
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2018

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number: **001-36532**

Sphere 3D Corp.

(Exact name of Registrant as specified in its charter)

Ontario, Canada

(State or other jurisdiction of incorporation or organization)

98-1220792

(IRS Employer Identification No.)

895 Don Mills Road, Bldg. 2, Suite 900

Toronto, Ontario, Canada, M3C 1W3

(Address of principal executive offices)

(408) 283-4754

(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company) Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

As of November 5, 2018, there were 1,932,399 shares of the registrant's common stock outstanding.

TABLE OF CONTENTS

PART I — FINANCIAL INFORMATION

	Page
Item 1.	
<u>Financial Statements:</u>	
<u>Condensed Consolidated Statements of Operations (unaudited) - Three and Nine Months Ended September 30, 2018 and 2017</u>	<u>3</u>
<u>Condensed Consolidated Statements of Comprehensive Loss (unaudited) - Three and Nine Months Ended September 30, 2018 and 2017</u>	<u>4</u>
<u>Condensed Consolidated Balance Sheets (unaudited) - September 30, 2018 and December 31, 2017</u>	<u>5</u>
<u>Condensed Consolidated Statements of Cash Flows (unaudited) - Nine Months Ended September 30, 2018 and 2017</u>	<u>6</u>
<u>Notes to Condensed Consolidated Financial Statements (unaudited)</u>	<u>7</u>
Item 2.	
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>26</u>
Item 3.	
<u>Quantitative and Qualitative Disclosures About Market Risk</u>	<u>38</u>
Item 4.	
<u>Controls and Procedures</u>	<u>39</u>

PART II — OTHER INFORMATION

Item 1.	<u>Legal Proceedings</u>	<u>40</u>
Item 1A.	<u>Risk Factors</u>	<u>42</u>
Item 2.	<u>Unregistered Sales of Equity Securities and Use of Proceeds</u>	<u>45</u>
Item 3.	<u>Defaults Upon Senior Securities</u>	<u>45</u>
Item 4.	<u>Mine Safety Disclosures</u>	<u>45</u>
Item 5.	<u>Other Information</u>	<u>45</u>
Item 6.	<u>Exhibits</u>	<u>46</u>
	<u>Signature</u>	<u>48</u>

PART I — FINANCIAL INFORMATION

Item 1. Financial Statements.

Sphere 3D Corp.
Condensed Consolidated Statements of Operations
(in thousands of U.S. dollars, except per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Net revenue:	(Unaudited)		(Unaudited)	
Product revenue	\$ 13,855	\$ 19,628	\$ 47,563	\$ 56,168
Service revenue	2,036	2,051	6,237	6,687
	15,891	21,679	53,800	62,855
Cost of product revenue	9,788	13,634	34,179	41,023
Cost of service revenue	1,268	1,312	3,055	2,881
Gross profit	4,835	6,733	16,566	18,951
Operating expenses:				
Sales and marketing	3,303	4,586	11,707	14,090
Research and development	694	1,793	3,011	5,460
General and administrative	3,735	4,840	13,186	14,743
	7,732	11,219	27,904	34,293
Loss from operations	(2,897)	(4,486)	(11,338)	(15,342)
Other income (expense):				
Interest expense	(682)	(519)	(2,141)	(2,770)
Interest expense, related party	(882)	(614)	(2,815)	(1,912)
Other (expense) income, net	(66)	2,642	(229)	2,223
Loss before income taxes	(4,527)	(2,977)	(16,523)	(17,801)
Provision for income taxes	325	504	1,154	1,002
Net loss	\$ (4,852)	\$ (3,481)	\$ (17,677)	\$ (18,803)
Net loss per share:				
Basic and diluted	\$ (2.53)	\$ (4.72)	\$ (11.55)	\$ (34.19)
Shares used in computing net loss per share:				
Basic and diluted	1,917	738	1,531	550

See accompanying notes to condensed consolidated financial statements.

Sphere 3D Corp.
Condensed Consolidated Statements of Comprehensive Loss
(in thousands of U.S. dollars)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
	(Unaudited)		(Unaudited)	
Net loss	\$ (4,852)	\$ (3,481)	\$ (17,677)	\$ (18,803)
Other comprehensive income (loss):				
Foreign currency translation adjustment	61	(273)	295	(396)
Total other comprehensive income (loss)	61	(273)	295	(396)
Comprehensive loss	\$ (4,791)	\$ (3,754)	\$ (17,382)	\$ (19,199)

See accompanying notes to condensed consolidated financial statements.

Sphere 3D Corp.
Condensed Consolidated Balance Sheets
(in thousands of U.S. dollars)

	September 30, 2018	December 31, 2017
Assets	(Unaudited)	
Current assets:		
Cash and cash equivalents	\$ 2,081	\$ 4,598
Accounts receivable, net of allowance for doubtful accounts of \$1,637 and \$1,675, respectively	7,298	11,482
Inventories	8,000	8,366
Other current assets	1,621	1,829
Total current assets	19,000	26,275
Property and equipment, net	2,349	2,742
Intangible assets, net	38,409	41,473
Goodwill	11,590	11,590
Other assets	1,172	1,200
Total assets	\$ 72,520	\$ 83,280
Liabilities and Shareholders' Equity		
Current liabilities:		
Accounts payable	\$ 10,726	\$ 9,362
Accrued liabilities	5,176	4,157
Accrued payroll and employee compensation	2,560	3,240
Deferred revenue	3,235	5,060
Debt, related party	45,584	26,613
Debt	—	18,195
Other current liabilities	880	1,283
Total current liabilities	68,161	67,910
Deferred revenue, long-term	1,690	1,276
Deferred income taxes	1,309	1,342
Other non-current liabilities	653	2,289
Total liabilities	71,813	72,817
Commitments and contingencies (Note 12)		
Shareholders' equity:		
Common shares, no par value; 1,932 and 890 shares issued and outstanding as of September 30, 2018 and December 31, 2017, respectively	181,178	173,871
Accumulated other comprehensive loss	(1,686)	(1,981)
Accumulated deficit	(178,785)	(161,427)
Total shareholders' equity	707	10,463
Total liabilities and shareholders' equity	\$ 72,520	\$ 83,280

See accompanying notes to condensed consolidated financial statements.

