “**us**,” or “**our**”) is providing these proxy materials to you in connection with the solicitation by and on behalf of the management of the Company of proxies for use at its special and annual meeting of shareholders (the “**Meeting**”). The Meeting will be held by virtual electronic means only, on Wednesday, May 15, 2024 at 11:30 a.m. Eastern Time or at any adjournment(s) or postponement(s) thereof, for the purposes set forth in the Notice of Special and Annual Meeting of Shareholders (the “**Notice of Meeting**”). This proxy statement and management information circular (the “**Proxy Statement**”) summarizes the information that you will need to know to vote in an informed manner.

The Meeting will be a virtual meeting via a live webcast on the Internet. You will be able to attend the Meeting, vote and submit questions during the Meeting by (i) visiting <https://virtual-meetings.tsxtrust.com/en/1613>; (ii) entering the password: sphere3d2024 (case sensitive); and (iii) entering the control number included in the Notice of Internet Availability of Proxy Materials or proxy card that you receive. Detailed instructions for attending and voting at the Meeting can be found below under “**Voting at the Meeting**.”

Internet Availability of Proxy Materials

The proxy materials are available over the Internet. Shareholders will receive a Notice of Internet Availability of Proxy Materials (the “**Notice**”) on or about April 5, 2024, to comply with the 40-calendar day requirement pursuant to Rule 14a-16(a) of the Securities and Exchange Act of 1934, as amended (the “**Exchange Act**”). The Notice contains instructions on how to access the proxy materials, including the Proxy Statement, in connection with the Meeting and how to submit your proxy or vote authorization form. The Notice also provides information on how to request paper copies of the proxy materials. If you have previously requested a paper copy of the proxy materials, you will receive a paper copy of the proxy materials by mail. If you have previously elected to receive the proxy materials electronically, you will continue to receive these materials electronically unless you elect otherwise. If you receive more than one Notice, it means that your shares are registered in more than one name or are registered in different accounts. In order to vote the shares you own, you must vote pursuant to the instructions on each Notice.

At the Meeting, the shareholders will be asked to consider and vote on proposals 1 through 4 below:

1. to set the size of the board at four members and to elect four directors who will serve until the next annual shareholder meeting;
2. to ratify the selection of MaloneBailey LLP as our independent registered public accounting firm who will serve until the next annual shareholder meeting;
3. to approve the Company’s Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares;
4. to approve, by a non-binding advisory vote, of the compensation of our executive officers (“**Say-on-Pay**”);
5. to receive the audited financial statements of the Company for the year ended December 31, 2023, including the auditor’s report thereon; and
6. to transact such other business as may properly come before the Meeting or any adjournment thereof.

The Board recommends you vote “FOR” proposals 1 through 4.

The Company does not expect a vote to be taken on any other matters at the Meeting or any adjournment or postponement thereof. If any other matters are properly presented at the Meeting or any adjournment or postponement thereof for consideration, however, the holders of the proxies will have discretion to vote on these matters in accordance with their best judgment.

In addition to the above proposals, the Company's management, on behalf of the Board, will submit to the shareholders at the Meeting the Consolidated Financial Statements of the Company for the fiscal year ended December 31, 2023 including the Auditor's Report thereon. No vote by the shareholders is required or proposed to be taken. The Consolidated Financial Statements, including the Auditor's Report thereon, are available over the Internet with the proxy materials or have been mailed to shareholders with this Proxy Statement if requested.

Solicitation of Proxies

Solicitations may be made by mail and supplemented by telephone, Internet, or other personal contact by the officers, employees or agents of the Company without special compensation. Pursuant to National Instrument 54-101 - *Communication with Beneficial Owners of Securities of a Reporting Issuer* ("NI 54-101"), arrangements have been made with clearing agencies, brokerage houses and other financial intermediaries to forward proxy solicitation materials to the beneficial owners of the common shares of the Company. The cost of any such solicitation will be borne by the Company.

Voting Rights, Outstanding Shares, Record Date

Each common share that you own entitles you to one vote on all the matters to be voted upon at the Meeting. If you submit a properly executed form of proxy (or voting instruction form) without indicating how you wish to vote, your proxy will be counted as a vote in favor of each of the proposals. Only shareholders that owned common shares at the close of business on March 26, 2024, (the "**Record Date**"), are entitled to vote at the Meeting. On the Record Date, 17,796,326 common shares were issued and outstanding.

Quorum and Required Vote

The Company's by-laws provide that a quorum at the Meeting shall consist of at least two persons present and holding or representing by proxy not less than 33 $\frac{1}{3}$ % of the total number of outstanding common shares having voting rights at the Meeting. Failure of a quorum will necessitate an adjournment or postponement of the Meeting and will subject the Company to additional expense. Once a common share is represented at the Meeting, whether in person or by proxy, it will be counted for the purpose of determining a quorum at the Meeting and any adjournment of the Meeting. However, if a new record date is set for the adjourned Meeting, then a new quorum will have to be established.

The proposals to (i) elect the nominated directors, (ii) appoint the auditors, (iii) approve the Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares, and (iv) approve Say-On-Pay require the affirmative vote of a majority of the votes cast on the applicable proposal by shareholders represented in person or by proxy at the Meeting.

Appointment of Proxies

The persons named in the form of proxy are directors and/or officers of the Company. **A shareholder has the right to appoint a person (who need not be a shareholder of the Company) to attend and represent such shareholder at the Meeting other than those persons named in the form of proxy. Such right may be exercised by striking out the printed names and inserting such other person's name in the blank space provided in the form of proxy or by completing another proper form of proxy.**

If you are a shareholder of record, you may vote in one of three ways:

- by following the Internet voting instructions included in the Notice and the proxy card;
- by marking, dating and signing your printed proxy card in accordance with the instructions on it and returning it by facsimile at 1-416-595-9593 or by mail in the pre-addressed reply envelope provided with the proxy materials; or
- by voting by ballot at the Meeting.

If you are a shareholder of record, then you may go to www.voteproxyonline.com to vote your shares via the Internet. The votes represented by this proxy will be generated on the computer screen and you will be prompted to submit or revise your vote as desired. To vote your shares personally, a shareholder of record must submit the form of proxy, appointing themselves as proxyholder by the proxy deadline. However, even if a registered shareholder plans to attend the Meeting, it is recommended to vote your shares in advance so that your vote will be counted if you later decide not to attend the Meeting.

To be used at the Meeting, your vote must be received by TSX Trust Company not less than 48 hours (excluding Saturday, Sunday and statutory holidays in the province of Ontario) preceding the Meeting or an adjournment or postponement of the Meeting. Notwithstanding the foregoing, the Chair of the Meeting has the discretion to accept proxies received after such deadline. The time limit for deposit of proxies may be waived or extended by the Chair of the Meeting at his or her discretion, without notice. Proxies may also be deposited with the Chair of the Meeting prior to the commencement of the Meeting. If a registered shareholder receives more than one proxy form because such shareholder owns shares registered in different names or addresses, each proxy form should be completed and returned.

Revocability of Proxies

As a shareholder, once you have submitted your proxy by mail or via the Internet, you may revoke it as to any matter upon which a vote has not already been cast pursuant to the authority conferred by the proxy. You may revoke your proxy in any one of three ways:

- you may grant another proxy marked with a later date (which automatically revokes the earlier proxy) using any of the methods described above (and until the applicable deadline for each method); or
- you may notify the Company's Secretary in writing that you wish to revoke your proxy before it is voted at the Meeting of any adjournment or postponement thereof; or
- you may vote in person at the Meeting or any adjournment or postponement thereof.

Voting of Proxies

A representative from the Company's transfer agent, TSX Trust Company, will tabulate the votes. All common shares represented at the Meeting or any adjournment or postponement of the Meeting by properly executed proxies will be voted and where a choice, including the choice to withhold from voting, with respect to any matter to be acted upon has been specified in the form of proxy, the common shares represented by the proxy will be voted in accordance with such specifications on any ballot that may be called for. **If no instruction is given, then the proxy will be voted "FOR" each of the directors in Proposal 1, voted "FOR" the ratification of MaloneBailey LLP as the Company's independent registered public accounting firm in Proposal 2, voted "FOR" the proposal to approve the Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares in Proposal 3, and voted "FOR" Say-on-Pay in Proposal 4.**

The form of proxy confers discretionary authority upon the management designees, or other persons named as proxy, with respect to amendments to or variations of matters identified in the Notice of Meeting and any other matters that may properly come before the Meeting. At the date of this Proxy Statement, the Company is not aware of any amendments thereto, or variations thereof, or other matters that may come before the Meeting. In the event that other matters come before the Meeting, then the management designees intend to vote in accordance with the judgment of the management of the Company.

Advice to Non-Registered Shareholders on Voting Their Shares

The information set forth in this section is of significant importance to shareholders of the Company, as a substantial number of shareholders do not hold their common shares in their own name. Shareholders who do not hold their common shares in their own name (referred to in this Proxy Statement as “**Non-Registered Shareholders**”) should note that only proxies deposited by shareholders whose names appear on the records of the Company as the registered holders of common shares can be recognized and acted upon at the Meeting. If common shares are listed in an account statement provided to a shareholder by a broker, bank, trust company or other intermediary (an “**Intermediary**”) then, in almost all cases, those common shares will not be registered in such shareholder’s name on the records of the Company. Such common shares will generally be registered under the name of the nominee of a clearing agency in which such Intermediary participates or, more rarely, in the name of the Intermediary. In Canada, the vast majority of such shares are registered under the name of CDS & Co. (the nominee of CDS Clearing and Depository Services Inc.) and in the United States registered under the name of CEDE & Co. (the nominee of The Depository Trust Company). Common shares of Non-Registered Shareholders can only be voted (for or against resolutions) or withheld from voting upon the instructions of the Non-Registered Shareholder. If you hold your shares through a New York Stock Exchange member brokerage firm, such member brokerage firm has the discretion to vote shares held on your behalf with respect to the proposal to appoint MaloneBailey LLP as the Company’s auditor (the “**Auditor Proposal**”), but not the other proposals, as more fully described under “Broker Non-Votes.” **Therefore, Non-Registered Shareholders should carefully follow the instructions of their Intermediaries and indicated on the materials provided to them and ensure that instructions respecting the Meeting and the voting of their common shares are communicated to the appropriate person.**

Applicable securities legislation requires Intermediaries to seek voting instructions from Non-Registered Shareholders in advance of shareholders’ meetings. Every Intermediary has its own mailing procedures and provides its own return instructions to clients, which should be carefully followed by Non-Registered Shareholders in order to ensure that their common shares are voted at the Meeting.

Although a Non-Registered Shareholder may not be recognized directly at the Meeting for the purposes of voting common shares not registered in its name, a Non-Registered Shareholder may attend at the Meeting as proxyholder for the registered holder of its common shares and vote such common shares in that capacity. Non-Registered Shareholders who wish to attend the Meeting and vote their common shares as proxyholder for the registered holder of their common shares should carefully follow the instructions of their Intermediaries and indicated on the materials provided to them. However, even if a Non-Registered Shareholder plans to attend the Meeting, it is recommended to vote your shares in advance so that your vote will be counted if you later decide not to attend the Meeting.

Proxy-related materials in connection with the Meeting are being sent and made available to both registered and Non-Registered Shareholders. If you are a Non-Registered Shareholder, and the issuer or its agent has sent proxy-related materials directly to you, your name and address and information about your holdings of securities, have been obtained in accordance with applicable securities regulatory requirements from your Intermediary. By choosing to send these materials to you directly, the issuer (and not the Intermediary) has assumed responsibility for (i) delivering these materials to you, and (ii) executing your proper voting instructions. Please return your voting instructions as specified in the request for voting instructions.

Broker Non-Votes

A broker “non-vote” occurs when an Intermediary for a Non-Registered Shareholder does not vote on a particular proposal because the Intermediary does not have discretionary voting power for that particular item and has not received instructions from the Non-Registered Shareholder. An Intermediary holding the common shares in “street name” for a Non-Registered Shareholder has discretion (but is not required) to vote the Non-Registered Shareholder’s common shares with respect to “routine” matters if the Non-Registered Shareholder does not provide voting instructions. The Intermediary, however, is not permitted to vote the Non-Registered Shareholder’s common shares with respect to “non-routine” matters without voting instructions.

The Company expects that the Auditor Proposal, will be treated as a routine matter, which means that Intermediaries will have discretionary authority to vote Non-Registered Shareholders' common shares held in street name on this matter. Accordingly, if Non-Registered Shareholders do not instruct their Intermediary on how to vote their shares, the Intermediary may either (a) vote the shares on the Auditor Proposal, or (b) leave the shares unvoted on the Auditor Proposal. If the Auditor Proposal is treated as a routine matter as expected, broker non-votes should not occur with respect to this matter in connection with the Meeting. However, the Company expects that the other proposals will be treated as non-routine matters, which means that Intermediaries will not have discretionary authority to vote Non-Registered Shareholders' common shares held in street name on these matters. In such case, a broker non-vote will occur, and a Non-Registered Shareholder's shares will not be voted on these matters.

Voting at the Meeting

Registered Shareholders entitled to vote at the Meeting may attend and vote at the Meeting virtually by following the steps listed below:

- Type in <https://virtual-meetings.tsxtrust.com/en/1613> on your browser at least 15 minutes before the Meeting starts.
- Click on "I have a control number".
- Enter your control number on your Notice or proxy form.
- Enter the password: sphere3d2024 (case sensitive).
- When the ballot is opened, click on the "Voting" icon. To vote, simply select your voting direction from the options shown on the screen and click "Submit". A confirmation message will appear to show your vote has been received.

Non-Registered Shareholders entitled to vote at the Meeting may attend and vote at the Meeting virtually by following the steps listed below:

- Appoint yourself as proxyholder following instructions from your Intermediary.
- Obtain a control number by contacting TSX Trust Company by emailing tsxtrustproxyvoting@tmx.com the "Request for Control Number" form, which can be found here <https://tsxtrust.com/resource/en/75>.
- Follow the voting instructions above for Registered Shareholders.

Guests can also attend and listen to the Meeting by following the steps listed below:

- Type in <https://virtual-meetings.tsxtrust.com/en/1613> on your browser at least 15 minutes before the Meeting starts.
- Click on "I am a Guest".
- Guests do not need a control number or password.

If you have any questions or require further information with regard to voting your shares, please contact TSX Trust Company toll-free in North America at 1-866-600-5869 or by email at tsxtis@tmx.com. If you attend the Meeting online, it is important that you are connected to the Internet at all times during the Meeting in order to vote when balloting commences, if you wish to do so. It is your responsibility to ensure connectivity for the duration of the Meeting. You should not use Internet Explorer as a browser due to technical incompatibilities and should allow ample time to check into the Meeting online and complete the related procedure.

Adjournments or Postponements

Although it is not currently expected, the Meeting may be adjourned or postponed for the purpose of soliciting additional proxies. Any adjournment or postponement may be made without notice, other than by an announcement made at the Meeting of the time, date and place of the adjourned or postponed Meeting.

Voting Shares and Principal Holders Thereof

The Company is authorized to issue an unlimited number of common shares, of which, as of the Record Date, 17,796,326 common shares were issued and outstanding and entitled to vote at the Meeting on the basis of one vote for each common share held. The holders of common shares of record at the close of business on the Record Date are entitled to vote such common shares at the Meeting on the basis of one vote for each common share held.

To the knowledge of the directors and officers of the Company, as of the Record Date, no persons beneficially own, or exercise control or direction over, directly or indirectly, more than 10% of the Company's issued and outstanding common shares.

Separate Copy of Annual Report or Proxy Materials

If you share an address with another shareholder, each shareholder may not automatically receive a separate copy of the Notice or the proxy materials. Shareholders who do not receive a separate copy of the documents and who want to receive a separate copy may request to receive a separate copy of the documents by writing to the Company's Chief Financial Officer at Sphere 3D Corp., 243 Tresser Boulevard, 17th Floor, Stamford, CT 06901, or by calling 1-647-952-5049. The Company undertakes to promptly deliver a copy of the proxy materials, upon the receipt of such request. Shareholders who share an address and receive multiple copies of the proxy materials may also request to receive a single copy by following the instructions above.

Particulars of Matters to be Acted Upon

To the knowledge of the Company's directors, the only matters to be placed before the Meeting are those matters set forth in the accompanying Notice of Meeting relating to:

- (i) the size of the Board and election of directors;
- (ii) the appointment of auditors;
- (iii) the approval of the Second Amended and Restated 2015 Performance Incentive Plan; and
- (iv) Say-on-Pay.

The aforementioned proposals will each be determined by a majority of votes cast on the applicable proposal at the Meeting by proxy or in person.

The Company's by-laws provide that a quorum at the Meeting shall consist of at least two persons present and holding or representing by proxy not less than 33⅓% of the total number of issued shares having voting rights at the Meeting.

Shareholder Proposals for the Next Annual Meeting

To be considered for inclusion in the proxy materials for the next annual meeting of shareholders, your proposal must be submitted in writing by no later than December 6, 2024 at 5:00 p.m. (Eastern Time) to the attention of the Corporate Secretary of the Company at 243 Tresser Boulevard, 17th Floor, Stamford, CT 06901. On June 27, 2017, the shareholders of the Company adopted the advance notice by-law No. 2 ("By-Law No. 2"), which establishes the conditions and framework for nominating directors to the Board. By-Law No. 2 sets forth the deadline by which shareholders must submit director nominations to the Company and the information to be provided and other procedures to be followed in respect of such nomination. You are therefore advised to review the Company's bylaws, which qualify the information set out in this paragraph in its entirety.

Presentation of the Audited Annual Financial Statements

Management, on behalf of the Board, will submit to the shareholders at the Meeting the Consolidated Financial Statements of the Company for the fiscal year ended December 31, 2023 including the Auditor's Report thereon, but no vote by the shareholders with respect thereto is required or proposed to be taken. The Consolidated Financial Statements, including the Auditor's Report thereon, have been mailed to shareholders who requested them.

PROPOSAL NO. 1 - ELECTION OF DIRECTORS

The Articles of the Company provide that it will have a minimum of one and a maximum of 10 directors, and permit the directors to appoint one or more additional directors provided that the total number of directors so appointed does not exceed one-third of the number of directors elected at the previous annual meeting of shareholders (rounded down to the nearest whole number). As an offering company, the Company must appoint a minimum of three directors. The Board is currently set at six members and at the Meeting will be reduced to four members, given that David Danziger and Vivekanand Mahadevan are retiring from the Board as of the date of the Meeting.

It is proposed that the persons named below will be nominated at the Meeting. Each director elected will hold office until the next annual meeting of shareholders or until his or her successor is duly elected or appointed pursuant to the *Business Corporations Act* (Ontario) (the “**OBCA**”) and the constating documents of the Company, unless his or her office is earlier vacated. Management does not contemplate that any of such nominees will be unable to serve as directors; however, if for any reason any of the proposed nominees does not stand for election or is unable to serve as such, proxies in favor of management designees will be voted for another nominee in their discretion unless the shareholder has specified in his or her proxy that his or her shares are to be withheld from voting in the election of directors.

The names of persons proposed to be nominated by management for election as a director; their age, all positions and offices with the Company held by them; their principal occupation for the last five years; the periods during which they have served as a director; and the number of shares beneficially owned or controlled, directly or indirectly, by them or over which control or direction is exercised, as of the Record Date and other information about them is set forth below.

Name	Age	Director Since	Title
Timothy Hanley ⁽¹⁾⁽²⁾⁽⁴⁾	67	May 31, 2022	Director
Susan S. Harnett ⁽¹⁾⁽²⁾⁽³⁾⁽⁴⁾	67	November 11, 2022	Director
Duncan J. McEwan ⁽¹⁾⁽³⁾⁽⁴⁾	70	May 10, 2017	Chairman and Director
Patricia Trompeter	56	April 21, 2021	Chief Executive Officer and Director

(1) Independent director.

(2) Member of the Audit Committee.

(3) Member of the Compensation Committee.

(4) Member of the Nominating and Governance Committee.

Timothy Hanley has served as the Acting Keyes Dean for the College of Business at Marquette University since March 2020. From May 2002 to May 2019, Mr. Hanley worked at Deloitte & Touche LLP (“**Deloitte**”), where he retired as a Senior Partner. During his 17 years at Deloitte, Mr. Hanley led the firm’s Global Consumer and Industrial Products practice, which he helped grow to more than \$14 billion in annual revenue. While at Deloitte, Mr. Hanley served in multiple leadership roles, including the U.S. Vice Chairman and Process and Industrial Products Leader. Since June 2019, Mr. Hanley has been an advisor to Deloitte helping them build a leadership development program in Asia. Mr. Hanley began his career at Arthur Andersen in 1978 and served as an audit partner for large manufacturers. Mr. Hanley served as a board member of the National Association of Manufacturers and regularly advises privately held companies in the consumer products, retail, and distribution industries. Mr. Hanley is a seasoned global executive with experience consulting with manufacturers regarding digital transformation, organizational strategy development and execution, acquisitions, and market development. Mr. Hanley is a qualified financial expert and has significant experience in the board room and working with audit committees. Mr. Hanley holds a Bachelor of Science degree in Accounting from Marquette University.