Sphere 3D Corp.
Condensed Consolidated Statements of Cash Flows
(in thousands of U.S. dollars)

	Nine Months Ended September 30,	
	2018	2017
Operating activities:	(Unaudited)	
Net loss	\$ (17,677)	\$ (18,803)
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation and amortization	3,298	4,574
Share-based compensation	1,520	5,647
Amortization of debt issuance costs	1,532	1,935
Fair value adjustment of warrants	(259)	(2,518)
Payment in-kind interest expense, related party	511	—
Payment in-kind interest expense	364	—
Loss on revaluation of investment	—	1,145
Changes in operating assets and liabilities (net of effects of acquisition):		
Accounts receivable	4,071	(284)
Inventories	359	1,788
Accounts payable and accrued liabilities	3,425	642
Accrued payroll and employee compensation	(659)	124
Deferred revenue	(1,106)	(329)
Other assets and liabilities, net	411	(2,554)
Net cash used in operating activities	(4,210)	(8,633)
Investing activities:		
Acquisition, net of cash acquired	—	(1,051)
Purchase of property and equipment	(55)	(115)
Net cash used in investing activities	(55)	(1,166)
Financing activities:		
Proceeds from issuance of common shares and warrants	2,310	10,862
Payment for issuance costs	(364)	(655)
Payments on debt, related party	(192)	(1,731)
Net cash provided by financing activities	1,754	8,476
Effect of exchange rate changes on cash	(6)	133
Net decrease in cash and cash equivalents	(2,517)	(1,190)
Cash and cash equivalents, beginning of period	4,598	5,056
Cash and cash equivalents, end of period	\$ 2,081	\$ 3,866
Supplemental disclosures of cash flow information:		
Cash paid for interest	\$ 762	\$ 1,273
Supplemental disclosures of non-cash investing and financing activities:		
Issuance of common shares for related party liabilities	\$ 1,393	\$ 972
Issuance of common shares for settlement of liabilities	\$ 1,220	\$ 87
Costs accrued for issuance of common shares	\$ 191	\$ 459
Issuance of common shares for acquisition	\$ —	\$ 346
Issuance of warrants in relation to settlement of liabilities	\$ —	\$ 180

See accompanying notes to condensed consolidated financial statements.

Sphere 3D Corp.
Notes to Condensed Consolidated Financial Statements
(Unaudited)

1. Organization and Business

Sphere 3D Corp. (the “Company”) was incorporated under the *Business Corporations Act (Ontario)* on May 2, 2007 as T.B. Mining Ventures Inc. On March 24, 2015, the Company completed a short-form amalgamation with a wholly-owned subsidiary. In connection with the short-form amalgamation, the Company changed its name to “Sphere 3D Corp.”

The Company delivers data management, and desktop and application virtualization solutions through hybrid cloud, cloud and on premise implementations by its global reseller network. The Company achieves this through a combination of containerized applications, virtual desktops, virtual storage and physical hyper-converged platforms. The Company’s products allow organizations to deploy a combination of public, private or hybrid cloud strategies while backing them up with the latest storage solutions. The Company has a portfolio of brands including RDX[®], HVE, Glassware 2.0[™], SnapCLOUD[®], SnapServer[®], SnapSync[™], NEO[®], and V3[®].

Management has projected that cash on hand will not be sufficient to allow the Company to continue operations beyond November 19, 2018 if the Company is otherwise unable to further amend, refinance, or pay off its debt and credit facilities prior to their November 19, 2018 maturity date. If the Share Purchase (as defined below) is consummated, the Company expects the outstanding debt and credit facilities to be settled. However, the consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (as defined below) (including Purchaser’s receipt of adequate funding to close the Share Purchase, which it has not yet secured) and there can be no guarantee that the Company will be able to raise additional funds or amend or refinance our debt and credit facilities on favorable terms or at all, nor can there be any guarantee that the Share Purchase will ultimately be consummated. Significant changes from the Company’s current forecasts, including but not limited to: (i) any delay in the closing of the Share Purchase described below promptly and in any event before its debt with FBC Holdings and/or MF Ventures, LLC becomes due (including as a result of the failure of the Purchaser to obtain funding adequate to pay the Purchase Price, or the failure to satisfy certain closing conditions), (ii) failure to comply with the financial or other covenants in its credit facilities; (iii) shortfalls from projected sales levels; (iv) unexpected increases in product costs; (v) increases in operating costs; (vi) changes in the historical timing of collecting accounts receivable; and (vii) inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or inability to maintain listing with the NASDAQ Capital Market could have a material adverse impact on the Company’s ability to access the level of funding necessary to continue its operations at current levels. If any of these events occurs or the Company is unable to generate sufficient cash from operations or financing sources, the Company may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any of, which would have a material adverse effect on the Company’s business, results of operations, financial position and liquidity.

The Company incurred losses from operations and negative cash flows from operating activities for the nine months ended September 30, 2018, and such losses might continue for the foreseeable future. Based upon the Company’s current expectations and projections for the next year, the Company believes that it may not have sufficient liquidity necessary to sustain operations beyond November 19, 2018. These factors, among others, raise substantial doubt that the Company will be able to continue as a going concern. The accompanying condensed consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business.

Related Party Share Purchase Agreement

On February 20, 2018, the Company, Overland Storage, Inc., a California corporation and a wholly owned subsidiary of the Company (“Overland”), and Silicon Valley Technology Partners Inc. (formerly known as Silicon Valley Technology Partners LLC), a Delaware corporation established and controlled by Eric Kelly, the Company’s Chief Executive Officer and Chairman of the Board of Directors (the “Purchaser”) entered into a share purchase agreement (as amended by that certain First Amendment to Share Purchase Agreement dated as of August 21, 2018 and as further amended by that certain Second Amendment to Share Purchase Agreement dated as of November 1, 2018, the “Purchase Agreement”), pursuant to which, among other things, and subject to certain closing conditions, the Company will sell to Purchaser all of the issued and outstanding shares of capital stock of Overland (the “Share Purchase”) for \$45.0 million (the “Purchase Price”). As previously announced, the net proceeds from the Share Purchase were to be used to repay: (i) the Company’s outstanding obligations under its Credit Agreement with FBC Holdings; (ii) its outstanding obligations under the related party secured note with FBC Holdings; and (iii) its related party subordinated promissory note with MF Ventures, LLC. The Special Committee of the Board of Directors of the Company and the Board of Directors of the Company (with Eric Kelly recusing himself) unanimously approved the entry into the Purchase Agreement by the Company. The Company held a special shareholder meeting on May 31, 2018 at which the requisite shareholders of the Company approved the Share Purchase. The consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (including Purchaser’s receipt of adequate funding to close the Share Purchase, which it has not yet secured).

On November 1, 2018, the parties entered into a second amendment to the Purchase Agreement (the “Second Amendment”), which provides, among other things, that the Purchase Price will be satisfied through and upon (i) the issuance to the Company shares of Series A Preferred Stock of Purchaser representing 19.9% of the fully diluted outstanding securities of Purchaser as of the closing of the Share Purchase (or such other percentage as mutually agreed upon by Purchaser and the Company), and (ii) the release of the Company and all of its subsidiaries (other than Overland) from all the obligations and liabilities under the Closing Indebtedness (as defined below) and assumption thereof by Purchaser. For purposes of the Purchase Agreement, as amended by the Second Amendment, “Closing Indebtedness” means the Indebtedness (as defined in the Purchase Agreement) totaling approximately \$39.1 million. The value of the liabilities of the Company that will be released upon the closing is expected to be not less than \$45.0 million (the amount of the Purchase Price).

Under the terms of the Purchase Agreement, the Share Purchase is contingent upon, and Purchaser must use its best efforts to arrange for, debt and/or equity financing in an amount at least equal to the Purchase Price in order to consummate the Share Purchase (the “Financing”). In addition, the Company must use commercially reasonable efforts to provide all cooperation reasonably requested by Purchaser regarding the Financing. Until the Financing is committed in accordance with a Contingency Termination Event (as defined below), the Company is free to solicit and negotiate other offers to purchase the Company, Overland or any or all of their assets and has the right to terminate the Purchase Agreement for any or no reason without penalty (subject to the expense reimbursement provisions described below).

The closing of the Share Purchase and of the other transactions contemplated by the Purchase Agreement are subject to (i) the adoption of the Purchase Agreement by the affirmative vote of the holders of (a) at least 66 2/3% of the outstanding common shares of the Company cast in person or by proxy at the special meeting of shareholders and (b) a majority of the votes cast by certain “minority shareholders” in person or by proxy at the special meeting of shareholders (the “Shareholder Approval”), both of which votes were obtained at the special shareholder meeting on May 31, 2018, and (ii) the transfer by the Company of (a) the businesses of (x) Unified ConneXions, Inc. and (y) HVE ConneXions, LLC (including the provision of information technology consulting services and hardware solutions around cloud computing, data storage and server virtualization to corporate, government, and educational institutions), and (b) the SNAP network attached storage business to a subsidiary of the Company other than Overland or a subsidiary of Overland. The closing of the Share Purchase and of the other transactions contemplated by the Purchase Agreement are also subject to various other conditions, including the parties entry into a mutually agreed upon transition services agreement, the consummation of the Financing, the absence of any order, statute, rule, regulation, executive order, decree or injunction issued by any governmental entity prohibiting the Share Purchase, the absence of a pending claim, suit, action or proceeding material claims seeking to prohibit the Share Purchase, the accuracy of the representations and warranties contained

in the Purchase Agreement, compliance with the covenants and agreements contained in the Purchase Agreement in all material respects, and the absence of a material adverse effect on either the Company or Overland.

The Company has made customary representations, warranties and covenants in the Purchase Agreement, including, among others, covenants (i) to conduct its business in the ordinary course during the period between the execution of the Purchase Agreement and the closing of the Share Purchase, (ii) not to engage in specified types of transactions during this period unless agreed to in writing by Purchaser, and (iii) subject to certain exceptions and only following the occurrence of the Contingency Termination Event (as defined below), not to solicit and negotiate other offers to purchase the Company, Overland or any or all of their assets or to withdraw, modify or qualify in a manner adverse to Purchaser the recommendation of the Board that the Company's shareholders vote in favor of approving the Share Purchase. The Company has also agreed to indemnification provisions in favor of Purchaser that are customary for transactions of this type.

Prior to the (i) execution and delivery of financing commitments in forms reasonably acceptable to the Company, which provide, among other things, for commitments from financing sources sufficient to pay the Purchase Price in the Share Purchase, (ii) execution and delivery by Purchaser of an irrevocable waiver in a form reasonably acceptable to the Company waiving Purchaser's condition to the obligation to close the Share Purchase that the Financing has been received and (iii) an executed certificate delivered by Purchaser to the Company regarding the accuracy of certain representations regarding the Financing (the "Contingency Termination Event"), the Company has the right to terminate the Purchase Agreement for any reason or for no reason. The Purchase Agreement also provides that, upon such termination of the Purchase Agreement by the Company, the Company has agreed to reimburse Purchaser up to approximately \$350,000 for the reasonable and documented out-of-pocket expenses incurred by the Purchaser and the sources for the Financing in connection with the negotiation, execution and performance of the Purchase Agreement and the transactions contemplated thereby, as well as the fees and expenses of the Purchaser's outside counsel.

In addition, the Purchase Agreement contains certain other termination rights, including, following the occurrence of the Contingency Termination Event, the right of the Company to terminate the Purchase Agreement under specified circumstances to accept an unsolicited superior proposal from a third party. The Purchase Agreement provides that, following the occurrence of the Contingency Termination Event and upon termination of the Purchase Agreement by the Company under specified circumstances (including termination by the Company to accept a superior proposal) or by Purchaser under specified circumstances, a termination fee equal to the lesser of (i) \$1.0 million and (ii) the amount of Purchaser's reasonable fees and expenses in connection with the negotiation, execution and performance of the Purchase Agreement (including the amount that the Purchaser must pay or reimburse to the sources for the Financing) will be payable by the Company to the Purchaser. Such termination fee is also payable following the occurrence of the Contingency Termination Event under certain other specified circumstances set forth in the Purchase Agreement. The Purchase Agreement also provides that each party to the Purchase Agreement may compel the other party or parties thereto to specifically perform its or their obligations under the Purchase Agreement. However, if the Purchase Agreement is terminated such that the Company termination fee becomes payable, the Purchaser will be precluded from any other remedy against the Company or Overland, including expense reimbursement and specific performance. Further, if the Purchase Agreement is terminated such that the expense reimbursement becomes payable, the Purchaser will be precluded from any other remedy against the Company or Overland, including the Company termination fee and specific performance. Subject to certain exceptions and limitations, either party may terminate the Purchase Agreement if the Share Purchase is not consummated by December 17, 2018.

Reverse Stock Split

On October 24, 2018, subject to the approval by the Company's shareholders (which approval was obtained at the special shareholder meeting held on October 31, 2018), the Board of Directors of the Company authorized a share consolidation (also known as a reverse stock split) of the Company's issued and outstanding common shares at a ratio of one-for-eight, which became effective on November 5, 2018. All share and per share amounts have been restated for all periods presented to reflect the share consolidation.

2. Significant Accounting Policies

Principles of Consolidation

The condensed consolidated financial statements of the Company have been prepared by management in accordance with accounting principles generally accepted in the United States of America (“GAAP”), applied on a basis consistent for all periods. These condensed consolidated financial statements include the accounts of the Company and its subsidiaries, all of which are wholly owned. All intercompany balances and transactions have been appropriately eliminated in consolidation.

Use of Estimates

The preparation of the condensed consolidated financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the condensed consolidated financial statements and reported amounts of revenues and expenses during the reporting period. Significant areas requiring the use of management estimates relate to the determination of provisions for impairment assessments of goodwill, other indefinite-lived intangible assets and long-lived assets; deferred revenue; allowance for doubtful receivables; inventory valuation; warranty provisions; deferred income taxes; and litigation claims. Actual results could differ from these estimates.