Susan S. Harnett has been a senior advisor to digital startups and mentor at New York's FinTech Innovation Lab since 2015. Ms. Harnett is a founding limited partner in How Women Invest, and a member of the Executive Board of How Women Lead, organizations committed to increasing venture funding to women led companies since November 2022. Ms. Harnett serves as a member of the board of directors of OFG Bancorp. (NYSE: OFG), a financial holding company based in San Juan, Puerto Rico, since June 2019, serving on the Business Risk and Compliance Committee, Chair of the Nomination and Governance Committee, and served on the Audit Committee until April 2021. Ms. Harnett also served as a member of the board of directors of Life Storage, Inc. ("**LSI**") (NYSE: LSI), serving on its Audit and Risk Management and Compensation and Human Capital Committees from February 2021 to July 2023 until LSI merged into Extra Space Storage (NYSE: EXR), an owner and operator of self-storage properties, at which time Ms. Harnett became a member of the board of directors of Extra Space Storage. In April 2021, Ms. Harnett joined the board of GoalSetter as the Astia Venture Capital Representative. From 2012 to 2015, Ms. Harnett was Chief Operating Officer of North America for QBE Insurance Group Limited ("**QBE Insurance**"), an international insurer and reinsurer. From 2001 to 2012, Ms. Harnett held several key positions at Citigroup Inc. ("**Citi**"), a multinational investment bank and financial services company in domestic, international, and global roles. The last three positions during her tenure with Citi included President of Local Consumer Lending (2011-2012), Head of Global Business Performance (2008-2011) and CEO of Citibank Germany (2004-2007). Ms. Harnett also served on the Board of Directors and on the Audit Committee of Wellabe Inc., a mutual insurance company, and First Niagara Financial Group, a \$40 billion in assets publicly traded bank, from 2015 until its acquisition by KeyCorp (NYSE:KEY) in 2016. Ms. Harnett has also served on the boards of QBE Insurance, CitiFinancial, and Visa Canada. Ms. Harnett was Chair of Citi's management board in Germany and of the Global Perspectives Advisory Group of Marquette University's College of Business. Ms. Harnett is a Certified Corporate Director by National Association of Corporate Directors (NACD) and a Qualified Risk Director from the DCRO Institute. Ms. Harnett holds a Bachelor's degree from Marquette University and an Executive Master of Business Administration degree from Northwestern University's Kellogg Graduate School of Management.

Duncan J. McEwan is a corporate director, and former President of Diligent Inc., a consulting company he founded in 1991 specializing in M&A and strategic advice for technology-based clients. Mr. McEwan was Executive Vice President and Chief Strategy Officer of Call-Net Enterprises Inc., a provider of long-distance telephone services until it merged into Rogers Communication Inc. (2004-2005); President and Chief Operating Officer of Sprint Canada Inc., an integrated, national telecommunications provider (2001-2004); Chief Executive Officer of Northpoint Canada Communications, a provider of high-speed data and Internet (DSL) lines (2000-2001); Vice President of Business Development of Canadian Satellite Communications ("**Cancom**") (1996-1998); and President and Chief Executive Officer of Cancom (1998-2000). Mr. McEwan was Chairman of the Board of Geminare Incorporated, a business continuity and cloud-based software systems provider, from 2010 until October 2021 when the company was sold and has previously served on a number of other public and private company boards. Mr. McEwan holds a Bachelor of Science degree in Zoology from the University of Toronto.

Patricia Trompeter has served as our Chief Executive Officer since April 5, 2022. Ms. Trompeter was the Chief Executive Officer and Chairman of the Board of Parsec Capital Acquisition Corp. (NASDAQ: PCXCU), a special purpose acquisition company ("**Parsec**"), from February 2021 until June 2022. Ms. Trompeter was formerly the Chief Executive Officer of Fact, Inc (OTC: FCTI), a fine art and collectible authentication technology company, from March 2021 to March 2022, a Director since October 2020 and Chief Operating Officer and Chief Financial Officer from November 2020 to February 2021. Ms. Trompeter was the Chief Executive Officer of Astro Aerospace Ltd. (OTC: ASDN), an electric vertical take-off and landing ("**eVTOL**") investment and technology company, from June 2021 to March 2022 and a Director from March 2021 to March 2022. Ms. Trompeter is the Founder of Ceres Capital Holdings, a position she held from October 2020 to June 2022. Ms. Trompeter is a Co-Founder and was Chief Operating Officer of Webbs Hill Partners, LLP, an independent investment and advisory firm growing innovative technologies in emerging markets, from January 2018 to June 2021. Ms. Trompeter was a director of 7MB Holdings LLC from May 2018 to June 2022. Between December 2016 and January 2018, Ms. Trompeter, took a short break from her work to attend to family matters. Ms. Trompeter has over 17 years of experience in mergers and acquisitions, acquisition integration, corporate strategy development, finance and acquisition, business operations, and financial management. Ms. Trompeter has held several key executive roles at GE Capital, including divisional Chief Financial Officer, and serves as a mentor for minority female-owned businesses. Ms. Trompeter holds a Bachelor of Science degree in Business Administration, with majors in Finance and Economics from Marquette University.

There are no family relationships between any executive officer, director or person nominated by us to become a director or executive officer. There are no contracts, arrangements or understandings between any management nominee and any other person (other than the directors and officers of the Company acting solely in such capacity) pursuant to which a nominee is to be elected as a director.

To the knowledge of the Company, no proposed director of the Company:

(a) is, as at the date of this Proxy Statement, or has been, within 10 years before the date of this Proxy Statement, a director, chief executive officer or chief financial officer of any company (including the Company) that was subject to an order that was issued while the proposed director was acting in the capacity as director, chief executive officer or chief financial officer; or was subject to an order that was issued after the proposed director ceased to be a director, chief executive officer or chief financial officer and which resulted from an event that occurred while that person was acting in the capacity as director, chief executive officer or chief financial officer.

For the purposes hereof, “**order**” means:

- (i) a cease trade order;
- (ii) an order similar to a cease trade order; or
- (iii) an order that denied the relevant company access to any exemption under securities legislation, that was in effect for more than 30 consecutive days.

(b) is, as at the date of this Proxy Statement, or has been within 10 years before the date of this Proxy Statement, a director or executive officer of any company (including the Company) that, while that person was acting in that capacity, or within a year of that person ceasing to act in that capacity, became bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency or was subject to or instituted any proceedings, arrangement or compromise with creditors or had a receiver, receiver manager or trustee appointed to hold its assets;

(c) has, within the 10 years before the date of this Proxy Statement, become bankrupt, made a proposal under any legislation relating to bankruptcy or insolvency, or become subject to or instituted any proceedings, arrangement, or compromise with creditors, or had a receiver, receiver manager or trustee appointed to hold the assets of the proposed director; or

(d) has been subject to any penalties or sanctions imposed by a court relating to securities legislation or by a securities regulatory authority or has entered into a settlement agreement with a securities regulatory authority or been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable security holder in deciding whether to vote for a proposed director.

Vote Required

The affirmative vote of a majority of votes cast for each director nominee by shareholders represented in person or by proxy at the Meeting is required to approve the election of each of the director nominees.

The Board recommends a vote “FOR” each of the director nominees named above.

CORPORATE GOVERNANCE

General

National Policy 58-201 - *Corporate Governance Guidelines* and National Instrument 58-101 - *Disclosure of Corporate Governance Practices* (“**NI 58-101**”) set out a series of guidelines for effective corporate governance. The guidelines address matters such as the composition and independence of corporate boards, the functions to be performed by boards and their committees and the effectiveness and education of board members. Each reporting issuer, such as the Company, must disclose on an annual basis and in prescribed form, the corporate governance practices that it has adopted. The following is the Company’s required annual disclosure of its corporate governance practices.

Director Independence

The Board has determined that the following current directors are independent within the meaning of NI 58-101 and NI 52-110 and Nasdaq Marketplace Rule 5605(a)(2): David Danziger, Timothy Hanley, Susan Harnett, Vivekanand Mahadevan, and Duncan McEwan. The Board has determined that effective upon assuming the position of Chief Executive Officer on April 5, 2022, Patricia Trompeter ceased to be independent given her position as an officer of the Company. As a result, the Board is currently comprised of five independent directors and a majority of independent directors. Following the Meeting, Mr. Danziger and Mr. Mahadevan will cease to be directors of the Company.

Meetings of Independent Directors

The independent directors on the Board and each of the committees meet regularly without management (including non-independent directors) present as part of Board meetings scheduled in the ordinary course. During the last completed fiscal year of the Company, the Board and the committees met as follows:

	Meetings Held	Meetings Held Without Management
Board	16	1
Audit Committee	4	—
Nominating and Governance Committee	—	—
Compensation Committee	4	2

Attendance

During the last completed fiscal year of the Company, the Board met a total of 16 times. The attendance record of each director serving in fiscal year 2023 is set out below.

Director	Meetings Attended
David Danziger	16
Timothy Hanley	16
Susan S. Harnett	16
Vivekanand Mahadevan	16
Duncan McEwan	16
Patricia Trompeter ⁽¹⁾	15

(1) Ms. Trompeter was not invited to attend one Board Meeting at which the Board discussed Ms. Trompeter’s compensation package.

Directorships

The Board has a policy of reviewing directorships and committee appointments held by directors in other public companies, ensuring each director is able to fulfill his or her duties and that conflicts of interest are avoided. Ms. Harnett and Mr. Danziger are the only Board members that currently serve on the board of another public company.

The Board's Role in Risk Oversight and Mandate of the Board

The mandate of the Board is to supervise the management of the business and affairs of the Company with a view to evaluating, on an ongoing basis, whether the Company's resources are being managed in a manner consistent with enhancing shareholder value, ethical considerations, and corporation social responsibility. Such mandate includes, without limitation, responsibility for risk oversight. While the full Board is charged with ultimate oversight responsibility for risk management, committees of the Board also have responsibilities with respect to various aspects of risk management oversight.

The Board Mandate adopted on March 27, 2015 sets out the key responsibilities of the Board in fulfilling its role. The full text of the Board Mandate is available on the Company's website at www.sphere3d.com. The Board's principal responsibilities relate to the stewardship of management and are summarized below:

- (i) review and approve the Company's strategic planning process and periodic capital and operating plans;
- (ii) review the Company's human resources policies, including the approval of the compensation of executive officers, and implement succession planning, including appointing, counseling, and monitoring the performance of executive officers;
- (iii) with assistance from the Nominating and Governance Committee, adopt and enforce good corporate governance practices;
- (iv) oversee the management of risks and the implementation of internal controls;
- (v) establish policies and procedures for the disclosure of reliable and timely information to shareholders and other stakeholders, and for the proper communication with shareholders, customers, and governments; and
- (vi) review policies and procedures to confirm ethical behaviors of the Company and its employees, monitors compliance with applicable laws and legislation, and satisfy itself as to the integrity of the executive officers; and with assistance from the Nominating and Governance Committee, assess the performance of the Board, its committees, and each director.

Position Descriptions

The Board has adopted a written position description for the Chairman, which is set out in the Board Mandate available on the Company's website at www.sphere3d.com. The Chairman is principally responsible for overseeing the operations and affairs of the Board. The Board has not developed written position descriptions for the Chief Executive Officer or the Chair of each Board committee. The Board committees each have a written charter which orients the conduct of the Chair of each committee. See "Corporate Governance - Board Committees." Each such charter is available on the Company's website at www.sphere3d.com. The Chief Executive Officer's role and responsibilities are set forth in the Chief Executive Officer's employment agreement, and annual performance metrics and goals are established and approved by the Board and the Compensation Committee.

Orientation and Continuing Education

The Board has not adopted a formal policy on the orientation and continuing education of new and current directors. When a new director is appointed, the Board delegates individual directors the responsibility for providing an orientation and education program for such new director. This may be delivered through informal meetings between the new directors and the Board and senior management, complemented by presentations on the main areas of the Company's business, and on the role of the Board, of the Board's committees and of directors. When required, the Board may arrange for topical seminars to be provided to members of the Board or committees of the Board. Such seminars may be provided by one or more members of the Board and management or by external professionals.

Measures to Encourage Ethical Business Conduct

The Board has adopted a Code of Business Conduct and Ethics Policy (the "Code") to govern the business-related conduct of all employees, officers, directors, agents, and contractors of the Company to maintain the highest standards of ethical conduct in corporate affairs. This Code is intended to comply with applicable securities legislation and stock exchange rules. Specifically, the purpose of this Code is (i) to encourage among the Company's representatives a culture of honesty, accountability, and mutual respect; (ii) to provide guidance to help the Company's representatives recognize ethical issues; and (iii) to provide mechanisms to support the resolution of ethical issues.

The Board also monitors compliance by requiring directors and officers to declare any conflicts of interest or any other situation that could represent a potential violation of any applicable rules and regulations. When applicable, the Board will receive reports from management regarding any allegations of unethical conduct. The Company has implemented a Whistleblower Policy that includes an employee complaint “hotline” to allow employees to report any ethical or financial/accounting concerns on a confidential or anonymous basis.

The Nominating and Governance Committee regularly reviews the Code, the process for administering the Code and compliance with the Code. Any changes to the Code are considered by the Board for approval. The Code can be found on the Company’s website at <http://investors.sphere3d.com> and on SEDAR at www.sedar.com and is filed as an exhibit to the Company’s Annual Report on Form 10-K, which can be found at www.sec.gov.

Nomination of Directors and Officers

During fiscal year 2023, the Board as a whole was responsible for identifying and evaluating qualified candidates for nomination to the Board. The Company recognizes the importance and benefit of having a Board and executive officers comprised of highly talented and experienced individuals who reflect the diversity of the Company’s stakeholders, including its customers and employees and the changing demographics of the communities in which the Company operates.

While the Board has not adopted a formal written policy, the Board and the Nominating and Governance Committee will, when identifying candidates to nominate for election to the Board or appoint as executive officers:

- (i) consider the competency and skills that the Board considers necessary for the Board, as a whole, to possess, the competency and skills that the Board considers each existing director to possess, the competency and skills that each new nominee will bring to the Board, and the ability of each new nominee to devote sufficient time and resources to his or her duties as a director;
- (ii) consider individuals who are highly qualified, based on their talents, experience, functional expertise and personal skills, character and qualities having regarding to the Company’s current and future plans and objectives, as well as anticipated regulatory and market developments;
- (iii) consider the level of representation of women on the Board and in executive officer positions along with other markers of diversity when making recommendations for nominees to the Board or for appointment as executive officers and in general with regard to succession planning for the Board and executive officers; and
- (iv) as required, engage qualified independent external advisors to assist the Board in conducting its search for candidates that meet the Board’s criteria regarding skills, experience, and diversity.

Industry and institutional knowledge along with commitment and expertise are vital to the successful functioning of the Board. Given the nature and size of the Company’s business and its industry, the Board has determined that while it is committed to fostering diversity among board members, it would be unduly restrictive and not in the best interests of the Company to adopt specific director term limits. Diversity and Board renewal will be supported through the other mechanisms designed to address the needs of the Company (as described elsewhere in this Proxy Statement) and not through the imposition of arbitrary term limits.

Given the nature and size of the Company’s business and its industry, it may prove to be challenging for the Company to identify a qualified pool of candidates that adequately reflects the various diverse characteristics that the Company seeks to promote. The Company has therefore not adopted any specific women representation targets, but will promote its objectives through the initiatives set out in this Proxy Statement with a view to identifying and fostering the development of a suitable pool of candidates for nomination or appointment over time. As of the date of this Proxy Statement, of the six directors serving on the Board, two (33%), namely Ms. Trompeter and Ms. Harnett, are female. Although the Company has not adopted a written policy in this respect, it is conscious of the value of female representation within a group. Ms. Trompeter also holds a position as an “executive officer” of the Company, as that term is defined under NI 58-101. Following the resignation of Mr. Danziger and Mr. Mahadevan at the Meeting, two of the four directors, or 50%, who will serve on the Board following the Meeting, namely Ms. Trompeter and Ms. Harnett, are female.

Board Diversity

The following table provides certain highlights of the composition of the Board as of the date of this Proxy Statement:

Board Diversity Matrix (As of April 5, 2024)				
Total Number of Directors	6			
	Female	Male	Non-Binary	Did Not Disclose Gender
Part I: Gender Identity				
Directors	2	4	—	—
Part II: Demographic Background				
African American or Black	—	—	—	—
Alaskan Native or American Indian	—	—	—	—
Asian	1	1	—	—
Hispanic or Latinx	—	—	—	—
Native Hawaiian or Pacific Islander	—	—	—	—
White	1	3	—	—
Two or More Races or Ethnicities	—	—	—	—
LGBTQ+			—	
Did Not Disclose Demographic Background			—	

Effective March 21, 2013, the Board established a Nominating and Governance Committee as a standing committee of the Board, the primary function of which is to oversee corporate governance activities as described above. See “Corporate Governance - Assessment of Directors, the Board and Board Committees.”

Assessment of Directors, the Board and Board Committees

The Nominating and Governance Committee assesses and provides recommendations on an annual basis to the Board on the effectiveness of the Board as a whole, the committees, and the contribution of individual directors. All directors are free to make suggestions on improvement of the Board’s practices at any time and are encouraged to do so. The Chair of the Nominating and Governance Committee will also meet regularly with each director to discuss such director’s performance and such director’s assessment of the Board, the committees’, and other directors’ performance.

Board Committees

The Board has established an Audit Committee, a Compensation Committee and a Nominating and Governance Committee. The mandate, organization, powers, and responsibilities of each of the Audit Committee, the Compensation Committee and the Nominating and Governance Committee, along with other Corporate Governance documents can be found on the Company’s website at <http://investors.sphere3d.com>.

Audit Committee

We have a standing audit committee as defined in Section 3(a)(58)(A) of the Securities Exchange Act of 1934, as amended, the primary function of which is to assist the Board in fulfilling its financial oversight responsibilities, which includes monitoring the quality and integrity of the Company’s financial statements and the independence and performance of the Company’s external auditors, acting as a liaison between the Board and the Company’s external auditors, reviewing the financial information that will be publicly disclosed and reviewing all audit processes and the systems of internal controls management that the Board has established.

The Audit Committee is comprised of the following directors: Mr. Hanley (Chair), Mr. Danziger, and Ms. Harnett. Each of the members of the Audit Committee is independent and “financially literate” within the meaning of NI 52-110. In addition to being independent under Nasdaq Marketplace Rule 5605(a)(2), all members of the Audit Committee must meet the additional independence standards for audit committee members set forth in Rule 10A-3(b) (1) of the Exchange Act and Nasdaq Marketplace Rule 5605(c)(2)(A) (“**Audit Committee Independence Rules**”). The Board has determined that Mr. Hanley qualifies as an audit committee financial expert as defined in Item 407(d)(5) of Regulation S-K under the Exchange Act.

Compensation Committee

The Compensation Committee is a standing committee of the Board, the primary functions of which are to set performance guidelines for and evaluate the performance of the Chief Executive Officer, review and approve the compensation programs for the Chief Executive Officer and the Company's other executive officers and members of senior management (subject, in the case of equity-based compensation, to approval by the Board in accordance with applicable laws), review and make recommendations to the Board with respect to, succession planning, review and administer the Company's long-term incentive plans(s), review and approve other compensation and benefit programs of the Company, and review the Company's general human resources policies with senior management. With respect to executive compensation, the Compensation Committee receives recommendations and information from the Chief Executive Officer, as well as outside compensation consultants, regarding issues relevant to determinations made by the Compensation Committee.

The Compensation Committee is comprised of the following directors: Ms. Harnett (Chair), Mr. McEwan and Mr. Mahadevan, all of whom are independent as per the definition set forth in NI 52-110 and each of whom have prior executive management experience which includes structuring compensation arrangements.

During fiscal year 2023, the Compensation Committee utilized NFP Compensation Consultants ("NFP") as its independent compensation consultant. NFP reports directly to the Compensation Committee and attends meetings as requested. The Compensation Committee has assessed NFP's independence relative to the NASDAQ listing standards and determined that there are no conflicts of interest. The Compensation Committee also closely examines the safeguards and steps NFP takes to ensure that its executive compensation consulting services are objective. The Compensation Committee takes into consideration that:

- the Compensation Committee directly hired and has the authority to terminate NFP's engagement;
- the Compensation Committee solely determined the terms and conditions of NFP's engagement, including the fees charged;
- NFP and its consultants have direct access to members of the Compensation Committee during and between meetings;
- NFP does not provide any other services to the Company, its directors or executives; and
- interactions between NFP and its consultants and management generally are limited to discussions on behalf of the Compensation Committee and information presented to the Compensation Committee for approval.

Nominating and Governance Committee

The Nominating and Governance Committee is a standing committee of the Board, the primary functions of which is to provide the Board with advice and recommendations relating to corporate governance in general, including, without limitation, all matters relating to the stewardship role of the Board in respect of the management of the Company, Board size and composition including the identification of new nominees to the Board and leading the candidate selection process, orientation of new members, Board compensation, and such procedures as may be necessary to allow the Board to function independently of management.