Foreign Currency Translation

The financial statements of foreign subsidiaries, for which the functional currency is the local currency, are translated into U.S. dollars using the exchange rate at the consolidated balance sheet date for assets and liabilities and a weighted-average exchange rate during the year for revenue, expenses, gains and losses. Translation adjustments are recorded as other comprehensive income (loss) within shareholders’ equity. Gains or losses from foreign currency transactions are recognized in the consolidated statements of operations. Such transactions resulted in a loss of \$0.2 million and \$0.6 million in three and nine months ended September 30, 2018 and 2017, respectively, and a gain of \$0.4 million and \$0.8 million in the three and nine months ended September 30, 2017, respectively.

Cash Equivalents

Highly liquid investments with insignificant interest rate risk and original maturities of three months or less, when purchased, are classified as cash equivalents. Cash equivalents are composed of money market funds. The carrying amounts approximate fair value due to the short maturities of these instruments.

Accounts Receivable

Accounts receivable is recorded at the invoiced amount and is non-interest bearing. We estimate our allowance for doubtful accounts based on an assessment of the collectability of specific accounts and the overall condition of the accounts receivable portfolio. When evaluating the adequacy of the allowance for doubtful accounts, we analyze specific trade and other receivables, historical bad debts, customer credits, customer concentrations, customer credit-worthiness, current economic trends and changes in customers’ payment terms and/or patterns. We review the allowance for doubtful accounts on a quarterly basis and record adjustments as considered necessary. Customer accounts are written-off against the allowance for doubtful accounts when an account is considered uncollectable.

Inventories

Inventories are stated at the lower of cost and net realizable value using the first-in-first-out method. Net realizable value is the estimated selling price in the ordinary course of business, less reasonably predictable costs of completion, disposal, and transportation. We assess the value of inventories periodically based upon numerous factors including, among others, expected product or material demand, current market conditions, technological obsolescence, current cost, and net realizable value. If necessary, we write down inventory for obsolete or unmarketable inventory by an amount equal to the difference between the cost of the inventory and the net realizable value.

Goodwill and Intangible Assets

Goodwill represents the excess of consideration paid over the value assigned to the net tangible and identifiable intangible assets acquired. For intangible assets purchased in a business combination, the estimated fair values of the assets received are used to establish their recorded values. For intangible assets acquired in a non-monetary exchange, the estimated fair values of the assets transferred (or the estimated fair values of the assets received, if more clearly evident) are used to establish their recorded values. Valuation techniques consistent with the market approach, income approach and/or cost approach are used to measure fair value.

Purchased intangible assets are amortized on a straight-line basis over their economic lives of six to 25 years for channel partner relationships, three to nine years for developed technology, three to eight years for capitalized development costs, and two to 25 years for customer relationships as this method most closely reflects the pattern in which the economic benefits of the assets will be consumed.

Impairment of Goodwill, Intangible Assets and Long-Lived Assets

Goodwill and intangible assets are tested for impairment on an annual basis at December 31, or more frequently if there are indicators of impairment. Triggering events for impairment reviews may be indicators such as adverse industry or economic trends, restructuring actions, lower projections of profitability, or a sustained decline in our market capitalization. Intangible assets are quantitatively assessed for impairment, if necessary, by comparing their estimated fair values to their carrying values. If the carrying value exceeds the fair value, the difference is recorded as an impairment.

Long-lived assets are reviewed for recoverability whenever events or changes in circumstances indicate the carrying value may not be recoverable. Our consideration includes, but is not limited to: (i) significant under-performance relative to historical or projected future operating results; (ii) significant changes in the manner of use of the assets or the strategy for the Company's overall business; (iii) significant decrease in the market value of the assets; and (iv) significant negative industry or economic trends. When the carrying value is not considered recoverable, an impairment loss for the amount by which the carrying value of a long-lived asset exceeds its fair value is recognized, with an offsetting reduction in the carrying value of the related asset.

Revenue Recognition

The Company primarily generates revenue from solutions for standalone storage and long-term data archive products, as well as enterprise storage management solutions which are primarily grouped into three categories: (i) disk systems, (ii) tape automation systems, tape drive and media, and (iii) warranty and customer services.

Approximately 90% of the Company's revenue is recognized when performance obligations under the terms of a contract with a customer are satisfied at a point in time. These contracts generally have a single performance obligation to transfer products. Accordingly, the Company recognizes revenue when change of control has been transferred to the customer, generally at the time of shipment of products. The Company sells its products both directly to customers and through distributors generally under agreements with payment terms typically less than 45 days. Revenue on direct product sales, excluding sales to distributors, are not entitled to any specific right of return or price protection, except for any defective product that may be returned under our standard product warranty. Product sales to distribution customers are subject to certain rights of return, stock rotation privileges and price protections, that create "variable considerations". Revenue is measured as the amount of consideration the Company expects to receive in exchange for transferring products and is generally based upon a negotiated fixed price and is net of estimates for variable considerations.

For performance obligations related to warranty and customer services, such as extended product warranties, the Company transfers control and recognizes revenue over time on a ratable basis. The performance obligations are satisfied as services are rendered typically on a straight-line basis over the contract term, which is generally 12 months.

In limited circumstances where a customer is unable to accept shipment and requests products be delivered to, and stored on, the Company's premises, also known as a "bill-and-hold" arrangements, revenue is recognized when: (i) the customer has requested delayed delivery and storage of the products, (ii) the goods are segregated from the inventory, (iii) the product is complete, ready for shipment and physical transfer to the customer, and (iv) the Company does not have the ability to use the product or direct it to another customer.

The Company enters into revenue arrangements that may consist of multiple performance obligations, of its product and service offerings, such as for sales of hardware devices and extended warranty services. The Company allocates revenue to the performance obligations in multiple element arrangements based on relative selling prices. The Company determines the transaction price based on its normal pricing and discounting practices for the specific product or service when sold separately. When the Company is not able to establish the individual transaction price for all performance obligations in an arrangement with multiple elements, the Company determines the selling price of each element based on third party evidence of selling price or based on the Company's actual historical selling prices of similar items, whichever management believes provides the most reliable estimate of expected selling prices.

Warranty and Extended Warranty

The Company records a provision for standard warranties provided with all products. If future actual costs to repair were to differ significantly from estimates, the impact of these unforeseen costs or cost reductions would be recorded in subsequent periods.

Separately priced extended on-site warranties and service contracts are offered for sale to customers on all product lines. The Company contracts with third party service providers to provide service relating to on-site warranties and service contracts. Extended warranty and service contract revenue and amounts paid in advance to outside service organizations are deferred and recognized as service revenue and cost of service, respectively, over the period of the service agreement.

Shipping and Handling

Amounts billed to customers for shipping and handling are included in product revenue, and costs incurred related to shipping and handling are included in cost of product revenue.

Research and Development Costs

Research and development expenses include payroll, employee benefits, share-based compensation expense, and other headcount-related expenses associated with product development. Research and development expenses also include third party development and programming costs, localization costs incurred to translate software for international markets, and the amortization of purchased software code and services content. Such costs related to software development are included in research and development expense until the point that technological feasibility is reached, which for our software products, is generally shortly before the products are released to manufacturing. Once technological feasibility is reached, such costs are capitalized and amortized to cost of revenue over the estimated lives of the products.

Segment Information

We report segment data based on the management approach. The management approach designates the internal reporting that is used by management for making operating and investment decisions and evaluating performance as the source of our reportable segments. We use one measurement of profitability and do not disaggregate our business for internal reporting. We operate in one segment providing data management, and desktop and application virtualization solutions for small and medium businesses and distributed enterprises. We disclose information about products and services, geographic areas, and major customers.

Comprehensive Loss

Comprehensive loss and its components encompasses all changes in equity other than those arising from transactions with shareholders, including net loss and foreign currency translation adjustments, and is disclosed in a separate consolidated statement of comprehensive loss.

Share-based Compensation

We account for share-based awards, and similar equity instruments, granted to employees, non-employee directors, and consultants under the fair value method. Share-based compensation award types include stock options and restricted stock. We use the Black-Scholes option pricing model to estimate the fair value of option awards on the measurement date, which generally is the date of grant. The expense is recognized over the requisite service period (usually the vesting period) for the estimated number of instruments for which service is expected to be rendered. The fair value of restricted stock units (“RSUs”) is estimated based on the market value of the Company’s common shares on the date of grant. The fair value of options granted to non-employees is estimated at the measurement date using the Black-Scholes option pricing model and the unvested options remeasured at each reporting date, with changes in fair value recognized in expense in the consolidated statement of operations.

Share-based compensation expense for options with graded vesting is recognized pursuant to an accelerated method. Share-based compensation expense for RSUs is recognized over the vesting period using the straight-line method. Share-based compensation expense for an award with performance conditions is recognized when the achievement of such performance conditions are determined to be probable. If the outcome of such performance condition is not determined to be probable or is not met, no compensation expense is recognized and any previously recognized compensation expense is reversed. Forfeitures are recognized in share-based compensation expense as they occur.

We have not recognized, and do not expect to recognize in the near future, any tax benefit related to share-based compensation cost as a result of the full valuation allowance of our net deferred tax assets and its net operating loss carryforward.

Recently Issued Accounting Pronouncements

From time to time, new accounting pronouncements are issued by the Financial Accounting Standards Board (“FASB”) that are adopted by the Company as of the specified effective date. If not discussed, the Company believes that the impact of recently issued standards, which are not yet effective, will not have a material impact on the Company’s consolidated financial statements upon adoption.

In June 2018, the FASB issued Accounting Standards Update (“ASU”) No. 2018-07, *ASU No. 2018-07, Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting* (“ASU 2018-07”). The update aligns measurement and classification guidance for share-based payments to nonemployees with the guidance applicable to employees. Under the new guidance, the measurement of equity-classified nonemployee awards will be fixed at the grant date. The update is effective for annual reporting periods, including interim periods, beginning after December 15, 2018, with early adoption permitted. We do not expect the adoption of ASU 2018-07 to have a material effect on our consolidated financial statements and related disclosures.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles - Goodwill and Other (Topic 350) - Simplifying the Test for Goodwill Impairment* (“ASU 2017-04”). The update simplifies the subsequent measurement of goodwill by eliminating Step 2 from the goodwill impairment test. An entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount, and recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value, if applicable. The loss recognized should not exceed the total amount of goodwill allocated to the reporting unit. The same impairment test also applies to any reporting unit with a zero or negative carrying amount. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. The update is effective for annual reporting periods, including interim periods, beginning after December 15, 2019, on a prospective basis. Early adoption is permitted for interim or annual goodwill impairment tests performed after January 1, 2017. We do not expect the adoption of ASU 2017-04 to have a material effect on our consolidated financial statements and related disclosures.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)* (“ASU 2016-02”). The update increases transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and requires disclosing key information about leasing arrangements. The update is effective for reporting periods beginning after December 15, 2018, with early adoption permitted. An entity will be required to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach. We are currently evaluating the effect that ASU 2016-02 will have on our consolidated financial statements and related disclosures.

Recently Adopted Accounting Pronouncements

On January 1, 2018, we adopted ASU 2014-09, *Revenue from Contracts with Customers* and all the related amendments, or Accounting Standards Codification (“ASC”) Topic 606. Under Topic 606, an entity is required to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. Topic 606 defines a five-step process in order to achieve this core principle, which may require the use of judgment and estimates, and also requires expanded qualitative and quantitative disclosures relating to the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with customers, including significant judgments and estimates used. The adoption of the new standard requires the recognition of revenues generally upon shipment to our customers for both distributors and direct consumers also known as “sell-in basis” for sales of products to certain customers which had previously been recognized on a “sell-through basis” or when the product was ultimately shipped to the end consumer. We elected to adopt this guidance using the modified retrospective method and it resulted in a cumulative adjustment reducing our accumulated deficit by approximately \$0.3 million. Comparative prior periods were not adjusted and continue to be reported under FASB ASC Topic 605, *Revenue Recognition*.

In connection with the adoption of Topic 606, we are required to capitalize certain contract acquisition costs consisting primarily of commissions paid when contracts are signed. The Company elected to follow a Topic 606 practical expedient and expense the incremental costs of obtaining a contract (sales commissions) when incurred because the amortization period is generally one year or less and capitalized long-term contract costs are not significant. For certain performance obligations related to services, extended warranty and other service agreements that are settled over time, the Company has elected not to adjust the transaction price for the consideration of the effects of time value of money for prepaid services from customers as these services and warranty services are usually fully amortized in one year or less. The impact of the adoption of ASC 606 on our unaudited consolidated balance sheet and our unaudited consolidated statements of operations, comprehensive loss, equity and cash flows was not material. We do not expect the adoption of this guidance to have a material effect on our results of operations in future periods.

In August 2016, the FASB issued ASU No. 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments* (“ASU 2016-15”). The update addresses eight cash flow classification issues and how they should be reported in the statement of cash flows. The update is effective for annual reporting periods beginning after December 15, 2017, including interim periods within that reporting period. The adoption of the new standard on January 1, 2018 did not have a material effect on our cash flows.

In May 2017, the FASB issued ASU No. 2017-09, *Compensation - Stock Compensation (Topic 718) - Scope of Modification Accounting* (“ASU 2017-09”). The update provides clarity and is expected to reduce both diversity in practice and the cost and complexity when accounting for a change to the terms of a stock-based award. The update is effective for fiscal years, including interim periods within those fiscal years, beginning after December 15, 2017, on a prospective basis. The adoption of the new standard on January 1, 2018 did not have a material effect on our financial position, results of operations or cash flows.