The Nominating and Governance Committee annually reviews and assesses the effectiveness of the Board as a whole, the effectiveness and membership of the Board committees, and the contribution of the individual directors and makes such recommendations to the Board arising out of such review as it deems appropriate.

The Nominating and Governance Committee is comprised of the following directors: Mr. McEwan (Chair), Mr. Mahadevan, Mr. Hanley, and Ms. Harnett, all of whom are independent as per the definition set forth in NI 52-110.

Communications by Shareholders with Directors

Shareholders may communicate with the Board, or any individual director, by transmitting correspondence by mail, facsimile, or email, addressed as follows: Board of Directors (or individual director), c/o the Secretary of the Company. The Secretary will forward such communications to the Board or to the identified director(s), although spam, junk mail, mass mailings, solicitations, advertisements, and communications that are abusive, in bad taste or that present safety or security concerns may be handled differently, as determined by the Secretary.

Indebtedness of Directors and Executive Officers

As at the date hereof, no director, executive officer, senior officer, employee, proposed director or former director, executive officer, senior officer or employee of the Company or any of its subsidiaries or any associate of any of the foregoing persons is or has been, at any time since the beginning of the most recently completed financial year of the Company, indebted to the Company or its subsidiaries, nor at any time since the beginning of the most recently completed financial year of the Company has any indebtedness of any such person been the subject of a guarantee, support agreement, letter of credit or other similar arrangement or understanding provided by the Company or any of its subsidiaries.

Indemnification of Our Executive Officers and Directors

In accordance with the by-laws of the Company, directors and officers are each indemnified by the Company against all liability and costs arising out of any action or suit against them from the execution of their duties, provided that they have (i) carried out their duties honestly and in good faith with a view to the best interests of the Company, (ii) have otherwise complied with the provisions of applicable corporate law and (iii) if the matter is a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.

Code of Ethics

The Board has adopted a Code of Business Conduct and Ethics (the “**Code**”) that applies to all employees, executive officers, and directors. The Code is posted on the Company’s website and is available at www.sphere3d.com. If any substantive amendments are made to the Code or any waivers are granted for a provision of the Code applying to our principal executive officer or our principal financial or accounting officer, the nature of such amendment or waiver will be disclosed on the Company’s website or in a current report on Form 8-K.

DIRECTOR COMPENSATION

The following table provides compensation information for the members of the Board during 2023 who were not employed by us or any of our subsidiaries (“**non-employee directors**”). Ms. Trompeter, the Company’s Chief Executive Officer, is a NEO who also served on the Board during the fiscal year ended December 31, 2023. The 2023 compensation information for Ms. Trompeter is presented in the Summary Compensation Table below. Ms. Trompeter was not entitled to any additional compensation for her service on the Board during fiscal year 2023.

All share and per share amounts herein have been adjusted to give effect to the 1-for-7 reverse share consolidation (also known as reverse stock split) of the Company completed on June 28, 2023, which was approved by the Company’s shareholders on June 23, 2023.

Name	Fees Earned (\$)		Stock Awards(1) (\$)		All Other Compensation (\$)	Total (\$)
David Danziger	75,000	(2)	—		—	75,000
Timothy Hanley	90,000	(2)	133,481	(3)	—	223,481
Susan S. Harnett	90,000	(2)	133,481	(3)	—	223,481
Vivekanand Mahadevan	75,000	(2)	—		—	75,000
Duncan McEwan	110,000	(2)	—		—	110,000

- (1) The amounts shown in this column represent the grant date fair value of the awards granted during fiscal year 2023 in accordance with relevant accounting principles and do not reflect compensation received by the non-employee director.
- (2) Except for the first quarter of fiscal year 2023, the quarterly board fees earned was deferred by the board member and unpaid at December 31, 2023.
- (3) Pursuant to the Board Compensation Program, these stock awards should have been approved following the annual meeting of shareholders held on December 20, 2022; however, the approval for the stock awards was delayed due to insufficient shares available under the Amended and Restated 2015 Performance Incentive Plan. Mr. Danziger, Mr. Mahadevan, and Mr. McEwan each received their stock option grant on December 30, 2022, as previously disclosed in the proxy statement for fiscal year 2022.

At December 31, 2023, the end of our last fiscal year, Mr. Danziger held outstanding stock options for 60,470 common shares, Mr. Hanley held outstanding stock options for 17,572 common shares, and Mr. Mahadevan and Mr. McEwan each held outstanding stock options for 78,949 common shares. Our non-employee directors did not hold any stock awards at the end of our last fiscal year.

Each non-employee director receive the following compensation: (a) an annual cash payment of \$75,000, payable quarterly in arrears (and pro-rated for partial quarterly periods), (b) in the case of the Chairman of the Board, an additional annual cash payment of \$20,000, payable quarterly in arrears (and prorated for partial quarterly periods), (c) in the case of a Chairman of each subcommittee of the Board (being the Audit Committee, Nominating Committee and Compensation Committee), an additional annual cash payment of \$15,000, payable quarterly in arrears (and pro-rated for partial quarterly periods), and (d) on an annual basis and at the election of the non-employee director, either: (i) restricted share units having a value of \$100,000, to be priced at the market close on the day of our next annual shareholder’s meeting, such restricted stock units to vest 364 days following the date of grant, or (ii) that number of stock options equal to \$100,000 divided by the value of the options at the time of grant (to be determined using the Black-Scholes pricing model) to be priced at the market close on the day of our next annual shareholder’s meeting, such stock options to vest in full 364 days following the date of grant (the “**Board Compensation Program**”), provided there are sufficient shares available in our Amended and Restated 2015 Performance Incentive Plan, as may be further amended.

Pursuant to the Board Compensation Program, each director is entitled to an annual equity award valued at \$100,000 based upon the closing market price of the Company's common shares on the date of the annual shareholders' meeting. On February 28, 2023, Ms. Harnett and Mr. Hanley each received 46,082 restricted stock units valued at \$133,481 based upon the common share price of \$2.90 on February 28, 2023, which vested in full on December 19, 2023. The number of restricted stock units granted was based upon the common share closing market price of \$2.17 on December 20, 2022, the date of the 2022 annual shareholders' meeting. Mr. Danziger, Mr. Mahadevan and Mr. McEwan each received their equity award in December 2022 as previously disclosed under Director Compensation in the Company's Proxy Statement dated November 10, 2023.

Pursuant to the Board Compensation Program, on January 9, 2024, Mr. Hanley, Mr. McEwan and Mr. Mahadevan each received a stock option for 82,050 shares with an exercise price of \$2.65 per share vesting in full on December 5, 2024 and expiring on December 5, 2029. Ms. Harnett and Mr. Hanley each received 57,471 restricted stock units valued at \$152,298 based upon the common share closing market price of \$2.65 on January 9, 2024, the date of grant, vesting in full on December 5, 2024. The number of stock options and restricted stock units granted was based upon the Company's common share closing market price of \$1.74 on December 5, 2023, the date of the 2023 annual shareholders' meeting.

In August 2019, the Company entered into a change of control agreement with Mr. Mahadevan and Mr. McEwan (the "**COC Agreements**") in order to compensate such individual for prior unpaid board services. The COC Agreements provide that in the event of a change of control of the Company and provided no payment has been made under (i) or (ii) below, Mr. Mahadevan and Mr. McEwan shall be entitled, in their sole discretion, to provide written notice to us at any time within 30 days of such event, to receive an amount equal to \$127,500 and \$115,000, respectively, for directorship services (the "**COC Board Fees**") related to waived fees for periods as of June 30, 2019. The COC Agreements also provide that Mr. Mahadevan and Mr. McEwan be entitled to the COC Board Fees if (i) such individual becomes unable to serve on the Board, either due to prolonged sickness, permanent disability, or death or (ii) is not reappointed as a member of the Board at a duly convened meeting of its shareholders. Mr. Mahadevan has agreed not to be appointed as a member of the Board following the Meeting, and he will be entitled to COC Board Fees of \$127,500.

The Board retains complete discretion to adopt or modify our programs for providing cash and/or equity-based compensation to our non-employee directors as it deems appropriate from time to time.

**PROPOSAL NO. 2 - RATIFICATION OF SELECTION OF
INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Audit Committee and the Board have selected MaloneBailey LLP as the independent registered public accounting firm to audit the consolidated financial statements of the Company for the year ending December 31, 2024. MaloneBailey LLP has acted in such capacity since its appointment May 4, 2022. A representative of MaloneBailey LLP is not expected to be present at the Meeting. Based on the representations of MaloneBailey LLP, neither the firm nor any of its partners has any direct financial interest nor any material indirect financial interest in the Company or any of its subsidiaries nor has had any connection during the past three years with the Company or any of its subsidiaries in the capacity of promoter, underwriter, voting trustee, director, officer, or employee.

Vote Required

The affirmative vote of a majority of votes cast by shareholders on this proposal represented in person or by proxy at the Meeting is required to approve the proposal.

The Board recommends a vote “FOR” the ratification of the selection of MaloneBailey LLP as our independent registered public accounting firm for the fiscal year ending December 31, 2024.

Independent Registered Public Accounting Firm Fees and Services

The aggregate fees incurred by our independent registered public accounting firm, MaloneBailey LLP, in each of the last two years for audit and other fees are as follows (in thousands):

	2023	2022
Audit fees ⁽¹⁾	\$ 525	\$ 660
Audit related fees ⁽²⁾	5	—
Tax fees ⁽³⁾	—	—
All other fees ⁽⁴⁾	16	—
	<u>\$ 546</u>	<u>\$ 660</u>

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- (1) Audit fees consist of fees billed for professional services rendered in connection with the audit of our annual consolidated financial statements, which were provided in connection with statutory and regulatory filings or engagements.
 - (2) Audit-related fees consist of fees billed for assurance and related services that are reasonably related to the performance of the audit or review of our consolidated financial statements, and are not reported under audit fees.
 - (3) Tax fees consist of fees billed for professional services rendered for IRS Section 302 net operating loss limitation study.
 - (4) All other fees consist of fees for products and services other than the services reported above.

Pre-Approval Policies and Procedures

The Audit Committee has the authority to pre-approve all non-audit services to be provided to the Company by its independent registered public accounting firm. All services provided by MaloneBailey LLP during the years 2023 and 2022 were pre-approved by the Audit Committee.

Report of the Audit Committee

The Audit Committee oversees the Company's financial reporting process on behalf of the Board. The Company's management has the primary responsibility for the financial statements, for maintaining effective internal control over financial reporting, and for assessing the effectiveness of internal control over financial reporting. In fulfilling its oversight responsibilities, the Audit Committee reviewed and discussed the audited consolidated financial statements and the related schedule in the Annual Report with Company management, including a discussion of the quality, not just the acceptability, of the accounting principles; the reasonableness of significant judgments; and the clarity of disclosures in the financial statements.

The Audit Committee is governed by a charter. The Audit Committee held four meetings during fiscal year 2023. The Audit Committee is comprised solely of independent directors as defined by the Nasdaq listing standards and Rule 10A-3 of the Securities Exchange Act of 1934. The meetings of the Audit Committee are designed to facilitate and encourage communication among the Audit Committee, the Company, the Company's internal audit function and the Company's independent registered public accounting firm.

The Audit Committee discussed with the Company's independent registered public accounting firm the overall scope and plans for their respective audits. The Audit Committee meets with the independent registered public accounting firm, with and without management present, to discuss the results of their examinations; their evaluations of the Company's internal control, including internal control over financial reporting; and the overall quality of the Company's financial reporting.

The Audit Committee reviewed and discussed with the independent registered public accounting firm, which is responsible for expressing an opinion on the conformity of those audited consolidated financial statements and related schedule with U.S. generally accepted accounting principles, its judgments as to the quality, not just the acceptability, of the Company's accounting principles and such other matters as are required to be discussed by the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), including PCAOB Auditing Standard No. 16, Communication with Audit Committees, the rules of the Securities and Exchange Commission, and other applicable regulations. In addition, the Audit Committee has received the written disclosures and the letter from the independent registered public accounting firm required by PCAOB Rule 3526, Communication with Audit Committees Concerning Independence, regarding the firm's communications with the Audit Committee concerning the firm's independence and has discussed with the independent registered public accounting firm the firm's independence from Company management and the Company and considered the compatibility of non-audit services with the firm's independence.

In reliance on the reviews and discussions referred to above, the Audit Committee recommended to the Board, and the Board has approved, that the audited consolidated financial statements be included in the Annual Report on Form 10-K for the year ended December 31, 2023 filed by the Company with the Securities and Exchange Commission.

THE AUDIT COMMITTEE:

Timothy Hanley, Chairman

David Danziger

Susan Harnett

**PROPOSAL NO. 3 - APPROVAL OF THE SECOND AMENDED AND RESTATED
2015 PERFORMANCE INCENTIVE PLAN**

At the Meeting, shareholders will be asked to approve an amendment and restatement of the Sphere 3D Corp. Amended and Restated 2015 Performance Incentive Plan (as proposed to be amended and restated, the “**2015 Plan**”) to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares as described below. The original 2015 Performance Incentive Plan was approved by the shareholders on June 18, 2015, and was subsequently amended and restated on November 19, 2018, such amendment and restatement was approved by the shareholders on December 28, 2018 (the “**Prior 2015 Plan**”). The 2015 Plan was adopted by the Board on March 26, 2024, subject to shareholder approval. **The persons named in the enclosed form of proxy intend to vote “FOR” the approval of the 2015 Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares.**

The 2015 Plan increases the maximum number of shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares, representing approximately 2.8% of the issued and outstanding common shares of the Company issued and outstanding on the Record Date. As of the Record Date, a total of 1,825,245 shares were subject to outstanding awards granted under the Prior 2015 Plan, and 532,684 shares were then available for new award grants under the Prior 2015 Plan before taking the proposed share increase into account.

The Company believes that incentives and share-based awards focus employees on the objective of creating shareholder value and promoting the success of the Company, and that incentive compensation plans like the Prior 2015 Plan are an important attraction, retention and motivation tool for participants in the plan. The Board believes that the number of shares currently available for new award grants under the Prior 2015 Plan does not give the Company sufficient authority and flexibility to adequately provide for future incentives and, accordingly, recommends the proposed amendment.

If shareholders do not approve the 2015 Plan, the existing share limit and other terms of the Prior 2015 Plan will continue in effect.

Summary Description of the Second Amended and Restated 2015 Performance Incentive Plan

The principal terms of the 2015 Plan are summarized below. The following summary is qualified in its entirety by the full text of the 2015 Plan, as proposed to be amended, which appears as Appendix A to this Proxy Statement.

All share and per share amounts herein have been adjusted to give effect to the 1-for-7 reverse share consolidation (also known as reverse stock split) of the Company completed on June 28, 2023, which was approved by the Company’s shareholders on June 23, 2023.

Purpose. The purpose of the 2015 Plan is to promote the success of the Company and the interests of our shareholders by providing an additional means for us to attract, motivate, retain and reward selected employees and other eligible persons through the grant of awards. Equity-based awards are also intended to further align the interests of award recipients with that of our shareholders.

Administration. The Board or one or more committees appointed by the Board (in the manner and on the terms authorized by the Board) administers the 2015 Plan. Any such committee shall be comprised solely of one or more directors or such number of directors as may be required under applicable law. A committee may delegate some or all of its authority to another committee so constituted, to the extent permitted by applicable laws (the appropriate acting body, be it the Board, a committee within its delegated authority, or an officer within his or her delegated authority, is referred to in this proposal as the “**Administrator**”).

Subject to the express provisions of the 2015 Plan and applicable laws, the Administrator has broad authority under the 2015 Plan, including, without limitation, the authority:

1. to select eligible participants and determine the type(s) of award(s) that they are to receive;
2. to grant awards and determine the terms and conditions of awards, including the price (if any) to be paid for the shares or the award and, in the case of share-based awards, the number of shares to be offered or awarded;

3. to determine any applicable vesting and exercise conditions for awards (including any applicable performance-based vesting or exercisability conditions) and the extent to which such conditions have been satisfied, or determine that no delayed vesting or exercise is required, and to accelerate or extend the vesting or exercisability or extend the term of any or all outstanding awards;
4. to cancel, modify, or waive the Company's rights with respect to, or modify, discontinue, suspend, or terminate any or all outstanding awards, subject to any required consents;
5. subject to the other provisions of the 2015 Plan, to make certain adjustments to an outstanding award and to authorize the conversion, succession, or substitution of an award;
6. to determine the method of payment of any purchase price for an award or Company common shares delivered under the 2015 Plan, as well as any tax-related items with respect to an award, which may be in the form of cash, check, or electronic funds transfer, by the delivery of already-owned Company common shares or by a reduction of the number of shares deliverable pursuant to the award, by services rendered by the recipient of the award, by notice and third party payment or cashless exercise on such terms as the Administrator may authorize, or any other form permitted by law;
7. to modify the terms and conditions of any award, establish sub-plans and agreements and determine different terms and conditions that the Administrator deems necessary or advisable to comply with laws in the countries where the Company or one of its subsidiaries operates or where one or more eligible participants reside or provide services;
8. to approve the form of any award agreements used under the 2015 Plan; and
9. to construe and interpret the 2015 Plan, make rules for the administration of the 2015 Plan, and make all other determinations necessary or advisable for the administration of the 2015 Plan.

No Repricing. In no case (except due to an adjustment to reflect a stock split or other event referred to under "Adjustments" below, or any repricing that may be approved by shareholders) will the Administrator (i) amend an outstanding stock option or stock appreciation right to reduce the exercise price or base price of the award, (ii) cancel, exchange, or surrender an outstanding stock option or stock appreciation right in exchange for cash or other awards for the purpose of repricing the award, or (iii) cancel, exchange, or surrender an outstanding stock option or stock appreciation right in exchange for an option or stock appreciation right with an exercise or base price that is less than the exercise or base price of the original award.

Eligibility. Persons eligible to receive awards under the 2015 Plan include officers or employees of the Company or any of its subsidiaries, directors of the Company, and certain consultants and advisors to the Company or any of its subsidiaries. Currently, approximately 10 officers and employees of the Company and its subsidiaries (including all of the Company's named executive officers), and each of the Company's five non-employee directors, are considered eligible under the 2015 Plan.

Authorized Shares; Limits on Awards. The maximum number of the Company's common shares that can be issued under the 2015 Plan is equal to the sum of (i) 4,217,707 shares, plus (ii) the number of any shares subject to stock options granted under our Second Amended and Restated Stock Option Plan (the "**2012 Plan**") and outstanding as of June 18, 2015 (the date our shareholders approved the 2015 Plan) which expire, or for any reason are cancelled or terminated, after June 18, 2015 without being exercised (such total number of shares, the "**Share Limit**"). As of the Record Date, 1,999 shares had become available for new award grants under the Prior 2015 Plan pursuant to clause (ii) above as a result of the cancellation or termination of stock options granted under the 2012 Plan after June 18, 2015 and on or before the Record Date, and 17 shares were then subject to options that remained outstanding under the 2012 Plan. No new awards may be granted under the 2012 Plan.

The Share Limit described above automatically increases on the first trading day in January of each calendar year during the term of the 2015 Plan, by an amount equal to the lesser of (i) ten percent (10%) of the total number of common shares issued and outstanding on December 31 of the immediately preceding calendar year, or (ii) such number of common shares as may be established by the Board.

The 2015 Plan generally provides that the number of Shares that are then available for new award grants under the plan, as well as the number of Shares subject to then-outstanding awards under the plan and the exercise prices of such awards, will be proportionately adjusted as described below under “Adjustments” in the event of a share split, reverse share split or similar event affecting the common shares.

Except as provided in the next sentence, shares that are subject to or underlie awards granted under the 2015 Plan which expire or for any reason are cancelled or terminated, are forfeited, fail to vest, or for any other reason are not paid or delivered under the 2015 Plan shall again be available for subsequent awards under the 2015 Plan. Shares that are exchanged by a participant or withheld by the Company as full or partial payment in connection with any award granted under the 2015 Plan, as well as any shares exchanged by a participant or withheld by the Company or one of its subsidiaries to satisfy the tax withholding obligations related to any award granted under the 2015 Plan, shall be available for subsequent awards under the 2015 Plan. To the extent that an award granted under the 2015 Plan is settled in cash or a form other than shares, the shares that would have been delivered had there been no such cash or other settlement shall not be counted against the shares available for issuance under the 2015 Plan. In the event that shares are delivered in respect of a dividend equivalent right granted under the 2015 Plan, the number of shares actually delivered with respect to the award shall be counted against the Share Limit of the 2015 Plan. To the extent that shares are delivered pursuant to the exercise of a stock appreciation right or stock option granted under this Plan, the number of shares actually delivered with respect to the award shall be counted against the Share Limit of the 2015 Plan. (For purposes of clarity, if a stock appreciation right relates to 100,000 shares and is exercised at a time when the payment due to the participant is 15,000 shares, 15,000 shares shall be charged against the Share Limit with respect to such exercise.) In addition, the 2015 Plan generally provides that shares issued in connection with awards that are granted by or become obligations of the Company through the assumption of awards (or in substitution for awards) in connection with an acquisition of another Company will not count against the shares available for issuance under the 2015 Plan. The Company may not increase the applicable Share Limit of the 2015 Plan by repurchasing Company common shares on the market (by using cash received through the exercise of stock options or otherwise).