In July 2017, the FASB issued Accounting Standards Update (“ASU”) No. 2017-11, *Earnings Per Share (Topic 260); Distinguishing Liabilities from Equity (Topic 480); Derivatives and Hedging (Topic 815)* (“ASU 2017-11”). The update changes the classification of certain equity-linked financial instruments (or embedded features) with down round features. The update also clarifies existing disclosure requirements for equity-classified instruments. The update is effective retrospectively for annual reporting periods beginning after December 15, 2018, including interim periods within that reporting period. We early adopted the new standard effective January 1, 2018 and it did not have a material effect on our financial position, results of operations or cash flows.

3. Business Combination

UCX and HVE Acquisition

In December 2016, the Company acquired 19.9% of the outstanding equity interests of Unified ConneXions, Inc. (“UCX”) and HVE ConneXions, LLC (“HVE”) for a purchase price of \$1.5 million. The Company issued 19,737 shares of its common shares in satisfaction of payment. In January 2017, the Company completed its acquisition of all of the remaining outstanding equity interests of UCX and HVE, for \$1.1 million in cash and issued 11,029 common shares with an approximate value of \$0.3 million. In 2017, the Company recognized a \$1.1 million loss, included in other expense, as a result of the remeasurement to fair value the equity interest held immediately before the business combination. The valuation was based on the Company’s private placement completed as of January 26, 2017.

UCX and HVE provide information technology consulting services and hardware solutions around cloud computing, data storage and server virtualization to corporate, government, and educational institutions primarily in the southern central United States. By adding UCX’s technologies, professional services and engineering talent, and HVE’s products, engineering and virtualization expertise, the Company intends to expand its virtualization offerings as well as enhance its ability to accelerate the delivery of hybrid cloud solutions to customers. We incurred acquisition related expenses of approximately \$34,000 which consisted primarily of due diligence, legal and other one-time charges and are included in general and administrative expense in the consolidated statements of operations.

A summary of the estimated fair values of the assets acquired and liabilities assumed as of the closing date were as follows (in thousands):

Cash	\$	49
Accounts receivable		582
Inventory		206
Identifiable intangible assets		1,260
Other assets		45
Total identifiable assets acquired		2,142
Accounts payable and accrued liabilities		(359)
Deferred revenue		(518)
Net identifiable assets acquired		1,265
Goodwill		522
Net assets acquired	\$	<u>1,787</u>

Goodwill is primarily comprised of a trained and assembled workforce. The fair value estimates for the assets acquired and liabilities assumed for the acquisition were based on estimates and analysis, including work performed by third party valuation specialists. The goodwill recognized upon acquisition is not deductible for tax purposes.

The results of operations related to this acquisition have been included in our consolidated statements of operations from the acquisition date. Pro forma results of operations have not been presented because at this time it is impracticable to provide as the information is not available at the level of detail required.

The identified intangible assets as of the date of acquisition consisted of the following (in thousands):

	Estimated Fair Value	Weighted- Average Useful Life (years)
Channel partner relationships	\$ 730	6.0
Customer relationships	380	3.2
Developed technology	150	3.0
Total identified intangible assets	<u>\$ 1,260</u>	

4. Inventories

The following table summarizes inventories (in thousands):

	September 30, 2018	December 31, 2017
Raw materials	\$ 1,764	\$ 1,222
Work in process	1,763	2,217
Finished goods	4,473	4,927
	<u>\$ 8,000</u>	<u>\$ 8,366</u>

5. Intangible Assets

The following table summarizes intangible assets, net (in thousands):

	September 30, 2018	December 31, 2017
Developed technology	\$ 23,414	\$ 23,414
Channel partner relationships ⁽¹⁾	12,869	12,929
Capitalized development costs ⁽¹⁾	3,047	3,164
Customer relationships ⁽¹⁾	1,619	1,647
	<u>40,949</u>	<u>41,154</u>
Accumulated amortization:		
Developed technology	(17,249)	(15,276)
Channel partner relationships ⁽¹⁾	(1,664)	(1,201)
Capitalized development costs ⁽¹⁾	(1,635)	(1,409)
Customer relationships ⁽¹⁾	(692)	(495)
	<u>(21,240)</u>	<u>(18,381)</u>
Total finite-lived assets, net	19,709	22,773
Indefinite-lived intangible assets - trade names	18,700	18,700
Total intangible assets, net	<u>\$ 38,409</u>	<u>\$ 41,473</u>

(1) Includes the impact of foreign currency exchange rate fluctuations.

Amortization expense of intangible assets was \$0.8 million and \$1.4 million during the three months ended September 30, 2018 and 2017, respectively, and \$2.9 million and \$4.0 million during the nine months ended September 30, 2018 and 2017, respectively. Estimated amortization expense for intangible assets is expected to be approximately \$0.8 million for the remainder of 2018 and \$2.6 million, \$2.5 million, \$2.1 million, \$1.9 million and \$1.5 million in fiscal 2019, 2020, 2021, 2022 and 2023, respectively.

6. Debt

Default, Assignment and Waiver Under Credit and Debt Facilities

On August 1, 2018, Overland Storage, Inc., a wholly-owned subsidiary of the Company (“Overland”), together with its subsidiary, Tandberg Data GmbH, as co-borrowers under that certain Credit Agreement dated as of April 6, 2016 (as amended from time to time, the “Credit Agreement”), with CB CA SPV, LLC (“Colbeck”), as lender, failed to make a required payment of interest due on such date. Such failure constituted an event of default as of August 6, 2018 under the Credit Agreement after expiration of a five-day cure period. On August 7, 2018, Overland received a notice from Colbeck stating that, as a result of such failure, all amounts under the Credit Agreement are immediately due and payable. The foregoing also constituted an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings, S.à r.l (“FBC Holdings” and together with Colbeck, the “Lenders”).

On August 16, 2018, the Credit Agreement was assigned from Colbeck to FBC Holdings. In connection with the assignment, the Company and Overland also received from FBC Holdings (i) a waiver of the defaults and cross-defaults under the Credit Agreement and the 8% Senior Secured Convertible Debenture, as amended from time to time, respectively, and (ii) a revocation of the demand that all amounts payable under the Credit Agreement and the 8% Senior Secured Convertible Debenture are immediately due and payable. As part of the waiver, accrued interest through August 15, 2018 on the Credit Agreement was paid in kind by increasing the principal amount of the term loan and revolving loan by \$0.2 million and \$0.1 million, respectively.

Related Party Secured Note

In December 2014, in connection with the acquisition of Overland, the existing debt of Overland and the remaining debt of the Company were amended and restated into a \$19.5 million convertible note held by FBC Holdings. In April 2016, the Company modified its convertible note with FBC Holdings, pursuant to which the holder made an additional advance and principal amount under the convertible note amount was increased to \$24.5 million. In August 2018, FBC Holdings notified the Company in writing that it was abandoning its right to convert the convertible note into common shares of the Company and informed the Company that such conversion rights, and any related provisions of the convertible note, shall no longer apply and have no further force or effect. The secured note (formerly known as convertible note, now defined as “secured note”) bears interest at an 8.0% simple annual interest rate, payable semi-annually. The obligations under the secured note are secured by substantially all assets of the Company. At September 30, 2018, the Company had \$24.5 million outstanding on the secured note.