Types of Awards. The 2015 Plan authorizes stock options, stock appreciation rights, and other forms of awards granted or denominated in the Company’s common shares or units of the Company’s common shares, as well as cash bonus awards. The 2015 Plan retains flexibility to offer competitive incentives and to tailor benefits to specific needs and circumstances. Any award may be structured to be paid or settled in cash.

A stock option is the right to purchase Company common shares at a future date at a specified price per share, also known as exercise price. The per share exercise price of an option generally may not be less than the fair market value of a Company common share on the date of grant. The maximum term of an option is ten years from the date of grant. An option may either be an incentive stock option or a nonqualified stock option. Incentive stock option benefits are taxed differently from nonqualified stock options, as described under “Federal Income Tax Consequences of Awards Under the 2015 Plan” below. Incentive stock options are also subject to more restrictive terms and are limited in amount by the U.S. Internal Revenue Code and the 2015 Plan. Incentive stock options may only be granted to employees of the Company or a subsidiary.

A stock appreciation right is the right to receive payment of an amount equal to the excess of the fair market value of a Company common share on the date of exercise of the stock appreciation right over the base price of the stock appreciation right. The base price will be established by the Administrator at the time of grant of the stock appreciation right and generally may not be less than the fair market value of a Company common share on the date of grant. Stock appreciation rights may be granted in connection with other awards or independently. The maximum term of a stock appreciation right is ten years from the date of grant. Options and stock appreciation rights may be fully vested at grant or may be subject to time- and/or performance-based vesting requirements.

The other types of awards that may be granted under the 2015 Plan include, without limitation, stock bonuses, restricted stock, performance stock, stock units or phantom stock (which are contractual rights to receive shares of stock, or cash based on the fair market value of a share of stock), dividend equivalents which represent the right to receive a payment based on the dividends paid on a share of stock over a stated period of time, or similar rights to purchase or acquire shares, and cash awards.

Any awards under the 2015 Plan may be fully-vested at grant or may be subject to time- and/or performance-based vesting requirements.

Dividend Equivalents; Deferrals. Subject to applicable laws, the Administrator may provide for the deferred payment of awards, and may determine the other terms applicable to deferrals. The Administrator may provide that awards under the 2015 Plan (other than options or stock appreciation rights), and/or deferrals, earn dividends or dividend equivalents based on the amount of dividends paid on outstanding Company common shares, provided that as to any dividend equivalent rights granted in connection with an award granted under the 2015 Plan that is subject to performance-based vesting requirements, no dividend equivalent payment will be made unless the related performance-based vesting conditions of the award are satisfied (or, in the case of a restricted stock or similar award where the dividend must be paid as a matter of law, the dividend payment will be subject to forfeiture or repayment, as the case may be, if the related performance-based vesting conditions are not satisfied).

Assumption and Termination of Awards. If an event occurs in which the Company does not survive (or does not survive as a public corporation in respect of its common shares), including, without limitation, a dissolution, merger, combination, consolidation, conversion, exchange of securities, or other reorganization, or a sale of all or substantially all of the business, stock or assets of the Company, awards then-outstanding under the 2015 Plan will not automatically become fully vested pursuant to the provisions of the 2015 Plan so long as such awards are assumed, substituted for or otherwise continued. However, if awards then-outstanding under the 2015 Plan are to be terminated in such circumstances (without being assumed or substituted for), such awards would generally become fully vested, subject to any exceptions that the Administrator may provide for in an applicable award agreement. The Administrator also has the discretion to establish other change in control provisions with respect to awards granted under the 2015 Plan. For example, the Administrator could provide for the acceleration of vesting or payment of an award in connection with a corporate event or in connection with a termination of the award holder's employment.

Transfer Restrictions. Subject to certain exceptions contained in Section 5.7 of the 2015 Plan, awards under the 2015 Plan generally are not transferable by the recipient other than by will or the laws of descent and distribution and are generally exercisable, during the recipient's lifetime, only by the recipient. Any amounts payable or shares issuable pursuant to an award generally will be paid only to the recipient or the recipient's beneficiary or representative. The Administrator has discretion, however, to establish written conditions and procedures for the transfer of awards to other persons or entities, provided that such transfers comply with applicable federal and state securities laws and are not made for value (other than nominal consideration, settlement of marital property rights, or for interests in an entity in which more than 50% of the voting securities are held by the award recipient or by the recipient's family members).

Adjustments. As is customary in incentive plans of this nature, each share limit and the number and kind of shares available under the 2015 Plan and any outstanding awards, as well as the exercise or purchase prices of awards, and performance targets under certain types of performance-based awards, are subject to adjustment in the event of certain reorganizations, mergers, amalgamations, combinations, conversions, recapitalizations, stock splits, stock dividends, or other similar events that change the number or kind of shares outstanding, and extraordinary dividends or distributions of property to the shareholders (except as noted above under "*Authorized Shares; Limits on Awards*").

No Limit on Other Authority. The 2015 Plan does not limit the authority of the Board or any committee to grant awards or authorize any other compensation, with or without reference to the Company's common shares, under any other plan or authority.

Termination of or Changes to the 2015 Plan. The Board may amend or terminate the 2015 Plan at any time and in any manner. Shareholder approval for an amendment will be required only to the extent then required by applicable law or deemed necessary or advisable by the Board. Unless terminated earlier by the Board and subject to any extension that may be approved by shareholders, the authority to grant new awards under the 2015 Plan will terminate on May 14, 2025. Outstanding awards, as well as the Administrator's authority with respect thereto, generally will continue following the expiration or termination of the plan. Generally speaking, outstanding awards may be amended by the Administrator (except for a repricing), but the consent of the award holder is required if the amendment (or any plan amendment) materially and adversely affects the holder.

U.S. Federal Income Tax Consequences of Awards under the 2015 Plan

The U.S. federal income tax consequences of the 2015 Plan under current federal law, which is subject to change, are summarized in the following discussion of the general tax principles applicable to the 2015 Plan. This summary is not intended to be exhaustive and, among other considerations, does not describe the deferred compensation provisions of Section 409A of the U.S. Internal Revenue Code to the extent an award is subject to and does not satisfy those rules, nor does it describe state, local, or international tax consequences (including the treatment of awards under Canadian tax laws).

With respect to nonqualified stock options, the Company is generally entitled to deduct and the participant recognizes taxable income in an amount equal to the difference between the option exercise price and the fair market value of the shares at the time of exercise. With respect to incentive stock options, the Company is generally not entitled to a deduction nor does the participant recognize income at the time of exercise, although the participant may be subject to the U.S. federal alternative minimum tax.

The current federal income tax consequences of other awards authorized under the 2015 Plan generally follow certain basic patterns: nontransferable restricted stock subject to a substantial risk of forfeiture results in income recognition equal to the excess of the fair market value over the price paid (if any) only at the time the restrictions lapse (unless the recipient elects to accelerate recognition as of the date of grant); bonuses, stock appreciation rights, cash and share-based performance awards, dividend equivalents, stock units, and other types of awards are generally subject to tax at the time of payment; and compensation otherwise effectively deferred is taxed when paid. In each of the foregoing cases, the Company will generally have a corresponding deduction at the time the participant recognizes income.

If an award is accelerated under the 2015 Plan in connection with a “change in control” (as this term is used under the U.S. Internal Revenue Code), the Company may not be permitted to deduct the portion of the compensation attributable to the acceleration, or parachute payments, if it exceeds certain threshold limits under the U.S. Internal Revenue Code (and certain related excise taxes may be triggered). Furthermore, under Section 162(m) of the U.S. Internal Revenue Code, the aggregate compensation in excess of \$1,000,000 attributable to awards held by current or former named executive officers may not be deductible by the Company in certain circumstances.

Specific Benefits under the 2015 Plan

The Company has not approved any awards that are conditioned upon shareholder approval of the 2015 Plan. The Company is not currently considering any other specific award grants under the 2015 Plan.

The closing market price for a common share of the Company as of the Record Date was \$1.41 per share.

Equity Compensation Plan Information

The Company maintains its 2012 Plan, Prior 2015 Plan, and 2015 Employee Stock Purchase Plan (“ESPP”), which have been approved by the Company’s shareholders. No new awards may be granted under the 2012 Plan. The Company has no unauthorized compensation plans. The following table provides information about our equity compensation plans as of the last day of fiscal 2023, unless otherwise footnoted below.

Plan Category	(a) Number of Common Shares to be Issued Upon Exercise of Outstanding Options and Rights	(b) Weighted-average Exercise Price of Outstanding Options and Rights(1)	(c) Number of Common Shares Remaining Available for Future Issuance Under Equity Compensation Plans (excluding shares reflected in column (a))
Equity compensation plans approved by our shareholders ⁽²⁾	454,170	\$6.34	371,772

(1) The weighted-average exercise prices do not reflect shares subject to outstanding awards of restricted stock units.

(2) Of the aggregate number of shares that are to be issued upon exercise of outstanding options and rights as reported in column (a), 454,153 were subject to outstanding awards under the Prior 2015 Plan and 17 were subject to outstanding awards under the 2012 Plan as of December 31, 2023. Of the aggregate number of shares that remained available for future issuance reported in column (c), 366,415 were available under the Prior 2015 Plan and 5,357 were available under the ESPP. The Prior 2015 Plan permits the granting of the following types of incentive awards: stock options, stock appreciation rights, restricted shares, and stock units.

Aggregate Past Grants Under the Prior 2015 Plan

The following table shows information, for the persons and groups identified below, regarding the distribution of awards with respect to common shares of the Company subject to awards granted under the Prior 2015 Plan as of the Record Date.

	Shares Subject to Past Stock Option Grants	Shares Subject to Past Stock and Stock Unit Awards
Named Executive Officer:		
Patricia Trompeter	107,142	1,235,248
Kurt L. Kalbfleisch	32,213	239,284
Joseph L. O'Daniel	—	82,031
Total for all current executive officers	139,355	1,474,532
Total for all current non-employee directors	482,090	215,216
Total for all other individuals who have received awards (excluding current executive officers and directors)	266,333	764,628
Total for all award recipients	887,778	2,454,376

Vote Required

The affirmative vote of a majority of votes cast by shareholders represented in person or by proxy at the Meeting is required to approve the proposal. All members of the Board and all of the Company's executive officers are eligible for awards under the 2015 Plan and thus have a personal interest in the approval of the proposed amendment to the 2015 Plan.

The Board recommends a vote "FOR" the proposal to approve the Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares.

PROPOSAL NO. 4 - ADVISORY VOTE ON EXECUTIVE COMPENSATION (SAY-ON-PAY)

In accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and Section 14A of the Exchange Act, the Company must provide its shareholders with the opportunity to vote to approve, on a non-binding advisory basis, the compensation of our named executive officers.

The Say-on-Pay vote is advisory in nature and it will not affect any compensation already paid or awarded to any named executive officer and will not be binding on or overrule any decisions by the Board. However, the Compensation Committee of the Board, which is comprised entirely of independent directors, values the opinions of our shareholders and will take into account the outcome of the vote when considering future executive compensation decisions. The advisory vote serves as an additional tool to guide the Board in continuing to align the Company's executive compensation program with the interests of the Company's shareholders and is consistent with its commitment to high standards of corporate governance. At the Annual Meeting of Shareholders held in February 2021, a 96.25% favorable vote on Say-On-Pay was received.

This vote is not intended to express a view on any specific element of compensation, but rather the overall named executive officer compensation and the related narrative disclosure as set forth below under "Executive Compensation". You are encouraged to carefully review these disclosures.

Vote Required

The affirmative vote of a majority of votes cast by shareholders represented in person or by proxy at the Meeting is required to approve the proposal.

The Board recommends a vote "FOR" to approve, on an advisory basis, the compensation of our named executive officers as disclosed in this proxy statement.

EXECUTIVE OFFICERS

The following sets forth certain information regarding our executive officers as of the Record Date.

Name	Age	Position with our Company
Patricia Trompeter	56	Chief Executive Officer and Director
Kurt L. Kalbfleisch	58	Senior Vice President, Chief Financial Officer, and Secretary

Patricia Trompeter is our Chief Executive Officer and a director. See the description of her business experience included in the Proposal No. 1 “Election of Directors” section of this Proxy Statement.

Kurt L. Kalbfleisch has served as Senior Vice President, Chief Financial Officer, and Secretary of the Company since December 1, 2014. Mr. Kalbfleisch also served as Chief Financial Officer of Overland Storage, Inc. (“**Overland**”) from February 2008 until his resignation from Overland on July 19, 2022. Previously, Mr. Kalbfleisch served in various other roles at Overland since July 2007, including Senior Vice President, Secretary and Vice President of Finance. Prior to joining Overland, he was a manufacturing budget analyst for McDonnell Douglas Corp. Mr. Kalbfleisch also served on the board of Paladin Group. Mr. Kalbfleisch holds a Bachelor of Arts in Business from Point Loma Nazarene University and a Master of Business Administration from the University of San Diego.

Executive officers serve at the pleasure of the Board. There are no arrangements or understandings between any executive officer and any other person pursuant to which such executive officer was or is to be selected as an executive officer. There are no family relationships between any executive officer, director or person nominated by us to become a director or executive officer.

EXECUTIVE COMPENSATION

For purposes of Executive Compensation, the Company’s named executive officers are determined under rules prescribed by the U.S. Securities and Exchange Commission and for smaller reporting companies such as us, generally include: (1) each individual who, at any time during the year, served as the company’s principal executive officer, (2) the company’s two most highly compensated executive officers other than the principal executive officer who were serving as executive officers at the end of the last completed fiscal year, and (3) up to two other individuals who served as executive officers during the year and are not serving as executive officers on the last day of the year.

For fiscal year 2023, our named executive officers were (i) Patricia Trompeter, Chief Executive Officer, (ii) Kurt L. Kalbfleisch, Senior Vice President and Chief Financial Officer, and (iii) Joseph L. O’Daniel, former President (referred to as our “**NEOs**”).

All share and per share amounts herein have been adjusted to give effect to the 1-for-7 reverse share consolidation (also known as reverse stock split) of the Company completed on June 28, 2023, which was approved by the Company’s shareholders on June 23, 2023.

Summary Compensation Table for Fiscal Year 2023

The following table sets forth the compensation for services rendered by the NEOs for the fiscal years ended December 31, 2023 and 2022.

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards(1) (\$)	Option Awards(1) (\$)	All Other Compensation(2) (\$)	Total Compensation (\$)
Patricia Trompeter ⁽³⁾ Chief Executive Officer	2023	350,000	635,000	400,455 (4)	—	36,872	1,422,327
	2022	254,423	400,000 (5)	1,181,649 (6)	1,113,000 (7)	29,678 (8)	2,978,750
Kurt L. Kalbfleisch ⁽⁹⁾ Senior Vice President, Chief Financial Officer and Secretary	2023	320,000	180,000	351,728 (10)	—	65,358	917,086
	2022	210,000	150,000	1,485,643 (11)	126,225 (12)	384,906 (13)	2,356,774
Joseph L. O'Daniel ⁽¹⁴⁾ Former President	2023	251,923	—	103,449 (15)	—	154,294 (16)	509,666
	2022	240,385	75,000	—	—	4,056	319,441

- (1) The amounts shown in this column represent the grant date fair value of the awards granted during fiscal year 2022 in accordance with relevant accounting principles and do not reflect compensation received by the NEO.
- (2) Unless otherwise footnoted, the amounts shown in the “All Other Compensation” column reflect amounts paid on the behalf of named executive officers’ for health insurance and life insurance premiums and certain out-of-pocket medical expenses.
- (3) Ms. Trompeter has served as Chief Executive Officer since April 5, 2022.
- (4) This amount is comprised of one restricted stock unit for 138,250 shares granted on February 28, 2023 and valued at \$2.90 per share on the grant date (the closing market price for a common share of the Company on that date).
- (5) Ms. Trompeter has deferred payment of \$75,000 for her fiscal year 2022 annual bonus.
- (6) This amount is comprised of three awards: (i) a restricted stock unit for 71,428 shares and a restricted stock unit for 22,142 shares, both granted on April 8, 2022 and valued at \$12.60 per share on the grant date (the closing market price for a common share of the Company on that date); and (ii) a restricted stock unit for 420 shares granted on June 10, 2022 and valued at \$6.30 per share on the grant date (the closing market price for a common share of the Company on that date).
- (7) This amount is comprised of one option for 107,142 shares with an exercise price of \$12.60 per share granted on April 8, 2022.
- (8) This amount includes \$13,049 received as a non-employee director prior to Ms. Trompeter’s appointment as Chief Executive Officer on April 5, 2022.
- (9) Mr. Kalbfleisch has served as the Company’s Senior Vice President, Chief Financial Officer and Secretary pursuant to a transition services agreement with Overland (the “**Transition Services Agreement**”) from November 2018 until July 19, 2022, at which time Mr. Kalbfleisch resigned from Overland, and on June 20, 2022 he signed an employment agreement with the Company.
- (10) This amount is comprised of one restricted stock unit for 121,428 shares granted on February 28, 2023 and valued at \$2.90 per share on the grant date.
- (11) This amount is comprised of two awards: (i) a restricted stock unit for 71,428 shares granted on April 5, 2022 and valued at \$17.71 per share on the grant date (the closing market price for a common share of the Company on that date); and (ii) a restricted stock unit for 46,428 shares granted on June 27, 2022 and valued at \$4.75 per share on the grant date (the closing market price for a common share of the Company on that date).
- (12) This amount is comprised of one option for 32,142 shares with an exercise price of \$4.75 per share granted on June 27, 2022.
- (13) This amount includes a one-time payment of \$360,000 for amounts owed to Mr. Kalbfleisch under his COC Agreement as described below under “Employment, Severance and Change in Control Agreements”.

(14) Mr. O’Daniel resigned as President of the Company on December 28, 2023.

(15) This amount is comprised of one restricted stock unit for 35,714 shares granted on February 28, 2023 and valued at \$2.90 per share on the grant date.

(16) This amount includes a stock award for 45,204 shares granted on December 29, 2023 and valued at \$150,077 or \$3.32 per share on the grant date (the closing market price for a common share of the Company on that date) for amounts owed to Mr. O’Daniel under his Payment Agreement dated December 28, 2023 as described below under “Employment, Severance and Change in Control Agreements”.

Outstanding Equity Awards at 2023 Fiscal Year-End

The following table provides information about the current holdings of stock and option awards by our NEOs at December 31, 2023.

Name	Option-based Awards				Stock Awards	
	Number of Securities Underlying Unexercised Options (#)		Option Exercise Price (\$)	Option Expiration Date	Number of Units of Stock Not Vested (#)	Market Value of Units of Stock Not Vested(1) (\$)
	Exercisable	Unexercisable				
Patricia Trompeter	53,571	53,571 (2)	12.60	4/8/2028	35,715 (3)	118,574
Kurt L. Kalbfleisch	16,071	16,071 (4)	4.75	6/27/2028	23,214 (5)	77,070
Joseph L. O’Daniel	—	—	—	—	—	—

(1) This column is based on the common share closing market price of \$3.32 as of December 29, 2023, the last trading day of the 2023 fiscal year.

(2) These options vest as follows: 21,428 vested on April 8, 2022; 32,143 vested on April 8, 2023; 26,786 vest on April 8, 2024, and 26,785 vest on April 8, 2025.

(3) This stock award vests as follows: 17,858 shares vest on April 8, 2024, and 17,857 shares vest on April 8, 2025.

(4) These options vest as follows: 6,428 vested on June 27, 2022; 9,643 vested on June 20, 2023; 8,036 vest on June 20, 2024, and 8,035 vest on June 20, 2025.

(5) This stock award vests as follows: 11,607 shares vest on June 20, 2024, and 11,607 shares vest on June 20, 2025.

Executive Officer Compensation

Our executive compensation programs are determined by the Compensation Committee, within the scope of the authority delegated to it by the Board and subject to applicable law. The goals of our program are to attract and retain highly qualified and experienced executives and to provide compensation opportunities that are linked to corporate and individual performance. Decisions by the Compensation Committee on our executive compensation programs are subjective and the result of our business judgment, which is informed by the experiences of the Compensation Committee members. The Compensation Committee may also utilize outside compensation consultants. During fiscal year 2023, the Compensation Committee utilized NFP Compensation Consultants (“NFP”) as its independent compensation consultant as described in more detail under “Corporate Governance – Compensation Committee” above.

The named executive officers do not have any role in determining their own compensation, although the Compensation Committee does consider the recommendations of the Chief Executive Officer in setting compensation levels for the named executive officers other than herself. The primary components of our executive compensation program are base salary, performance bonuses and long-term equity incentive awards.

Base Salaries. Base salaries are primarily intended to attract and retain highly qualified executives by providing them with fixed, predictable levels of compensation. Such base salaries are subject to periodic review and adjustment by the Compensation Committee.