In July 2018, the Company and FBC Holdings entered into an amendment to the secured note, under which the maturity date was extended to November 19, 2018. In addition, the Company must satisfy certain milestones which the failure to comply therewith would constitute an event of default under the secured note.

In March 2018, the Company and FBC Holdings entered into an amendment to the secured note which extended the maturity date and altered the schedule for interest payments under the secured note by providing for future accrued interest to be paid twice monthly rather than semi-annually, which was then subsequently modified to accrued interest to be paid at maturity. In consideration for the amendment, the Company paid to FBC Holdings a fee of \$0.7 million. The majority of the fee was settled in 120,319 shares of the Company’s stock.

The Company has the option under the amendment to the secured note to pay accrued and outstanding interest in common shares of the Company. However, the Company's ability to issue additional common shares for such purpose may be limited from time to time under Nasdaq rules related to new share issuances. If the Company chooses to pay the interest in common shares, the calculation is based upon the number of common shares that may be issued as payment of interest on the secured note and will be determined by dividing the amount of interest due by the current market price as defined in the secured note agreement. For the nine months ended September 30, 2018 and 2017, the Company issued 99,051 and 22,040 common shares, respectively, for the settlement of accrued interest expense.

The secured note contains customary covenants, including covenants that limit or restrict the Company's ability to incur liens, incur indebtedness, or make certain restricted payments. Upon the occurrence of an event of default under the secured note, the Holder may declare all amounts outstanding to be immediately due and payable. The secured note specifies a number of events of default (some of which are subject to applicable grace or cure periods), including, among other things, non-payment defaults, covenant defaults, cross-defaults to other materials indebtedness, bankruptcy and insolvency defaults, and material judgment defaults. As of September 30, 2018, the Company was in compliance with all covenants of the secured note.

For both the three months ended September 30, 2018 and 2017, interest expense, including amortization of debt costs, on the secured note was \$0.5 million. For the nine months ended September 30, 2018 and 2017, interest expense, including amortization of debt costs, on the secured note was \$2.3 million and \$1.6 million, respectively. At September 30, 2018, there was \$0.7 million of accrued interest included in accrued liabilities.

Related Party Debt

In December 2017, the Company entered into a \$2.0 million subordinated promissory note with MF Ventures, LLC, a related party. The promissory note is subordinate to the Company's Credit Agreement and related party secured note and has a maturity date of the earliest of: (i) December 11, 2020; (ii) immediately after repayment in full of the Company's obligations under its debt and credit agreements with FBC Holdings; or (iii) immediately after refinancing of the Company's obligations under its debt and credit agreements. The promissory note may be prepaid at any time by the Company; including any accrued and unpaid interest and a \$0.3 million prepayment penalty. The promissory note bears interest at a 12.5% simple annual interest rate, payable quarterly in arrears. Interest shall be paid in kind by increasing the principal amount of the note on each quarterly interest payment date. At September 30, 2018, the Company had \$2.2 million outstanding on the promissory note. For the three and nine months ended September 30, 2018, interest expense, including amortization of debt costs, on the promissory note was \$0.1 million and \$0.2 million, respectively.

In September 2016, the Company entered into a \$2.5 million agreement with FBC Holdings. The term loan had a maturity date of January 31, 2018 and bore interest at a 20.0% simple annual interest rate. In January 2018, the term loan was repaid in full per the term loan agreement. For the three and nine months ended September 30, 2017, interest expense, including amortization of debt costs, on the term loan was \$0.1 million and \$0.3 million, respectively.

Related Party Credit Agreement

In April 2016, the Company entered into a Credit Agreement with Opus Bank for a term loan in the amount of \$10.0 million and a revolving credit facility in the amount of up to \$10.0 million. A portion of the proceeds were used to pay off the Company's then outstanding credit facilities with FBC Holdings and Silicon Valley Bank. The remainder of the proceeds were used for working capital and general business requirements. On December 30, 2016, the credit facility was reduced to \$8.2 million. The obligations under the term loan and credit facility are secured by substantially all assets of the Company. On June 6, 2018, the Credit Agreement was assigned by Opus Bank to Colbeck. On August 16, 2018, the Credit Agreement was assigned by Colbeck to FBC Holdings.

In July 2018, the Company and Colbeck entered into Amendment Number Fourteen to the Credit Agreement under which, among other things, (i) the maturity date of the loans under the Credit Agreement were extended to November 19, 2018, and (ii) the Company must satisfy certain milestones which the failure to comply therewith would constitute an event of default under the Credit Agreement.

In June 2018, the Company and Colbeck entered into Amendment Number Twelve to the Credit Agreement under which, among other things, extended the maturity date and changed the interest rate applicable to the obligations under the Credit Agreement from 8.25% to 13.25% as of June 29, 2018. In consideration for the amendment, the Company incurred a fee of \$0.4 million on July 13, 2018, which was added to the outstanding principal amount of the term loan. At September 30, 2018, the interest rate on the term loan and credit facility was 13.25%.

In March 2018, the Company and Opus Bank entered into Amendment Number Eight to Credit Agreement (“Amendment Number Eight”). Under the terms of Amendment Number Eight, the maturity date for the revolving and term loan credit facilities were extended to May 31, 2018. In consideration for the extension, the Company agreed to pay a fee of \$0.1 million, payable in cash on the date on which the obligations under the Credit Agreement are paid in full.

The term loan and revolving credit facility contain customary covenants, including covenants that limit or restrict the Company’s ability to incur liens, incur indebtedness, or make certain restricted payments. Upon the occurrence of an event of default under the term loan, the holder may declare all amounts outstanding to be immediately due and payable. The term loan and revolving credit facility specify a number of events of default (some of which are subject to applicable grace or cure periods), including, among other things, non-payment defaults, covenant defaults, cross-defaults to other materials indebtedness, bankruptcy and insolvency defaults, and material judgment defaults. As of September 30, 2018, the Company was in compliance with all covenants of the term loan and revolving credit facility.

At September 30, 2018, the outstanding balances of the term loan and revolving credit facility were \$10.5 million and \$8.3 million, respectively. For the three months ended September 30, 2018 and 2017, interest expense, including amortization of debt costs, on the term loan and revolving credit facility was \$1.0 million and \$0.5 million, respectively, and \$2.5 million and \$2.8 million for the nine months ended September 30, 2018 and 2017, respectively. At September 30, 2018, there was \$0.3 million of accrued interest included in accrued liabilities.