Performance Bonuses. The Compensation Committee did not approve a bonus plan for fiscal year 2023.

Long-Term Equity Incentive Awards. Long-term equity incentives are intended to align the NEOs' interests with those of our shareholders as the ultimate value of these awards depends on the value of our common shares. We have historically granted equity awards in the form of stock options with an exercise price that is equal to the per-share closing market price of our common shares on the grant date. In recent years, restricted stock units have also been granted as provided for under our 2015 Plan. The Compensation Committee believes that stock options are an effective vehicle for aligning the interests of our executives with those of our shareholders as the executive will only realize value on their options if the share price increases during the period between the grant date and the date the stock option is exercised. The stock options and restricted stock units function as a retention incentive for the named executive officers as they typically vest over a multi-year period following the date of grant. Restricted stock units, which are payable in our common shares, also link the interests of the award recipient with those of our shareholders as the potential value of the award is directly linked to the value of our common shares. The NEOs' equity awards are subject to accelerated vesting in certain circumstances under their agreements with us are described below.

Employment, Severance, and Change in Control Agreements

Patricia Trompeter. Ms. Trompeter has served as our Chief Executive Officer since April 5, 2022. On April 8, 2022, we entered into an employment agreement with Ms. Trompeter (the "**Trompeter Employment Agreement**"). The Trompeter Employment Agreement is effective as of April 8, 2022 and had an initial one-year term which was automatically extended for an additional one-year period and will continue to automatically extend for an additional one-year periods thereafter, unless terminated by either party within 90 days prior to the renewal date.

Under the Trompeter Employment Agreement, we will pay Ms. Trompeter an annual base salary of \$350,000. At the discretion of the Board, Ms. Trompeter will be eligible to receive an annual bonus up to 100% of her base salary. The Board may also determine to issue Ms. Trompeter additional restricted stock units based upon the achievement of certain performance and financial thresholds. Ms. Trompeter is also entitled to health insurance benefits and to participate in any employee benefit plans, life insurance plans, disability income plans, retirement plans, expense reimbursement plans and other benefit plans that we may from time to time have in effect for any of our executive management employees.

Upon the closing of a Change of Control of the Company (as defined in the Trompeter Employment Agreement), Ms. Trompeter shall receive a percentage ranging from 2.0% to 3.0% of the consideration received by the Company's common shareholders based upon the amount of the transaction.

All compensation and unvested benefits payable under the Trompeter Employment Agreement shall terminate on the date of the termination of Ms. Trompeter's employment, unless Ms. Trompeter's employment is terminated by us without cause or by Ms. Trompeter for good reason, each as defined in the Trompeter Employment Agreement, or as a result of a material breach by us of any of our obligations under the Trompeter Employment Agreement or any other agreement to which the Company and Ms. Trompeter are parties, in which case Ms. Trompeter shall be entitled to (i) continued payment of her base salary at the rate and schedule then in effect for a period of six months after the date of termination, with an additional month of severance to be added for every completed year of service as Chief Executive Officer; (ii) continued health and life insurance benefits ("**Benefits**") for six months after the date of termination, with an additional month of Benefits to be added for every completed year of service as Chief Executive Officer; and (iii) any unvested stock options and restricted stock units shall vest on the day immediately prior to the termination date.

Pursuant to the Trompeter Employment Agreement, in April 2022, Ms. Trompeter received (i) 22,142 fully vested common shares valued at \$279,000 based upon the common share closing market price of \$12.60 on April 8, 2022; 71,428 restricted stock units valued at \$900,000 based upon the common share closing market price of \$12.60 on April 8, 2022, of which 20% of the shares vested on April 8, 2022, 30% of the shares vested on the April 8, 2023, 25% of the shares vest on April 8, 2024 and 25% of the shares vest on April 8, 2025; and (ii) 107,142 stock options to purchase common shares of the Company, 20% of which vested on April 8, 2022; 30% of which vested on April 8, 2023, 25% of which vest on April 8, 2024 and 25% of which vest on April 8, 2025. The stock options have an exercise price of \$12.60 and expire on April 8, 2028. In the event of a change of control of the Company (as defined in the Trompeter Employment Agreement), 60% of any unvested restricted stock units and 60% of any unvested stock options will immediately vest as of the day immediately prior to the change of control. Ms. Trompeter also received compensation for her service on the Board, prior to her appointment as Chief Executive Officer, described below under the section entitled "Compensation of Directors."

In December 2022, the Board approved a \$100,000 bonus for Ms. Trompeter in recognition of successful ongoing restructuring efforts, payable 50% immediately and 50% on such date that a financing is completed in an amount to be determined by the Chairman of the Board as reasonable. In March 2023, Ms. Trompeter satisfied the conditions previously determined by the Board for such bonus and was paid \$50,000.

In January 2023, the Board approved a fiscal year 2022 annual bonus for Ms. Trompeter in the amount of \$350,000. Ms. Trompeter has deferred payment of \$75,000 for the fiscal year 2022 bonus. In February 2023, Ms. Trompeter received 138,250 restricted stock units of the Company valued at \$400,455 based upon the common share price of \$2.90 on February 28, 2023, of which 20% of the shares vested on May 22, 2023 and 80% of the shares vested on December 1, 2023.

On January 15, 2024, at the recommendation of NFP, the Compensation Committee's independent compensation consultant, the Company entered into a new employment agreement with Ms. Trompeter (the "**New Employment Agreement**"), which replaces the Trompeter Employment Agreement. Under the New Employment Agreement, the Company will pay Ms. Trompeter an annual base salary of \$450,000. At the discretion of the Board, Ms. Trompeter will be eligible to receive an annual discretionary bonus up to 150% of her base salary and additional restricted stock units based upon the achievement of certain performance and financial thresholds to be determined by the Board. Ms. Trompeter is also entitled to health insurance benefits and to participate in any employee benefit plans, life insurance plans, disability income plans, retirement plans, expense reimbursement plans and other benefit plans that we may from time to time have in effect for any of our executive management employees. On March 18, 2024, the New Employment Agreement was amended to reduce Ms. Trompeter's base salary to \$350,000 with the balance to be accrued and payable upon written request of Ms. Trompeter.

Upon the occurrence of a Change of Control (as defined in the New Employment Agreement), or if the Change of Control occurs within eight months after the termination of Ms. Trompeter's employment by us without Cause or by Ms. Trompeter for Good Reason (each as defined in the New Employment Agreement), Ms. Trompeter shall be entitled to receive from 1.5 to 2 times her base salary and bonus depending on the transaction value ranging from \$20 million to \$65 million. Any unvested equity awards will vest from 25% to 100% depending on the transaction value ranging from \$20 million to \$65 million.

All compensation and unvested benefits payable under the New Employment Agreement shall terminate on the date of the termination of Ms. Trompeter's employment, unless Ms. Trompeter's employment is terminated by us without cause or by Ms. Trompeter for good reason, each as defined in the New Employment Agreement, or as a result of a material breach by us of any of our obligations under the New Employment Agreement or any other agreement to which the Company and Ms. Trompeter are parties, in which case Ms. Trompeter shall be entitled to (i) continued payment of her base salary at the rate and schedule then in effect for a period of 18 months after the date of termination; and (ii) continued Benefits for 12 months after the date of termination, with an additional month of Benefits to be added for every completed year of service as Chief Executive Officer or if no Company health insurance plan exists, continuation of reimbursement of Ms. Trompeter's costs for the aforementioned benefit for a period of 12 months, subject to a maximum reimbursement to Ms. Trompeter of \$25,000.

Under the New Employment Agreement, on January 15, 2024, Ms. Trompeter received 1,000,000 restricted stock units, valued at \$1,930,000 based upon the common share price on the date of grant of \$1.93, 25% of which vested on January 15, 2024, and the remaining which vest in equal quarterly installments beginning March 30, 2024 and ending December 31, 2025. Ms. Trompeter has deferred the vesting of the first tranche of restricted stock units.

In March 2024, the Board approved a fiscal year 2023 annual bonus for Ms. Trompeter in the amount of \$585,000.

Kurt L. Kalbfleisch. From November 2018 to June 2022, Mr. Kalbfleisch served as our Senior Vice President, Chief Financial Officer and Secretary under a Transition Services Agreement with Overland. As a result of the sale of a subsidiary of the Company in November 2018, Mr. Kalbfleisch ceased to be employed by the Company, and such change of control transaction triggered the right of Mr. Kalbfleisch to receive a payment in the amount of \$360,000 (reduced from the original entitlement of \$450,000) (the “**COC Payment**”) from the Company pursuant to an employment agreement with the Company in effect at the time of the sale. In August 2019, we entered into a change of control agreement with Mr. Kalbfleisch (the “**COC Agreement**”) which provides that if Mr. Kalbfleisch is providing services to us at the time of a change of control, Mr. Kalbfleisch shall be entitled, in his sole discretion, to provide written notice to us at any time within 30 days of receiving written notice of such event, to receive the COC Payment. The COC Agreement also provides that if (i) we terminate Mr. Kalbfleisch’s services without cause or Mr. Kalbfleisch terminates his services with us for good reason or (ii) Mr. Kalbfleisch becomes unable to provide services to us, either due to prolonged sickness, permanent disability or death, we shall pay Mr. Kalbfleisch the COC Payment. The COC Payment was paid to Mr. Kalbfleisch by the Company in June 2022 as set forth below.

Beginning in April 2020 and ending in June 2022, Mr. Kalbfleisch’s salary was supplemented under the Transition Services Agreement in an amount equal to \$100,000 per year.

In December 2021, the Board approved a discretionary bonus for Mr. Kalbfleisch in the amount of \$100,000 to recognize his work effort and success related to various financing transactions, debt restructuring and other corporate matters.

In April 2022, the Board approved a discretionary stock award for Mr. Kalbfleisch in the amount of 71,428 restricted stock units valued at approximately \$1.3 million based upon the common share closing market price of \$17.71 on April 5, 2022. The restricted stock units vested in full on April 12, 2022.

In June 2022, we entered into an employment agreement with Mr. Kalbfleisch (the “**Kalbfleisch Employment Agreement**”). Pursuant to the Employment Agreement, Mr. Kalbfleisch will continue to serve in his capacity as Chief Financial Officer. The Kalbfleisch Employment Agreement is effective as of June 20, 2022 and had an initial one-year term, which was automatically extended for an additional one-year period and will continue to automatically extend for additional one-year periods thereafter, unless terminated by either party within 90 days prior to the renewal date.

Under the Kalbfleisch Employment Agreement, we will pay Mr. Kalbfleisch an annual base salary of \$320,000. In addition, in consideration of amounts owed to Mr. Kalbfleisch under the COC Agreement, Mr. Kalbfleisch also received a one-time cash payment equal to \$360,000. At the discretion of the Company’s Chief Executive Officer, Mr. Kalbfleisch is eligible to receive an annual bonus up to 75% of his base salary, payable in U.S. dollar or Bitcoin at the Chief Executive Officer’s discretion. The Chief Executive Officer may also determine to issue Mr. Kalbfleisch additional restricted stock units based upon the achievement of certain performance and financial thresholds to be determined by the Chief Executive Officer, subject to approval by the Board.

Mr. Kalbfleisch is also entitled to health insurance benefits and to participate in any employee benefit plans, life insurance plans, disability income plans, retirement plans, expense reimbursement plans and other benefit plans that we may from time to time have in effect for any of its executive management employees.

Upon the closing of a Change of Control of the Company (as defined in the Kalbfleisch Employment Agreement), Mr. Kalbfleisch shall receive a percentage ranging from 0.1% to 0.7% of the consideration received by our common shareholders based upon the amount of the transaction.

All compensation and unvested benefits payable under the Kalbfleisch Employment Agreement shall terminate on the date of the termination of Mr. Kalbfleisch’s employment, unless Mr. Kalbfleisch’s employment is terminated by us without cause or by Mr. Kalbfleisch for good reason, each as defined in the Kalbfleisch Employment Agreement, or as a result of a material breach by us of any of our obligations under the Kalbfleisch Employment Agreement or any other agreement to which the Company and Mr. Kalbfleisch are parties, in which case Mr. Kalbfleisch shall be entitled to (i) continued payment of his base salary at the rate and schedule then in effect for a period of six months after the date of termination, with an additional month of severance to be added for every completed year of service as Chief Financial Officer plus a pro-rated portion of his bonus; (ii) continued health and life insurance benefits for eight months after the date of termination; (iii) any unvested stock options and restricted stock units shall vest on the day immediately prior to the termination date; and (iv) if such termination, or expiration of the term of the Kalbfleisch Employment Agreement, occurs less than 60 days prior to a change of control, we will remain obligated to compensate Mr. Kalbfleisch for any other

payments due under a change of control. Pursuant to the Kalbfleisch Employment Agreement, on June 27, 2022, Mr. Kalbfleisch received (i) 46,428 restricted stock units of the Company valued at approximately \$221,000 based upon the common share closing market price of \$4.75 on June 27, 2022, of which 20% of the shares vested on August 18, 2022, 30% of the shares vested on June 20, 2023, 25% of the shares vest on June 20, 2024, and 25% of the shares vest on June 20, 2025 and (ii) 32,142 stock options to purchase common shares of the Company, 20% of which vested on June 27, 2022, 30% of which vested on June 20, 2023, 25% of which vest on June 20, 2024 and 25% of which vest on June 20, 2025. The stock options have an exercise price of \$4.75 and expire on June 27, 2028. In the event of a change of control of the Company (as defined in the Kalbfleisch Employment Agreement), 50% of any unvested restricted stock units and 50% of any unvested stock options will immediately vest as of the day immediately prior to the change of control.

In January 2023, the Board approved a fiscal year 2022 annual bonus for Mr. Kalbfleisch in the amount of \$150,000, which was paid in March 2023.

In February 2023, Mr. Kalbfleisch received 121,428 restricted stock units of the Company valued at \$351,728 based upon the common share price of \$2.90 on February 28, 2023, of which 20% of the shares vested on May 22, 2023 and 80% of the shares vested on December 1, 2023.

In March 2024, the Board approved a fiscal year 2023 annual bonus for Mr. Kalbfleisch in the amount of \$180,000.

On March 27, 2024, the Company entered into a new employment agreement with Mr. Kalbfleisch (the “**New Kalbfleisch Employment Agreement**”), which replaces the Kalbfleisch Employment Agreement. Under the New Kalbfleisch Employment Agreement, the Company will pay Mr. Kalbfleisch an annual base salary of \$320,000. At the discretion of the Company’s Chief Executive Officer, Mr. Kalbfleisch will be eligible to receive an annual discretionary bonus up to 75% of his base salary and additional restricted stock units based upon the achievement of certain performance and financial thresholds to be determined by the Company’s Chief Executive Officer and approved by the Board. Mr. Kalbfleisch is also entitled to health insurance benefits and to participate in any employee benefit plans, life insurance plans, disability income plans, retirement plans, expense reimbursement plans and other benefit plans that we may from time to time have in effect for any of our executive management employees.

All compensation and unvested benefits payable under the New Kalbfleisch Employment Agreement shall terminate on the date of the termination of Mr. Kalbfleisch’s employment, unless Mr. Kalbfleisch’s employment is terminated by us without cause or by Mr. Kalbfleisch for good reason, each as defined in the New Kalbfleisch Employment Agreement, or as a result of a material breach by us of any of our obligations under the New Kalbfleisch Employment Agreement or any other agreement to which the Company and Mr. Kalbfleisch are parties, in which case Mr. Kalbfleisch shall be entitled to (i) continued payment of his base salary at the rate and schedule then in effect for a period of 18 months after the date of termination; (ii) 50% of his target bonus for a period of 18 months; (iii) continued Benefits for eight months after the date of termination, with an additional month of Benefits to be added for every completed year of service as Chief Financial Officer or if no Company health insurance plan exists, continuation of reimbursement of Mr. Kalbfleisch’s costs for the Benefits for a period of eight months, subject to a maximum reimbursement to Mr. Kalbfleisch of \$25,000; and (iv) the immediate vesting of any outstanding unvested stock options or stock awards.

Upon the occurrence of a Change of Control (as defined in the New Kalbfleisch Employment Agreement) that results in Mr. Kalbfleisch’s termination, Mr. Kalbfleisch shall help transition his duties for a three-month period following his termination date if requested by the Company.

Under the New Kalbfleisch Employment Agreement, on March 27, 2024, Mr. Kalbfleisch received 125,000 restricted stock units, valued at \$170,000 based upon the common share price on the date of grant of \$1.36, 25% of which vested on March 27, 2024, and the remaining which vest in equal quarterly installments beginning June 30, 2024 and ending January 31, 2026. Mr. Kalbfleisch has deferred the vesting of the first tranche of restricted stock units.

Joseph L. O’Daniel. From November 2018 until December 2023, Mr. O’Daniel served as our President. Mr. O’Daniel resigned from the Company on December 28, 2023 when he acquired HVE Inc., a wholly-owned subsidiary of the Company. Prior to Mr. O’Daniel’s resignation, he was an at-will employee and his employment could be terminated by us for any reason, with or without notice. On June 13, 2022, Mr. O’Daniel’s annual salary was increased from \$200,000 to \$275,000 per year. Mr. O’Daniel was eligible to receive an annual bonus based upon the achievement of financial and management objectives reasonably established by the Board or an authorized committee of the Board. Mr. O’Daniel’s annual bonus target was 100% of the greater of \$200,000 or his base salary as of the end of the applicable fiscal quarter or year in which the bonus is earned. Upon his joining us in January 2017, we entered into an offer letter with Mr. O’Daniel that provided for him to be paid a retention bonus in the amount of \$700,442 if he continued employment with us through January 12, 2018. In February 2018, Mr. O’Daniel received an award of fully vested common shares in lieu of cash for a portion of the retention bonus leaving an outstanding balance of \$533,802, which amount is due and payable to Mr. O’Daniel under certain circumstances. In September 2019, the Company and Mr. O’Daniel entered into a retention agreement (the “**Retention Agreement**”) with respect to the outstanding portion of the retention bonus (“**Outstanding Retention Bonus**”). Under the Retention Agreement, in the event of a change of control of the Company and provided no payment has been made under (i), (ii) or (iii) below, Mr. O’Daniel was entitled, in his sole discretion, to provide written notice to the Company at any time within 30 days of such event, to receive an amount equal to the Outstanding Retention Bonus. The Retention Agreement also provided that Mr. O’Daniel was entitled to the Outstanding Retention Bonus if (i) he became unable to provide services to the Company, either due to prolonged sickness, permanent disability or death, or (ii) the Company terminated him without cause, or (iii) he resigned for good reason.

In 2022 and 2021, Mr. O’Daniel received discretionary bonuses in the amounts of \$25,000 and \$136,500, respectively.

In January 2023, the Board approved a fiscal year 2022 annual bonus for Mr. O’Daniel in the amount of \$50,000, which was paid in March 2023.

In February 2023, Mr. O’Daniel received 35,714 restricted stock units of the Company valued at \$103,450 based upon the common share price of \$2.90 on February 28, 2023, of which 20% of the shares vested on May 22, 2023 and 80% of the shares vested on December 1, 2023.

On December 28, 2023, in connection with Mr. O’Daniel’s resignation from the Company, Mr. O’Daniel entered into a payment agreement with the Company in place of the Retention Agreement described above, which instead entitles Mr. O’Daniel to \$400,000 in a combination of cash and common shares of the Company, to be paid in three installments. (the “**Payment Agreement**”). Pursuant to the Payment Agreement, on December 29, 2023, Mr. O’Daniel received the first installment in the form of a fully vested stock award for 45,204 common shares of the Company valued at \$150,077 based upon the common share closing market price of \$3.32 on December 29, 2023. Pursuant to the Payment Agreement, the remaining balance of \$250,000 shall be paid in two equal installments of \$125,000, in cash or common shares at the discretion of the Company, on or about March 31, 2024 and June 30, 2024.

Securities Authorized for Issuance Under Equity Compensation Plans

For more information on the Company’s equity compensation plans, please see “Equity Compensation Plan Information” and “Summary Description of the Amended and Restated 2015 Performance Incentive Plan” under the “Amended and Restated 2015 Performance Incentive Plan” proposal.

Pay Versus Performance

The following summarizes the relationship between our CEO, and our other Named Executive Officers', total compensation paid and our financial performance for the years shown in the table (in this discussion, our CEO is also referred to as our principal executive officer or "PEO", and our Named Executive Officers other than our CEO are referred to as our "Non-PEO NEOs"):

Year(1)	Summary Compensation Table Total for PEO(2)	Compensation Actually Paid to PEO(3)	Average Summary Compensation Table Total for Non-PEO NEO(2)	Average Compensation Actually Paid to Non-PEO NEO(3)	Value of Initial Fixed \$100 Investment Based On Total Shareholder Return(4)	Net Loss(5) (in thousands)
2023	\$1,422,327	\$1,328,371	\$713,376	\$602,077	\$172	\$(23,330)
2022	\$2,978,750	\$1,000,643	\$1,338,108	\$791,809	\$9	\$(192,912)
2021	—	—	\$270,328	\$270,328	\$218	\$(17,289)

- (1) During the fiscal years ended December 31, 2023, 2022 and 2021, the Non-PEO NEOs were Kurt L. Kalbfleisch and Joseph L. O'Daniel.
- (2) See the Summary Compensation Table above for detail on the Summary Compensation Table total compensation for our CEO and the Non-PEO NEOs for each fiscal year covered in the table. The total compensation for our CEO and the average compensation for the Non-PEO NEOs for 2021 was calculated from the Summary Compensation Table as disclosed in our proxy statement filed with the Securities and Exchange Commission in calendar year 2022.
- (3) For purposes of this table, compensation actually paid (Compensation Actually Paid, or "CAP") to each of our NEOs (including for purposes of this table, former named executive officers who are included in the Non-PEO NEO group for the applicable year) means the NEOs' total compensation as reflected in the Summary Compensation Table for the applicable year less the grant date fair values of stock awards and option awards included in the "Stock Awards" and "Option Awards" columns of the Summary Compensation Table for the Named Executive Officer for the applicable year.
- (4) Total Shareholder Return ("TSR") illustrates the value, as of the last day of the indicated fiscal year, of a hypothetical investment of \$100 in the Company's common shares on the last trading day of the year. TSR is calculated by dividing the sum of the cumulative amount of dividends for the fiscal year, assuming dividend reinvestment, and the difference between the Company's share price at the end and the beginning of the fiscal year, by the Company's common share price at the beginning of the measurement period.
- (5) Represents the net loss reflected in our consolidated audited financial statements for the applicable year.

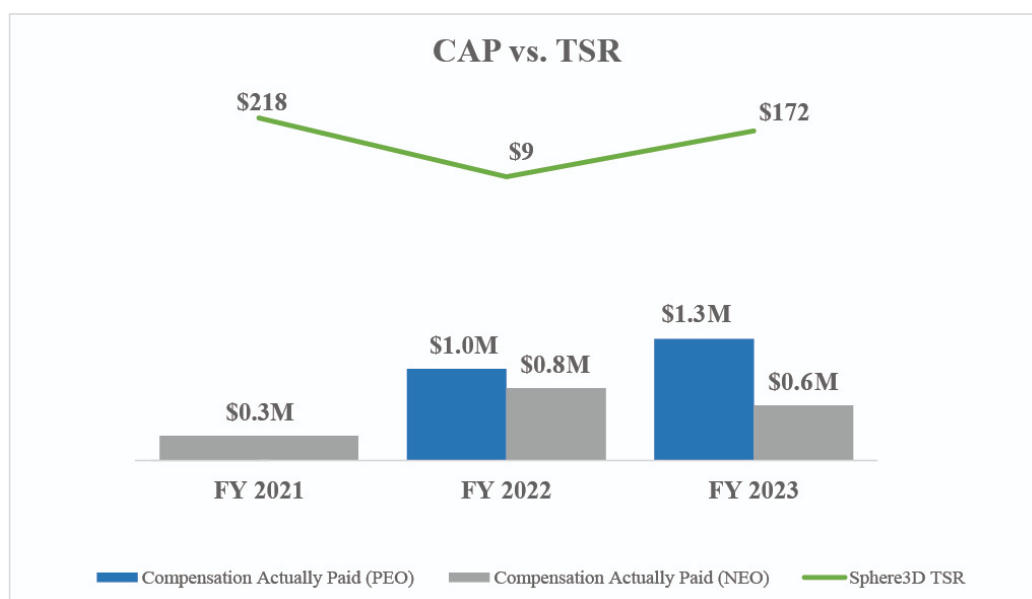
The following table represents the CAP calculation for the PEO and the Non-PEO NEOs for the years ended December 31, 2023, 2022 and 2021.

Named Executive Officer	Fiscal Year	Summary Compensation Table Total	Reported Value of Equity Awards(1)	Equity Award Adjustments(2)	Compensation Actually Paid
PEO	2023	\$ 1,422,327	\$ 400,455	\$ (93,956)	\$ 1,328,371
	2022	\$ 2,978,750	\$ 2,294,649	\$ (1,978,107) (4)	\$ 1,000,643
	2021	\$ —	\$ —	\$ —	\$ —
Non-PEO NEOs ⁽³⁾	2023	\$ 713,376	\$ 227,589	\$ (111,299)	\$ 602,077
	2022	\$ 1,338,108	\$ 805,934	\$ (546,299) (4)	\$ 791,809
	2021	\$ 270,328	\$ —	\$ —	\$ 270,328

- (1) Grant date fair value of option and stock awards granted in the fiscal year.
- (2) The equity award adjustments for each applicable year include the addition (or subtraction, as applicable) of the following: (i) the year-end fair value of any equity awards granted in the applicable year that are outstanding and unvested as of the end of the year; (ii) the amount of change as of the end of the applicable year (from the end of the prior fiscal year) in fair value of any awards granted in prior years that are outstanding and unvested as of the end of the applicable year; (iii) for awards that are granted and vest in same applicable year, the fair value as of the vesting date; and (iv) for awards granted in prior years that vest in the applicable year, the amount equal to the change as of the vesting date (from the end of the prior fiscal year) in fair value.
- (3) Amounts shown for Non-PEO NEOs represent average compensation and average equity award value and adjustments.
- (4) This amount has been adjusted to reflect a revision to the fair value of the outstanding stock options at December 31, 2022.

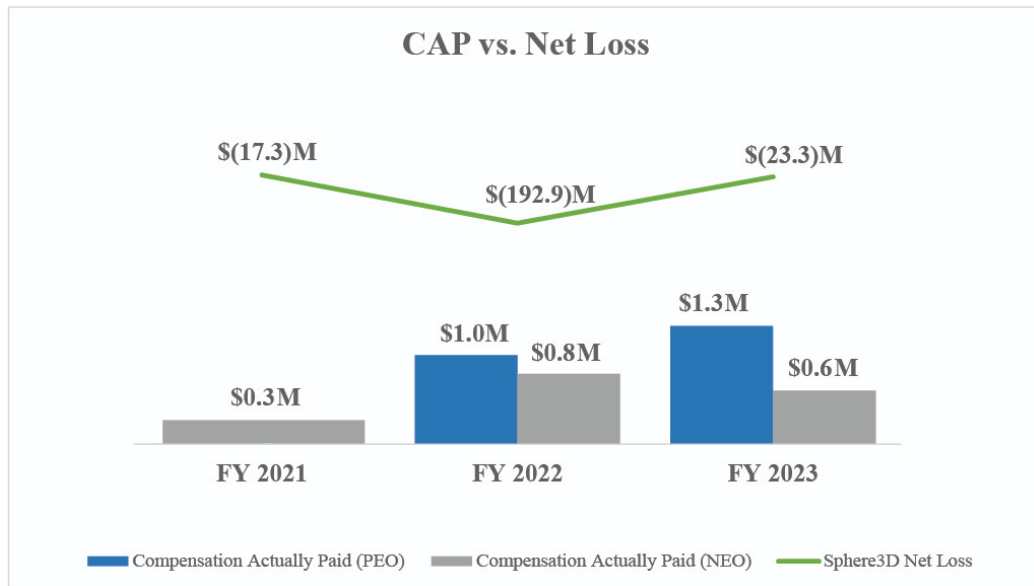
Compensation Actually Paid and Company TSR

The following chart sets forth the relationship between Compensation Actually Paid to our PEO, the average of Compensation Actually Paid to our Non-PEO NEOs, and the Company's TSR over the fiscal three-year period from January 1, 2021 through December 31, 2023.



Compensation Actually Paid and Net Loss

The following chart sets forth the relationship between Compensation Actually Paid to our Current PEO, the average of Compensation Actually Paid to our Non-PEO NEOs, and the Company's net loss over the fiscal three-year period from January 1, 2021 through December 31, 2023.



The graphical disclosures above reveal an increase to Compensation Actually Paid to both the Company's PEO and Non-PEO NEOs from 2021 to 2023. The increase to Compensation Actually Paid was due to the following: i) the Company experienced a CEO transition during 2022 and ii) adopted a long-term incentive program as part of the Company's overall executive compensation package offering to executives. In addition to the points above, the Company is an early-stage company, that has had limited revenue during the periods presented, and has incurred operating losses since inception. In more recent history, significant downward shifts in crypto pricing have also negatively impacted the Company's bottom line. Consequently, we do not believe there is any meaningful relationship between our TSR and Compensation Actually Paid to our NEOs during the periods presented, nor any meaningful relationship between our net loss and Compensation Actually Paid to our NEOs during the periods presented.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information known to the Company regarding the beneficial ownership of its common shares as of March 26, 2024 by (i) each shareholder known to the Company to beneficially own more than 5% of its common shares; (ii) each director; (iii) each executive officer named in the Summary Compensation Table above; and (iv) all current directors and executive officers of the Company as a group.

Beneficial ownership of shares is determined in accordance with the rules of the SEC and generally includes any shares over which a person exercises sole or shared voting or investment power. Except as indicated by footnote and subject to community property laws where applicable, to the Company's knowledge, the persons named in the table below will have sole voting and investment power with respect to all common shares shown as beneficially owned by them. Unless otherwise indicated, the address for each holder listed below is c/o Sphere 3D Corp., 243 Tresser Boulevard, 17th Floor, Stamford, CT 06901.

Name	Number of Common Shares(1)		Beneficial Ownership(2)
Patricia Trompeter	570,043	(3)	3.1%
Kurt L. Kalbfleisch	88,294	(4)	*
Joseph L. O'Daniel	1,517		*
David Danziger	60,470	(5)	*
Timothy Hanley	63,654	(6)	*
Susan S. Harnett	46,082		*
Duncan McEwan	83,034	(7)	*
Vivekanand Mahadevan	82,975	(7)	*
All current directors and executive officers as a group (7 persons)	994,552	(8)	5.4%

* Less than 1%

- (1) These amounts include common shares, which could be acquired upon exercise or vesting of outstanding convertible securities within 60 days.
- (2) Based on 17,796,326 common shares outstanding as of March 26, 2024.
- (3) These shares include the right to: (i) 250,000 shares upon the release of vested restricted stock units; 17,858 shares upon vesting of restricted stock units on April 8, 2024 and 93,750 shares upon vesting of restricted stock units on March 31, 2024; and (ii) acquire shares upon exercise of 80,356 stock options.
- (4) These shares include the right to acquire shares upon exercise of 16,071 stock options.
- (5) These shares include the right to acquire shares upon exercise of 60,470 stock options.
- (6) These shares include the right to acquire shares upon exercise of 17,572 stock options.
- (7) These shares include the right to acquire shares upon exercise of 78,949 stock options.
- (8) These shares include the right to shares upon vesting of restricted stock units and the right to acquire shares upon exercise of stock options as described in footnotes 3 through 8 above.

INDEBTEDNESS OF DIRECTORS AND EXECUTIVE OFFICERS

As at the date hereof, no director, executive officer, senior officer, employee, proposed director or former director, executive officer, senior officer or employee of the Company or any of its subsidiaries or any associate of any of the foregoing persons is or has been, at any time since the beginning of the most recently completed financial year of the Company, indebted to the Company or its subsidiaries, nor at any time since the beginning of the most recently completed financial year of the Company has any indebtedness of any such person been the subject of a guarantee, support agreement, letter of credit or other similar arrangement or understanding provided by the Company or any of its subsidiaries.

DIRECTORS' AND OFFICERS' LIABILITY INSURANCE

The Company has directors' and officers' liability insurance for the benefit of the directors and officers of the Company in the aggregate amount of \$10.0 million for the year ended December 31, 2023, consisting of: (i) a primary Side A policy of \$2.5 million, having a deductible/retention amount of nil for each Side A claim, for a total annual premium of \$460,000 and (ii) three Side A excess policies for a total of \$7.5 million (\$2.5 million limit each policy \$312,500 first excess layer, \$296,400 second excess layer and \$215,650 third excess layer), for a total annual premium of \$1,244,550.

INTEREST OF CERTAIN PERSONS IN MATTERS TO BE ACTED UPON

Except as disclosed in this Proxy Statement, the directors of the Company are not aware of any material interest, direct or indirect, of any person who has been a director or executive officer of the Company at any time since the beginning of the Company's last completed financial year, or any associate or affiliate of any of the foregoing persons, in any matter to be acted upon at the Meeting. All directors and officers may be awarded incentive compensation under the Company's equity incentive plans in accordance with the terms of those plans.

INTEREST OF INFORMED PERSONS IN MATERIAL TRANSACTIONS

Except as described below or otherwise disclosed in this Proxy Statement, neither the Company, nor any director or officer of the Company, nor any shareholder beneficially owning or exercising control over 10% or more of the voting securities, nor any associate or affiliate of any one of them, has or has had, at any time since the commencement of the Company's last completed financial year, any material interest, direct or indirect, in any transaction or proposed transaction that has materially affected or would materially affect the Company or any of its subsidiaries.

OTHER MATTERS TO BE ACTED UPON

There are no other matters to be considered at the Meeting which are known to the directors or executive officers of the Company at this time. However, if any other matters properly come before the Meeting, it is the intention of the persons named in the form of proxy accompanying this Proxy Statement to vote the same in accordance with their best judgment of such matters exercising discretionary authority with respect to amendments or variations of matters identified in the Notice of Meeting, and other matters which may properly come before the Meeting or any adjournment thereof.

ADDITIONAL INFORMATION

Additional information relating to the Company may be found on SEDAR at www.sedar.com, EDGAR at www.sec.gov and, you may refer to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023, which was filed with the SEC on March 13, 2024 and available on-line with the other proxy related materials or accompanies this Proxy Statement, if requested.

Any material change report (except confidential material change reports) filed by the Company with applicable securities commissions or similar authorities in Canada under the Company's issuer profile on SEDAR at www.sedar.com from the date of this Proxy Statement until the date of the Meeting is also incorporated by reference herein.

You may obtain copies, without charge, of documents incorporated by reference in this Proxy Statement, by requesting them in writing at 243 Tresser Boulevard, 17th Floor, Stamford, CT 06901.

Approval by the Board of Directors

The Board has approved the content and delivery of this Proxy Statement.

DATED as of the 5th day of April 2024.

BY ORDER OF THE BOARD



Duncan McEwan
Chairman of the Board

APPENDIX A

SPHERE 3D CORP.

FORM OF SECOND AMENDED AND RESTATED 2015 PERFORMANCE INCENTIVE PLAN

1. PURPOSE OF PLAN

The purpose of this Sphere 3D Corp. Second Amended and Restated 2015 Performance Incentive Plan (this “**Plan**”) of Sphere 3D Corp., a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), is to promote the success of the Corporation and to increase shareholder value by providing an additional means through the grant of awards to attract, motivate, retain and reward selected employees and other eligible persons.

This Plan is amended and restated as set forth herein, effective _____, 2024. This Plan applies only to awards granted hereunder on or after such date. For the terms and conditions of awards granted under this Plan prior to such date, refer to the version of this Plan in effect as of the grant date of the applicable award.

2. ELIGIBILITY

The Administrator (as such term is defined in Section 3.1) may grant awards under this Plan only to those persons that the Administrator determines to be Eligible Persons. An “**Eligible Person**” is any person who is either: (a) an officer (whether or not a director) or employee of the Corporation or one of its Subsidiaries; (b) a director of the Corporation or one of its Subsidiaries; or (c) an individual consultant or advisor who renders or has rendered bona fide services (other than services in connection with the offering or sale of securities of the Corporation or one of its Subsidiaries in a capital-raising transaction or as a market maker or promoter of securities of the Corporation or one of its Subsidiaries) to the Corporation or one of its Subsidiaries and who is selected to participate in this Plan by the Administrator; provided, however, that a person who is otherwise an Eligible Person under clause (c) above may participate in this Plan only if such participation would not adversely affect either the Corporation’s eligibility to use Form S-8 to register under the Securities Act of 1933, as amended (the “**Securities Act**”), the offering and sale of shares issuable under this Plan by the Corporation, the Corporation’s ability to rely on all necessary prospectus and other exemptions under Canadian securities legislation in a manner satisfactory to the Corporation, in its sole discretion, or the Corporation’s compliance with any other applicable laws. An Eligible Person who has been granted an award (a “participant”) may, if otherwise eligible, be granted additional awards if the Administrator shall so determine. As used herein, subject to any applicable laws that may require a different interpretation, “**Subsidiary**” means any corporation or other entity a majority of whose outstanding voting stock or voting power is beneficially owned directly or indirectly by the Corporation; and “**Board**” means the Board of Directors of the Corporation.

3. PLAN ADMINISTRATION

- 3.1 *The Administrator.*** This Plan shall be administered by and all awards under this Plan shall be authorized by the Administrator. The “**Administrator**” means the Board or one or more committees appointed by the Board or another committee (within its delegated authority and in the manner and on the terms authorized by the Board) to administer all or certain aspects of this Plan. Any such committee shall be comprised solely of one or more directors or such number of directors as may be required under applicable law. A committee may delegate some or all of its authority to another committee so constituted, to the extent permitted by applicable laws. The Board or a committee comprised solely of directors may also delegate, to the extent permitted by applicable law, to one or more officers of the Corporation, its powers under this Plan (a) to designate the officers and employees of the Corporation and its Subsidiaries who will receive grants of awards under this Plan, and (b) to determine the number of shares subject to, and the other terms and conditions of, such awards. The Board may delegate different levels of authority to different committees with administrative and grant authority under this Plan. Unless otherwise provided in the Bylaws of the Corporation or the applicable charter of any Administrator: (a) a majority of the members of the acting Administrator shall constitute a quorum, and (b) the vote of a majority of the members present assuming the presence of a quorum or the unanimous written consent of the members of the Administrator shall constitute action by the acting Administrator.
- 3.2 *Powers of the Administrator.*** Subject to the express provisions of this Plan and applicable laws, the Administrator is authorized and empowered to do all things necessary or desirable in connection with the authorization of awards and the administration of this Plan (in the case of a committee or delegation to one or more officers, within the authority delegated to that committee or person(s) and in the manner and on the terms authorized by the Board), including, without limitation, the authority to:
- (a) determine eligibility and, from among those persons determined to be eligible, the particular Eligible Persons who will receive an award under this Plan;
 - (b) grant awards to Eligible Persons, determine the price at which securities will be offered or awarded and the number of securities to be offered or awarded to any of such persons, determine the other specific terms and conditions of such awards consistent with the express limits of this Plan, establish the installments (if any) in which such awards shall become exercisable or shall vest (which may include, without limitation, performance and/or time-based schedules), or determine that no delayed exercisability or vesting is required, establish any applicable performance targets, determine the extent (if any) to which any applicable exercise and vesting requirements have been satisfied, and establish the events of termination or reversion of such awards;
 - (c) approve the forms of award agreements (which need not be identical either as to type of award or among participants);
 - (d) construe and interpret this Plan and any agreements defining the rights and obligations of the Corporation, its Subsidiaries, and participants under this Plan, make any and all determinations necessary under this Plan and any such agreements, further define the terms used in this Plan, and prescribe, amend and rescind rules and regulations relating to the administration of this Plan or the awards granted under this Plan;
 - (e) cancel, modify, or waive the Corporation’s rights with respect to, or modify, discontinue, suspend, or terminate any or all outstanding awards, subject to any required consent under Section 8.6.5;

- (f) accelerate or extend the vesting or exercisability or extend the term of any or all such outstanding awards (in the case of options or stock appreciation rights, within the maximum ten-year term of such awards) in such circumstances as the Administrator may deem appropriate (including, without limitation, in connection with a termination of employment or services or other events of a personal nature) subject to any required consent under Section 8.6.5;
- (g) adjust the number of Common Shares subject to any award, adjust the price of any or all outstanding awards or otherwise change previously imposed terms and conditions, in such circumstances as the Administrator may deem appropriate, in each case subject to Sections 4 and 8.6 (and subject to the no repricing provision below);
- (h) determine the date of grant of an award, which may be a designated date after but not before the date of the Administrator's action (unless otherwise designated by the Administrator, the date of grant of an award shall be the date upon which the Administrator took the action granting an award);
- (i) determine whether, and the extent to which, adjustments are required pursuant to Section 7 hereof and authorize the termination, conversion, substitution or succession of awards upon the occurrence of an event of the type described in Section 7;
- (j) acquire or settle (subject to Sections 7 and 8.6) rights under awards in cash, stock of equivalent value, or other consideration (subject to the no repricing provision below); and
- (k) determine the fair market value of the Common Shares or awards under this Plan from time to time and/or the manner in which such value will be determined.

Notwithstanding the foregoing and except for an adjustment pursuant to Section 7.1 or a repricing approved by shareholders, in no case may the Administrator (1) amend an outstanding stock option or SAR to reduce the exercise price or base price of the award, (2) cancel, exchange, or surrender an outstanding stock option or SAR in exchange for cash or other awards for the purpose of repricing the award, or (3) cancel, exchange, or surrender an outstanding stock option or SAR in exchange for an option or SAR with an exercise or base price that is less than the exercise or base price of the original award.

3.3 *Binding Determinations.* Any determination or other action taken by, or inaction of, the Corporation, any Subsidiary, or the Administrator relating or pursuant to this Plan (or any award made under this Plan) and within its authority hereunder or under applicable law shall be within the absolute discretion of that entity or body and shall be conclusive and binding upon all persons. Neither the Board nor any Board committee, nor any member thereof or person acting at the direction thereof, shall be liable for any act, omission, interpretation, construction or determination made in good faith in connection with this Plan (or any award made under this Plan), and all such persons shall be entitled to indemnification and reimbursement by the Corporation in respect of any claim, loss, damage or expense (including, without limitation, attorneys' fees) arising or resulting therefrom to the fullest extent permitted by law and/or under any directors and officers liability insurance coverage that may be in effect from time to time. Neither the Board nor any Board committee, nor any member thereof or person acting at the direction thereof, nor the Corporation or any of its Subsidiaries, shall be liable for any damages of a participant should an option intended as an ISO (as defined below) fail to actually meet the requirements of the Internal Revenue Code of 1986, as amended (the "**Code**"), applicable to ISOs, should any other award(s) fail to qualify for any intended tax treatment, should any award grant or other action with respect thereto not satisfy Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, or otherwise for any tax or other liability imposed on a participant with respect to an award.

- 3.4 **Reliance on Experts.** In making any determination or in taking or not taking any action under this Plan, the Administrator may obtain and may rely upon the advice of experts, including employees and professional advisors to the Corporation. To the fullest extent permitted by law, no director, officer or agent of the Corporation or any of its Subsidiaries shall be liable for any such action or determination taken or made or omitted in good faith.
- 3.5 **Delegation.** The Administrator may delegate ministerial, non-discretionary functions to individuals who are officers or employees of the Corporation or any of its Subsidiaries or to third parties.

4. COMMON SHARES SUBJECT TO THE PLAN; SHARE LIMITS

- 4.1 **Shares Available.** Subject to the provisions of Section 7.1, the shares that may be delivered under this Plan shall be the Corporation's authorized but unissued Common Shares. For purposes of this Plan, "**Common Shares**" shall mean the common shares of the Corporation and such other securities or property as may become the subject of awards under this Plan, or may become subject to such awards, pursuant to an adjustment made under Section 7.1.
- 4.2 **Share Limits.** The maximum number of Common Shares that may be delivered pursuant to awards granted to Eligible Persons under this Plan (the "**Share Limit**") is equal to the sum of the following:
- (1) 4,217,707 Common Shares, plus
 - (2) the number of any Common Shares subject to stock options granted under the Corporation's Second Amended and Restated Stock Option Plan (the "**Prior Plan**") and outstanding on June 18, 2015 which expire, or for any reason are cancelled or terminated, after that date without being exercised.

In addition, the Share Limit will automatically increase on the first trading day in January of each calendar year thereafter during the term of the 2015 Plan (commencing with January 2020) by an amount equal to the lesser of (i) ten percent (10%) of the total number of common shares issued and outstanding on December 31 of the immediately preceding calendar year, or (ii) such number of common shares as may be established by the Board.

The maximum number of Common Shares that may be delivered pursuant to options qualified as incentive stock options granted under this Plan is 28,571 shares.

Each of the foregoing numerical limits is subject to adjustment as contemplated by Section 4.3, Section 7.1, and Section 8.10.

- 4.3 **Awards Settled in Cash, Reissue of Awards and Shares.** Except as provided in the next sentence, shares that are subject to or underlie awards granted under this Plan which expire or for any reason are cancelled or terminated, are forfeited, fail to vest, or for any other reason are not paid or delivered under this Plan shall again be available for subsequent awards under this Plan. Shares that are exchanged by a participant or withheld by the Corporation as full or partial payment in connection with any award granted under this Plan, as well as any shares exchanged by a participant or withheld by the Corporation or one of its Subsidiaries to satisfy the tax withholding obligations related to any award granted under this Plan, shall be available for subsequent awards under this Plan. To the extent that an award granted under this Plan is settled in cash or a form other than Common Shares, the shares that would have been delivered had there been no such cash or other settlement shall not be counted against the shares available for issuance under this Plan. In the event that Common Shares are delivered in respect of a dividend equivalent right granted under this Plan, the number of shares actually delivered with respect to the award shall be counted against the share limits of this Plan. To the extent that Common Shares are delivered pursuant to the exercise of a stock appreciation right or stock option granted under this Plan, the number of shares actually delivered with respect to the award shall be counted against the share limits of this Plan. Refer to Section 8.10 for application of the foregoing share limits with respect to assumed awards.

4.4 *Reservation of Shares; No Fractional Shares; Minimum Issue.* The Corporation shall at all times reserve a number of Common Shares sufficient to cover the Corporation's obligations and contingent obligations to deliver shares with respect to awards then outstanding under this Plan (exclusive of any dividend equivalent obligations to the extent the Corporation has the right to settle such rights in cash). No fractional shares shall be delivered under this Plan. The Administrator may pay cash in lieu of any fractional shares in settlements of awards under this Plan. The Administrator may from time to time impose a limit (of not greater than 100 shares) on the minimum number of shares that may be purchased or exercised as to awards granted under this Plan unless (as to any particular award) the total number purchased or exercised is the total number at the time available for purchase or exercise under the award.

5. AWARDS

5.1 *Type and Form of Awards.* The Administrator shall determine the type or types of award(s) to be made to each selected Eligible Person. Awards may be granted singly, in combination or in tandem. Awards also may be made in combination or in tandem with, in replacement of, as alternatives to, or as the payment form for grants or rights under any other employee or compensation plan of the Corporation or one of its Subsidiaries. The types of awards that may be granted under this Plan are (subject, in each case, to the repricing provisions of Section 3.2):

5.1.1 *Stock Options.* A stock option is the grant of a right to purchase a specified number of Common Shares during a specified period as determined by the Administrator. An option may be intended as an incentive stock option within the meaning of Section 422 of the Code (an "ISO") or a nonqualified stock option (an option not intended to be an ISO). The award agreement for an option will indicate if the option is intended as an ISO; otherwise it will be deemed to be a nonqualified stock option. The maximum term of each option (ISO or nonqualified) shall be ten (10) years. The per share exercise price for each option shall be not less than 100% of the fair market value of a Common Share on the date of grant of the option. When an option is exercised, the exercise price for the shares to be purchased shall be paid in full in cash or such other method permitted by the Administrator consistent with Section 5.5.

5.1.2 *Additional Rules Applicable to ISOs.* To the extent that the aggregate fair market value (determined at the time of grant of the applicable option) of stock with respect to which ISOs first become exercisable by a participant in any calendar year exceeds \$100,000, taking into account both Common Shares subject to ISOs under this Plan and stock subject to ISOs under all other plans of the Corporation or one of its Subsidiaries (or any parent or predecessor corporation to the extent required by and within the meaning of Section 422 of the Code and the regulations promulgated thereunder), such options shall be treated as nonqualified stock options. In reducing the number of options treated as ISOs to meet the \$100,000 limit, the most recently granted options shall be reduced first. To the extent a reduction of simultaneously granted options is necessary to meet the \$100,000 limit, the Administrator may, in the manner and to the extent permitted by law, designate which Common Shares are to be treated as shares acquired pursuant to the exercise of an ISO. ISOs may only be granted to employees of the Corporation or one of its subsidiaries (for this purpose, the term "subsidiary" is used as defined in Section 424(f) of the Code, which generally requires an unbroken chain of ownership of at least 50% of the total combined voting power of all classes of stock of each subsidiary in the chain beginning with the Corporation and ending with the subsidiary in question). There shall be imposed in any award agreement relating to ISOs such other terms and conditions as from time to time are required in order that the option be an "incentive stock option" as that term is defined in Section 422 of the Code. No ISO may be granted to any person who, at the time the option is granted, owns (or is deemed to own under Section 424(d) of the Code) shares of outstanding Common Shares possessing more than 10% of the total combined voting power of all classes of stock of the Corporation, unless the exercise price of such option is at least 110% of the fair market value of the stock subject to the option and such option by its terms is not exercisable after the expiration of five years from the date such option is granted.

5.1.3 Stock Appreciation Rights. A stock appreciation right or “SAR” is a right to receive a payment, in cash and/or Common Shares, equal to the excess of the fair market value of a specified number of Common Shares on the date the SAR is exercised over the “base price” of the award, which base price shall be set forth in the applicable award agreement and shall be not less than 100% of the fair market value of a Common Share on the date of grant of the SAR. The maximum term of a SAR shall be ten (10) years.

5.1.4 Other Awards; Dividend Equivalent Rights. The other types of awards that may be granted under this Plan include: (a) stock bonuses, restricted stock, performance stock, stock units, phantom stock or similar rights to purchase or acquire shares, whether at a fixed or variable price (or no price) or fixed or variable ratio related to the Common Shares, and any of which may (but need not) be fully vested at grant or vest upon the passage of time, the occurrence of one or more events, the satisfaction of performance criteria or other conditions, or any combination thereof; (b) any similar securities with a value derived from the value of or related to the Common Shares and/or returns thereon; or (c) cash awards. Dividend equivalent rights may be granted as a separate award or in connection with another award under this Plan; provided, however, that dividend equivalent rights may not be granted in connection with a stock option or SAR granted under this Plan. In addition, any dividends and/or dividend equivalents as to the unvested portion of a restricted stock award that is subject to performance-based vesting requirements or the unvested portion of a stock unit award that is subject to performance-based vesting requirements will be subject to termination and forfeiture to the same extent as the corresponding portion of the award to which they relate.

5.2 *[Reserved].*

5.3 Award Agreements. Each award shall be evidenced by either (1) a written award agreement in a form approved by the Administrator and executed by the Corporation by an officer duly authorized to act on its behalf, or (2) an electronic notice of award grant in a form approved by the Administrator and recorded by the Corporation (or its designee) in an electronic recordkeeping system used for the purpose of tracking award grants under this Plan generally (in each case, an “award agreement”), as the Administrator may provide and, in each case and if required by the Administrator, executed or otherwise electronically accepted by the recipient of the award in such form and manner as the Administrator may require. The Administrator may authorize any officer of the Corporation (other than the particular award recipient) to execute any or all award agreements on behalf of the Corporation. The award agreement shall set forth the material terms and conditions of the award as established by the Administrator consistent with the express limitations of this Plan.

5.4 Deferrals and Settlements. Payment of awards may be in the form of cash, Common Shares, other awards or combinations thereof as the Administrator shall determine, and with such restrictions as it may impose. The Administrator may also require or permit participants to elect to defer the issuance of shares or the settlement of awards in cash under such rules and procedures as it may establish under this Plan. The Administrator may also provide that deferred settlements include the payment or crediting of interest or other earnings on the deferral amounts, or the payment or crediting of dividend equivalents where the deferred amounts are denominated in shares.

5.5 Consideration for Common Shares or Awards. The purchase price for any award granted under this Plan or the Common Shares to be delivered pursuant to an award, as applicable, may be paid by means of any lawful consideration as determined by the Administrator, including, without limitation, one or a combination of the following methods:

- services rendered by the recipient of such award;
- cash, check payable to the order of the Corporation, or electronic funds transfer;
- notice and third party payment in such manner as may be authorized by the Administrator;
- the delivery of previously owned Common Shares;

- by a reduction in the number of shares otherwise deliverable pursuant to the award; or
- subject to such procedures as the Administrator may adopt, pursuant to a “cashless exercise” with a third party who provides financing for the purposes of (or who otherwise facilitates) the purchase or exercise of awards.

In no event shall any shares newly-issued by the Corporation be issued for less than the minimum lawful consideration for such shares or for consideration other than consideration permitted by applicable law. Common Shares used to satisfy the exercise price of an option shall be valued at their fair market value on the date of exercise. The Corporation will not be obligated to deliver any shares unless and until it receives full payment of the exercise or purchase price therefor and any related withholding obligations under Section 8.5 and any other conditions to exercise or purchase have been satisfied. Unless otherwise expressly provided in the applicable award agreement, the Administrator may at any time eliminate or limit a participant’s ability to pay the purchase or exercise price of any award or shares by any method other than cash payment to the Corporation. Common Shares delivered pursuant to Awards granted under this Plan, when the applicable consideration therefor shall have been received by the Corporation, shall be duly issued as fully paid and non-assessable.

5.6 *Definition of Fair Market Value.* For purposes of this Plan, “fair market value” shall mean, unless otherwise determined or provided by the Administrator in the circumstances, the closing price (in regular trading) for a Common Share on the NASDAQ Stock Market (the “**Market**”) for the date in question or, if no sales of Common Shares were reported on the Market on that date, the closing price (in regular trading) for a Common Share on the Market for the next preceding day on which sales of Common Shares were reported on the Market. The Administrator may, however, provide with respect to one or more awards that the fair market value shall equal the closing price (in regular trading) for a Common Share on the Market on the last trading day preceding the date in question or the average of the high and low trading prices of a Common Share on the Market for the date in question or the most recent trading day. If the Common Shares are no longer listed or are no longer actively traded on the Market as of the applicable date, the fair market value of the Common Shares shall be the value as reasonably determined by the Administrator for purposes of the award in the circumstances. The Administrator also may adopt a different methodology for determining fair market value with respect to one or more awards if a different methodology is necessary or advisable to secure any intended favorable tax, legal or other treatment for the particular award(s) (for example, and without limitation, the Administrator may provide that fair market value for purposes of one or more awards will be based on an average of closing prices (or the average of high and low daily trading prices) for a specified period preceding the relevant date).

5.7 *Transfer Restrictions.*

5.7.1 *Limitations on Exercise and Transfer.* Unless otherwise expressly provided in (or pursuant to) this Section 5.7 or required by applicable law: (a) all awards are non-transferable and shall not be subject in any manner to sale, transfer, anticipation, alienation, assignment, pledge, encumbrance or charge; (b) awards shall be exercised only by the participant; and (c) amounts payable or shares issuable pursuant to any award shall be delivered only to (or for the account of) the participant.

5.7.2 *Exceptions.* The Administrator may permit awards to be exercised by and paid to, or otherwise transferred to, other persons or entities pursuant to such conditions and procedures, including limitations on subsequent transfers, as the Administrator may, in its sole discretion, establish in writing. Any permitted transfer shall be subject to compliance with applicable federal, provincial and state securities laws and shall not be for value (other than nominal consideration, settlement of marital property rights, or for interests in an entity in which more than 50% of the voting interests are held by the Eligible Person or by the Eligible Person’s family members).

5.7.3 Further Exceptions to Limits on Transfer. The exercise and transfer restrictions in Section 5.7.1 shall not apply to:

- (a) transfers to the Corporation (for example, in connection with the expiration or termination of the award),
- (b) the designation of a beneficiary to receive benefits in the event of the participant's death or, if the participant has died, transfers to or exercise by the participant's beneficiary, or, in the absence of a validly designated beneficiary or if such designation cannot be validly made, transfers by will or the laws of descent and distribution,
- (c) subject to any applicable limitations on ISOs, transfers to a family member (or former family member) pursuant to a domestic relations order if approved or ratified by the Administrator,
- (d) if the participant has suffered a disability, permitted transfers or exercises on behalf of the participant by his or her legal representative, or
- (e) the authorization by the Administrator of "cashless exercise" procedures with third parties who provide financing for the purpose of (or who otherwise facilitate) the exercise of awards consistent with applicable laws and the express authorization of the Administrator.

5.8 International Awards. One or more awards may be granted to Eligible Persons who provide services to the Corporation or one of its Subsidiaries outside of the United States. Any awards granted to such persons may be granted pursuant to the terms and conditions of any applicable sub-plans, if any, appended to this Plan and approved by the Administrator. The awards so granted need not comply with other specific terms of this Plan, provided that shareholder approval of any deviation from the specific terms of this Plan is not required by applicable law or any applicable listing agency.

6. EFFECT OF TERMINATION OF EMPLOYMENT OR SERVICE ON AWARDS

6.1 General. The Administrator shall establish the effect of a termination of employment or service on the rights and benefits under each award under this Plan and in so doing may make distinctions based upon, inter alia, the cause of termination and type of award. If the participant is not an employee of the Corporation or one of its Subsidiaries and provides other services to the Corporation or one of its Subsidiaries, the Administrator shall be the sole judge for purposes of this Plan (unless a contract or the award otherwise provides) of whether the participant continues to render services to the Corporation or one of its Subsidiaries and the date, if any, upon which such services shall be deemed to have terminated.

6.2 Events Not Deemed Terminations of Service. Unless the express policy of the Corporation or one of its Subsidiaries, or the Administrator, otherwise provides, or except as otherwise required by applicable law, the employment relationship shall not be considered terminated in the case of (a) sick leave, (b) military leave, or (c) any other leave of absence authorized by the Corporation or one of its Subsidiaries, or the Administrator; provided that, unless reemployment upon the expiration of such leave is guaranteed by contract or law or the Administrator otherwise provides, such leave is for a period of not more than three months. In the case of any employee of the Corporation or one of its Subsidiaries on an approved leave of absence, continued vesting of the award while on leave from the employ of the Corporation or one of its Subsidiaries may be suspended until the employee returns to service, unless the Administrator otherwise provides or applicable law otherwise requires. In no event shall an award be exercised after the expiration of the term set forth in the applicable award agreement.

6.3 *Effect of Change of Subsidiary Status.* For purposes of this Plan and any award, if an entity ceases to be a Subsidiary of the Corporation a termination of employment or service shall be deemed to have occurred with respect to each Eligible Person in respect of such Subsidiary who does not continue as an Eligible Person in respect of the Corporation or another Subsidiary that continues as such after giving effect to the transaction or other event giving rise to the change in status unless the Subsidiary that is sold, spun-off or otherwise divested (or its successor or a direct or indirect parent of such Subsidiary or successor) assumes the Eligible Person's award(s) in connection with such transaction.

7. ADJUSTMENTS; ACCELERATION

7.1 *Adjustments.* Subject to Section 7.2, upon (or, as may be necessary to effect the adjustment, immediately prior to): any reclassification, recapitalization, stock split (including a stock split in the form of a stock dividend) or reverse stock split; any merger, amalgamation, combination, consolidation, conversion or other reorganization; any spin-off, split-up, or similar extraordinary dividend distribution in respect of the Common Shares; or any exchange of Common Shares or other securities of the Corporation, or any similar, unusual or extraordinary corporate transaction in respect of the Common Shares; then the Administrator shall equitably and proportionately adjust (1) the number and type of Common Shares (or other securities) that thereafter may be made the subject of awards (including the specific share limits, maximums and numbers of shares set forth elsewhere in this Plan), (2) the number, amount and type of Common Shares (or other securities or property) subject to any outstanding awards, (3) the grant, purchase, or exercise price (which term includes the base price of any SAR or similar right) of any outstanding awards, and/or (4) the securities, cash or other property deliverable upon exercise or payment of any outstanding awards, in each case to the extent necessary to preserve (but not increase) the level of incentives intended by this Plan and the then-outstanding awards.

Unless otherwise expressly provided in the applicable award agreement, upon (or, as may be necessary to effect the adjustment, immediately prior to) any event or transaction described in the preceding paragraph or a sale of all or substantially all of the business or assets of the Corporation as an entirety, the Administrator shall equitably and proportionately adjust the performance standards applicable to any then-outstanding performance-based awards to the extent necessary to preserve (but not increase) the level of incentives intended by this Plan and the then-outstanding performance-based awards.

It is intended that, if possible, any adjustments contemplated by the preceding two paragraphs be made in a manner that satisfies applicable Canadian and U.S. legal, tax (including, without limitation and as applicable in the circumstances, Section 424 of the Code, and Section 409A of the Code) and accounting (so as to not trigger any charge to earnings with respect to such adjustment) requirements.

Without limiting the generality of Section 3.3, any good faith determination by the Administrator as to whether an adjustment is required in the circumstances pursuant to this Section 7.1, and the extent and nature of any such adjustment, shall be conclusive and binding on all persons.

7.2 Corporate Transactions - Assumption and Termination of Awards. Upon the occurrence of any of the following: any recapitalization, merger, amalgamation, combination, consolidation, conversion or other reorganization in connection with which the Corporation does not survive (or does not survive as a public company in respect of its Common Shares); any exchange of Common Shares or other securities of the Corporation in connection with which the Corporation does not survive (or does not survive as a public company in respect of its Common Shares); a sale of all or substantially all the business, stock or assets of the Corporation in connection with which the Corporation does not survive (or does not survive as a public company in respect of its Common Shares); a dissolution of the Corporation; or any other event in which the Corporation does not survive (or does not survive as a public company in respect of its Common Shares); then the Administrator may make provision for a cash payment in settlement of, or for the termination, assumption, substitution or exchange of any or all outstanding share-based awards or the cash, securities or property deliverable to the holder of any or all outstanding share-based awards, based upon, to the extent relevant under the circumstances, the distribution or consideration payable to holders of the Common Shares upon or in respect of such event. Upon the occurrence of any event described in the preceding sentence, then, unless the Administrator has made a provision for the substitution, assumption, exchange or other continuation or settlement of the award or the award would otherwise continue in accordance with its terms in the circumstances: (1) unless otherwise provided in the applicable award agreement, each then-outstanding option and SAR shall become fully vested, all shares of restricted stock then outstanding shall fully vest free of restrictions, and each other award granted under this Plan that is then outstanding shall become payable to the holder of such award; and (2) each award shall terminate upon the related event; provided that the holder of an option or SAR shall be given reasonable advance notice of the impending termination and a reasonable opportunity to exercise his or her outstanding vested options and SARs (after giving effect to any accelerated vesting required in the circumstances) in accordance with their terms before the termination of such awards (except that in no case shall more than ten days' notice of the impending termination be required and any acceleration of vesting and any exercise of any portion of an award that is so accelerated may be made contingent upon the actual occurrence of the event).

Without limiting the preceding paragraph, in connection with any event referred to in the preceding paragraph or any change in control event defined in any applicable award agreement, the Administrator may, in its discretion, provide for the accelerated vesting of any award or awards as and to the extent determined by the Administrator in the circumstances.

The Administrator may adopt such valuation methodologies for outstanding awards as it deems reasonable in the event of a cash or property settlement and, in the case of options, SARs or similar rights, but without limitation on other methodologies, may base such settlement solely upon the excess if any of the per share amount payable upon or in respect of such event over the exercise or base price of the award.

In any of the events referred to in this Section 7.2, the Administrator may take such action contemplated by this Section 7.2 prior to such event (as opposed to on the occurrence of such event) to the extent that the Administrator deems the action necessary to permit the participant to realize the benefits intended to be conveyed with respect to the underlying shares. Without limiting the generality of the foregoing, the Administrator may deem an acceleration and/or termination to occur immediately prior to the applicable event and, in such circumstances, will reinstate the original terms of the award if an event giving rise to an acceleration and/or termination does not occur.

Without limiting the generality of Section 3.3, any good faith determination by the Administrator pursuant to its authority under this Section 7.2 shall be conclusive and binding on all persons.

7.3 Other Acceleration Rules. The Administrator may override the provisions of Section 7.2 by express provision in the award agreement and may accord any Eligible Person a right to refuse any acceleration, whether pursuant to the award agreement or otherwise, in such circumstances as the Administrator may approve. The portion of any ISO accelerated in connection with an event referred to in Section 7.2 (or such other circumstances as may trigger accelerated vesting of the award) shall remain exercisable as an ISO only to the extent the applicable \$100,000 limitation on ISOs is not exceeded. To the extent exceeded, the accelerated portion of the option shall be exercisable as a nonqualified stock option under the Code.

8. OTHER PROVISIONS

- 8.1 Compliance with Laws.** This Plan, the granting and vesting of awards under this Plan, the offer, issuance and delivery of Common Shares, and/or the payment of money under this Plan or under awards are subject to compliance with all applicable federal, provincial, state, local and foreign laws, rules and regulations (including but not limited to provincial, state and federal securities law and federal margin requirements) and to such approvals by any listing, regulatory or governmental authority as may, in the opinion of counsel for the Corporation, be necessary or advisable in connection therewith. The person acquiring any securities under this Plan will, if requested by the Corporation or one of its Subsidiaries, provide such assurances and representations to the Corporation or one of its Subsidiaries as the Administrator may deem necessary or desirable to assure compliance with all applicable legal and accounting requirements.
- 8.2 No Rights to Award.** No person shall have any claim or rights to be granted an award (or additional awards, as the case may be) under this Plan, subject to any express contractual rights (set forth in a document other than this Plan) to the contrary.
- 8.3 No Employment/Service Contract.** Nothing contained in this Plan (or in any other documents under this Plan or in any award) shall confer upon any Eligible Person or other participant any right to continue in the employ or other service of the Corporation or one of its Subsidiaries, constitute any contract or agreement of employment or other service or affect an employee's status as an employee at will, nor shall interfere in any way with the right of the Corporation or one of its Subsidiaries to change a person's compensation or other benefits, or to terminate his or her employment or other service, with or without cause. Nothing in this Section 8.3, however, is intended to adversely affect any express independent right of such person under a separate employment or service contract other than an award agreement.
- 8.4 Plan Not Funded.** Awards payable under this Plan shall be payable in shares or from the general assets of the Corporation, and no special or separate reserve, fund or deposit shall be made to assure payment of such awards. No participant, beneficiary or other person shall have any right, title or interest in any fund or in any specific asset (including Common Shares, except as expressly otherwise provided) of the Corporation or one of its Subsidiaries by reason of any award hereunder. Neither the provisions of this Plan (or of any related documents), nor the creation or adoption of this Plan, nor any action taken pursuant to the provisions of this Plan shall create, or be construed to create, a trust of any kind or a fiduciary relationship between the Corporation or one of its Subsidiaries and any participant, beneficiary or other person. To the extent that a participant, beneficiary or other person acquires a right to receive payment pursuant to any award hereunder, such right shall be no greater than the right of any unsecured general creditor of the Corporation.
- 8.5 Tax Withholding.** Upon any exercise, vesting, or payment of any award, or upon the disposition of Common Shares acquired pursuant to the exercise of an ISO prior to satisfaction of the holding period requirements of Section 422 of the Code, or upon any other tax withholding event with respect to any award, arrangements satisfactory to the Corporation shall be made to provide for any taxes the Corporation or any of its Subsidiaries may be required to withhold with respect to such award event or payment. Such arrangements may include (but are not limited to) any one of (or a combination of) the following:

- (a) The Corporation or one of its Subsidiaries shall have the right to require the participant (or the participant's personal representative or beneficiary, as the case may be) to pay or provide for payment of at least the minimum amount of any taxes which the Corporation or one of its Subsidiaries may be required to withhold with respect to such award event or payment.
- (b) The Corporation or one of its Subsidiaries shall have the right to deduct from any amount otherwise payable in cash (whether related to the award or otherwise) to the participant (or the participant's personal representative or beneficiary, as the case may be) the minimum amount of any taxes which the Corporation or one of its Subsidiaries may be required to withhold with respect to such award event or payment.
- (c) In any case where a tax is required to be withheld in connection with the delivery of Common Shares under this Plan, the Administrator may in its sole discretion (subject to Section 8.1) require or grant (either at the time of the award or thereafter) to the participant the right to elect, pursuant to such rules and subject to such conditions as the Administrator may establish, that the Corporation reduce the number of shares to be delivered by (or otherwise reacquire) the appropriate number of shares, valued in a consistent manner at their fair market value or at the sales price in accordance with authorized procedures for cashless exercises, necessary to satisfy the minimum applicable withholding obligation on exercise, vesting or payment. In no event shall the shares withheld exceed the minimum whole number of shares required for tax withholding under applicable law.

8.6 *Effective Date, Termination and Suspension, Amendments.*

8.6.1 *Effective Date.* This Plan is effective as of May 15, 2015, the date of its approval by the Board (the "**Effective Date**"). This Plan shall be submitted for and subject to shareholder approval no later than twelve months after the Effective Date. Unless earlier terminated by the Board, this Plan shall terminate at the close of business on the day before the tenth anniversary of the Effective Date. After the termination of this Plan either upon such stated expiration date or its earlier termination by the Board, no additional awards may be granted under this Plan, but previously granted awards (and the authority of the Administrator with respect thereto, including the authority to amend such awards) shall remain outstanding in accordance with their applicable terms and conditions and the terms and conditions of this Plan.

8.6.2 *Board Authorization.* The Board may, at any time, terminate or, from time to time, amend, modify or suspend this Plan, in whole or in part. No awards may be granted during any period that the Board suspends this Plan.

8.6.3 *Shareholder Approval.* To the extent then required by applicable law or deemed necessary or advisable by the Board, any amendment to this Plan shall be subject to shareholder approval.

8.6.4 *Amendments to Awards.* Without limiting any other express authority of the Administrator under (but subject to) the express limits of this Plan, the Administrator by agreement or resolution may waive conditions of or limitations on awards to participants that the Administrator in the prior exercise of its discretion has imposed, without the consent of a participant, and (subject to the requirements of Sections 3.2 and 8.6.5) may make other changes to the terms and conditions of awards. Any amendment or other action that would constitute a repricing of an award is subject to the limitations set forth in Section 3.2.

8.6.5 Limitations on Amendments to Plan and Awards. No amendment, suspension or termination of this Plan or amendment of any outstanding award agreement shall, without written consent of the participant, affect in any manner materially adverse to the participant any rights or benefits of the participant or obligations of the Corporation under any award granted under this Plan prior to the effective date of such change. Changes, settlements and other actions contemplated by Section 7 shall not be deemed to constitute changes or amendments for purposes of this Section 8.6.

8.7 Privileges of Stock Ownership. Except as otherwise expressly authorized by the Administrator, a participant shall not be entitled to any privilege of stock ownership as to any Common Shares not actually delivered to and held of record by the participant. Except as expressly required by Section 7.1 or otherwise expressly provided by the Administrator, no adjustment will be made for dividends or other rights as a shareholder for which a record date is prior to such date of delivery.

8.8 Governing Law; Construction; Severability.

8.8.1 Choice of Law. This Plan, the awards, all documents evidencing awards and all other related documents shall be governed by, and construed in accordance with the laws of the state of California and the federal laws of the United States of America applicable thereto without recourse to their conflict of laws rules.

8.8.2 Severability. If a court of competent jurisdiction holds any provision invalid and unenforceable, the remaining provisions of this Plan shall continue in effect.

8.9 Captions. Captions and headings are given to the sections and subsections of this Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of this Plan or any provision thereof.

8.10 Stock-Based Awards in Substitution for Stock Options or Awards Granted by Other Corporation. Awards may be granted to Eligible Persons in substitution for or in connection with an assumption of employee stock options, SARs, restricted stock or other stock-based awards granted by other entities to persons who are or who will become Eligible Persons in respect of the Corporation or one of its Subsidiaries, in connection with a distribution, merger or other reorganization by or with the granting entity or an affiliated entity, or the acquisition by the Corporation or one of its Subsidiaries, directly or indirectly, of all or a substantial part of the stock or assets of the employing entity. The awards so granted need not comply with other specific terms of this Plan, provided the awards reflect only adjustments giving effect to the assumption or substitution consistent with the conversion applicable to the Common Shares in the transaction and any change in the issuer of the security. Any shares that are delivered and any awards that are granted by, or become obligations of, the Corporation, as a result of the assumption by the Corporation of, or in substitution for, outstanding awards previously granted by an acquired Corporation (or previously granted by a predecessor employer (or direct or indirect parent thereof) in the case of persons that become employed by the Corporation or one of its Subsidiaries in connection with a business or asset acquisition or similar transaction) shall not be counted against the Share Limit or other limits on the number of shares available for issuance under this Plan.

8.11 Non-Exclusivity of Plan. Nothing in this Plan shall limit or be deemed to limit the authority of the Board or the Administrator to grant awards or authorize any other compensation, with or without reference to the Common Shares, under any other plan or authority.

- 8.12 *No Corporate Action Restriction.*** The existence of this Plan, the award agreements and the awards granted hereunder shall not limit, affect or restrict in any way the right or power of the Corporation or any Subsidiary (or any of their respective shareholders, boards of directors or committees thereof, as the case may be) to make or authorize: (a) any adjustment, recapitalization, reorganization or other change in the capital structure or business of the Corporation or any Subsidiary, (b) any merger, amalgamation, consolidation or change in the ownership of the Corporation or any Subsidiary, (c) any issue of bonds, debentures, capital, preferred or prior preference stock ahead of or affecting the capital stock (or the rights thereof) of the Corporation or any Subsidiary, (d) any dissolution or liquidation of the Corporation or any Subsidiary, (e) any sale or transfer of all or any part of the assets or business of the Corporation or any Subsidiary, or (f) any other corporate act or proceeding by the Corporation or any Subsidiary. No participant, beneficiary or any other person shall have any claim under any award or award agreement against any member of the Board or the Administrator, or the Corporation or any employees, officers or agents of the Corporation or any Subsidiary, as a result of any such action.
- 8.13 *Other Company Benefit and Compensation Programs.*** Payments and other benefits received by a participant under an award made pursuant to this Plan shall not be deemed a part of a participant's compensation for purposes of the determination of benefits under any other employee welfare or benefit plans or arrangements, if any, provided by the Corporation or any Subsidiary, except where the Administrator expressly otherwise provides or authorizes in writing. Awards under this Plan may be made in addition to, in combination with, as alternatives to or in payment of grants, awards or commitments under any other plans or arrangements of the Corporation or its Subsidiaries.
- 8.14 *Clawback Policy.*** The awards granted under this Plan are subject to the terms of the Corporation's recoupment, clawback or similar policy as it may be in effect from time to time, as well as any similar provisions of applicable law, any of which could in certain circumstances require repayment or forfeiture of awards or any Common Shares or other cash or property received with respect to the awards (including any value received from a disposition of the shares acquired upon payment of the awards).

SPHERE 3D CORP.

SECOND AMENDED AND RESTATED 2015 PERFORMANCE INCENTIVE PLAN

Canadian Residents Addendum

Section 1 Application

This addendum applies to a Participant who is a resident of Canada under the Income Tax Act (Canada) or an applicable tax treaty to which Canada is a party (hereinafter referred to as a “Canadian Participant”).

Section 2 Stock Options

Stock Options granted to Canadian Participants shall not be settled in cash unless at the request of the Canadian Participant, which request the Corporation may in its sole and entire discretion grant or deny. Stock Options granted to Canadian Participants shall not be settled with Shares other than Shares issued from treasury.

Section 3 Restricted Stock and Incentive Stock Options

Restricted Stock, Incentive Stock Options and awards that are subject to forfeiture (other than restricted stock units and stock options that are subject to vesting requirements) shall not be granted to Canadian Participants.

Section 4 Stock Appreciation Rights

Stock Appreciation Rights granted to Canadian Participants shall be exercised and settled immediately upon vesting.

Section 5 Restricted Stock Units

Restricted Stock Units, stock bonuses, stock units, phantom stock and similar rights or awards granted to Canadian Participants shall vest and be payable no later than December 31 of the third year following the year in which the award was granted.

Section 6 Tendering of Shares

The tendering of shares by a Canadian Participant to satisfy the Canadian Participant’s federal, provincial or other taxes as required by law to be withheld with respect to such awards, or to satisfy the exercise price of an award, shall not be available to Canadian Participants.

Section 7 Designation of beneficiary

A designation of beneficiary shall not be available to a Canadian Participant who is a resident in the Province of Quebec. Upon the death of a Canadian Participant who was a resident in the Province of Quebec immediately before the Canadian Participant’s death, any and all distribution of shares and/or cash payable pursuant to the terms of the Plan and any exercise of an award shall solely be made by or to the administrator, executor or liquidator of the Canadian Participant’s estate. A designation of Beneficiary by a Canadian Participant, residing in a Province other than the Province of Quebec or in a territory in Canada, pursuant to the Plan shall be subject to the requirements of the province or territory of domicile of such Canadian Participant.

Section 8 Miscellaneous

The following shall be inserted in any award to be completed by a Canadian Participant who is a resident in the Province of Quebec: “The parties hereto have agreed that this Subscription Agreement and the Plan be drafted in English. Les parties aux présentes ont convenu que le présent document et les règles du régime soient rédigés en anglais.”

SPHERE 3D CORP.
(the "Company")

Annual and Special Meeting
May 15, 2024 at 11:30 AM (Canada/Eastern)
Virtual Meeting by TSX Trust - 11:30 AM ET
(the "Meeting")



Proxy Voting – Guidelines and Conditions

- THIS PROXY IS SOLICITED BY OR ON BEHALF OF THE MANAGEMENT OF THE COMPANY.**
- THIS PROXY SHOULD BE READ IN CONJUNCTION WITH THE MEETING MATERIALS PRIOR TO VOTING.**
- If you appoint the Management Nominees indicated on the reverse to vote on your behalf, they must also vote in accordance with your instructions or, if no instructions are given, in accordance with the Voting Recommendations highlighted for each Resolution on the reverse. If you appoint someone else to vote your securities, they will also vote in accordance with your instructions or, if no instructions are given, as they in their discretion choose.**
- This proxy confers discretionary authority on the person named to vote in his or her discretion with respect to amendments or variations to the matters identified in the Notice of the Meeting accompanying the proxy or such other matters which may properly come before the Meeting or any adjournment or postponement thereof.
- The securityholder has a right to appoint a person or company to represent the securityholder at the Meeting other than the person or company designated in the form of proxy.** Such right may be exercised by inserting, on the reverse of this form, in the space labeled "Please print appointee name", the name of the person to be appointed, who need not be a securityholder of the Company.
- To be valid, this proxy must be signed. Please date the proxy. If the proxy is not dated, it is deemed to bear the date of its mailing to the securityholders of the Company.
- To be valid, this proxy must be filed using one of the **Voting Methods** and must be received by *TSX Trust Company* before the **Filing Deadline for Proxy**, noted on the reverse or in the case of any adjournment or postponement of the Meeting not less than 48 hours (Saturdays, Sundays and holidays excepted) before the time of the adjourned or postponed meeting. Late proxies may be accepted or rejected by the Chair of the Meeting in his discretion, and the Chair is under no obligation to accept or reject any particular late proxy.
- If the holder is a corporation, the proxy must be executed by an officer or attorney thereof duly authorized, and the holder may be required to provide documentation evidencing the signatory's power to sign the proxy.
- Guidelines for proper execution of the proxy are available at www.stac.ca. Please refer to the Proxy Protocol.

Electronic Delivery
If you are a registered securityholder and wish to enroll for electronic delivery for future issuer communications including meeting related materials, financial statements, DRS, etc., where applicable, you may do so:
1. After you vote online at www.voteproxyonline.com using your control number.
2. Through TSX Trust's online portal, Investor Insite. You may log in or enroll at <https://www.tsxtrust.com/investor-login>
For details go to www.tsxtrust.com/consent-to-electronic-delivery

VOTING METHOD	
Internet	Go to www.voteproxyonline.com and enter the 12 digit control number 
FACSIMILE	416-595-9593
MAIL or HAND DELIVERY	TSX Trust Company 301-100 Adelaide Street West Toronto, Ontario, M5H 4H1

Investor inSite
TSX Trust Company offers at no cost to holders, the convenience of secure 24-hour access to all data relating to their account including summary of holdings, transaction history, and links to valuable holder forms and Frequently Asked Questions.
To register, please visit: <https://tsxtrust.com/t/investor-hub/forms/investor-insite-registration> and complete the registration form.

For assistance, please contact TSX TRUST INVESTOR SERVICES.
Mail: 301 - 100 Adelaide Street West Toronto, ON, M5H 4H1
Tel: 1-866-600-5869
Email: tsxtis@tmx.com



FORM OF PROXY ("PROXY")

SPHERE 3D CORP.
(the "Company")

CONTROL NUMBER: «CONTROL_NUMBER»

Annual and Special Meeting
May 15, 2024 at 11:30 AM
(Canada/Eastern)
Virtual Meeting by TSX Trust - 11:30 AM ET
SECURITY CLASS: Common Shares

RECORD DATE: March 26, 2024

FILING DEADLINE FOR
PROXY:

May 13, 2024 at 11:30
AM (Canada/Eastern)

APPOINTEES

The undersigned hereby appoints **Duncan McEwan, Chair** whom failing **Patricia Trompetter, CEO** (the "Management Nominees") or instead of any of them, the following Appointee

PLEASE PRINT APPOINTEE NAME

as proxyholder on behalf of the undersigned with the power of substitution to attend, act and vote for and on behalf of the undersigned in respect of all matters that may properly come before the Meeting and at any adjournment(s) or postponement(s) thereof, to the same extent and with the same power as if the undersigned were personally present at the said Meeting or such adjournment(s) or postponement(s) thereof in accordance with voting instructions, if any.

- SEE VOTING GUIDELINES ON REVERSE -

RESOLUTIONS - VOTING RECOMMENDATIONS ARE INDICATED BY HIGHLIGHTED TEXT ABOVE THE BOXES

	FOR	AGAINST		FOR	WITHHOLD
1. Number of Directors To set the number of Directors at 4	<input type="checkbox"/>	<input type="checkbox"/>	2. Election of Directors A) Timothy Harley B) Susan S. Harnett C) Duncan McEwan D) Patricia Trompetter	<input type="checkbox"/>	<input type="checkbox"/>
3. Appointment of Auditor To ratify the selection of MaloneBailey LLP as our independent registered public accounting firm who will serve until the next annual shareholder meeting.	<input type="checkbox"/>	<input type="checkbox"/>	4. Approval of the Second Amended and Restated 2015 Performance Incentive Plan To approve the Second Amended and Restated 2015 Performance Incentive Plan to increase the maximum number of common shares that may be issued pursuant to the 2015 Plan by an additional 500,000 shares.	<input type="checkbox"/>	<input type="checkbox"/>
5. Approval of Say-On-Pay Proposal To approve, by a non-binding advisory vote, of the compensation of our executive officers ("Say-On-Pay").	<input type="checkbox"/>	<input type="checkbox"/>			

PLEASE PRINT NAME

The Proxy revokes and supersedes all earlier dated proxies and **MUST BE SIGNED**

Signature of registered owner(s) Date(MM/DD/YYYY)