7. Fair Value Measurements

The authoritative guidance for fair value measurements establishes a three tier fair value hierarchy, which prioritizes the inputs used in measuring fair value. These tiers include: Level 1, defined as observable inputs such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

Assets and Liabilities that are Measured at Fair Value on a Recurring Basis

Our financial instruments include cash equivalents, accounts receivable, prepaid expenses, accounts payable, accrued expenses, credit facility, debt and related party debt. Fair value estimates of these instruments are made at a specific point in time, based on relevant market information. These estimates may be subjective in nature and involve uncertainties and matters of significant judgment and therefore cannot be determined with precision. The carrying amount of cash equivalents, accounts receivable, prepaid expenses, accounts payable and accrued expenses are generally considered to be representative of their respective fair values because of the short-term nature of those instruments. The carrying amount of the credit facility borrowings approximate their fair value as the interest rate of the credit facility is substantially comparable to rates offered for similar debt instruments. The carrying value of debt and related party debt approximates its fair value as the borrowing rates are substantially comparable to rates available for loans with similar terms.

The following table provides information by level for liabilities that are measured at fair value using significant unobservable inputs (Level 3) (in thousands):

Warrant liability as of December 31, 2017	\$	1,669
Adoption of accounting guidance		(46)
Change in fair value of warrants		(259)
Reclassification to equity resulting from warrant exchange agreement		(1,364)
Warrant liability as of September 30, 2018	\$	<u>—</u>

Assets and Liabilities that are Measured at Fair Value on a Nonrecurring Basis

The Company's non-financial assets such as goodwill, intangible assets and property and equipment are recorded at fair value when an impairment is recognized or at the time acquired in a business combination.

8. Share Capital

In April 2018, the Company closed an underwritten public offering and issued 412,500 common shares and warrants to purchase up to an aggregate of 123,750 common shares at an aggregate purchase price of \$5.60 per common share and accompanying warrant, as well as a concurrent closing of warrants to purchase an additional 14,063 common shares pursuant to the partial exercise of the over-allotment option granted to the underwriter. Gross proceeds, before underwriting discounts and commissions and other offering expenses, were approximately \$2.3 million.

In May 2018, the Company issued 80,100 common shares to satisfy payment obligations incurred by the Company in the aggregate amount of \$0.3 million. The obligations were related to the Share Purchase Agreement entered into in February 2018.

Reverse Stock Split

On October 24, 2018, subject to the approval by the Company's shareholders (which approval was obtained at the special shareholder meeting held on October 31, 2018), the Board of Directors of the Company authorized a share consolidation (also known as a reverse stock split) of the Company's issued and outstanding common shares at a ratio of one-for-eight, which became effective on November 5, 2018. All share and per share amounts have been restated for all periods presented to reflect the share consolidation.

Warrants

At September 30, 2018, the Company had the following outstanding warrants to purchase common shares:

Date issued	Contractual life (years)	Exercise price	Number outstanding	Expiration
May 2015	5	\$800.00	4,200	May 31, 2020
October 2015	5	\$466.00	2,010	October 14, 2020
December 2015	3	\$308.00	2,500	December 21, 2018
December 2015	5	\$500.00	5,138	December 15, 2020
December 2015	5	\$216.00	7,500 ⁽¹⁾	December 4, 2020
January 2016	3	\$412.00	442	November 30, 2018
February 2016	3	\$324.00	2,500	February 26, 2019
March 2016	5	\$500.00	150	March 4, 2021
November 2016	3	\$400.00	125	November 8, 2019
December 2016	6	\$2.00	4,310	December 30, 2022
March 2017	6	\$2.00	1,995	April 18, 2023
March 2017	6	\$2.00	4,405	June 1, 2023
August 2017	5	\$42.00	37,500	August 11, 2022
August 2017	5	\$42.00	11,876	August 16, 2022
August 2017	5	\$42.00	25,625	August 22, 2022
April 2018	5	\$5.60	137,813	April 17, 2023
			<u>248,089</u> ⁽²⁾	

(1) If the Company or any subsidiary thereof, at any time while this warrant is outstanding, enters into a Variable Rate Transaction (“VRT”) (as defined in the purchase agreement) and the issue price, conversion price or exercise price per share applicable thereto is less than the warrant exercise price then in effect, the exercise price shall be reduced to equal the VRT price.

(2) Includes warrants to purchase up to 42,500 common shares, in the aggregate, outstanding to related parties at September 30, 2018.

Related Party Share Capital Transactions

In August 2017, the Company entered into a securities purchase agreement with certain investors pursuant to which the Company issued (i) 75,000 common shares, of which 49,375 common shares were issued to related parties, and (ii) warrants for the purchase of up to 75,000 common shares, of which warrants to purchase up to 49,375 common shares were issued to related parties, in a private placement in exchange for a cash payment of \$3.0 million. The purchase price was \$40.00 per common share and warrant to purchase one common share, and the exercise price of the warrants is \$42.00 per warrant share. The warrants were subject to certain anti-dilution adjustments through December 2017.

In July 2017, the Company entered into amended and restated warrant agreements with certain holders of warrants previously issued in March 2016 (the “Amended March 2016 Warrant”) and between December 2016 and March 2017 (the “Amended March 2017 Warrants” and together with the Amended March 2016 Warrant, the “Amended and Restated Warrants”). Pursuant to the amended and restated warrant agreements, the Company issued an aggregate of 202,240 common shares, of which 164,423 common shares were issued to related parties, in exchange for the cancellation of such warrants. Immediately after the exchange, the amended and restated warrant agreements became null and void.

In March 2017, the Company entered into a securities purchase agreement with certain investors party thereto, pursuant to which the Company issued to the investors, in the aggregate, 102,273 of the Company’s common shares, of which 22,727 common shares and warrants to purchase 22,727 shares were issued to a related party, for gross proceeds of \$4.5 million. The securities purchase agreement also provided for the concurrent private placement of warrants exercisable to purchase up to 108,409 common shares. Each warrant had an exercise price of \$60.00 per warrant share. In August 2017, the Company issued additional common shares, which triggered a price adjustment for the March 2017 warrants from \$60.00 to \$40.00 and the Company issued, in the aggregate, additional warrants exercisable to purchase up to 54,205 common shares, of which a related party received warrants exercisable to purchase 11,364 common shares. In March 2018, the Company entered into warrant exchange agreements, in a privately negotiated exchange under Section 4(a)(2) of the Securities Act of 1933, as amended, pursuant to which the Company issued 178,875 common shares in exchange for the surrender and cancellation of the Company’s outstanding March 24, 2017 warrants (the “Exchange”). Immediately after the Exchange, the previously issued warrants became null and void. A related party participated in the Exchange by acquiring 37,500 common shares in exchange for the cancellation of a warrant to purchase 34,091 common shares.

Between December 30, 2016 and March 16, 2017, the Company completed a private placement and issued a total of 90,700 “Units” at a purchase price of \$60.00 per Unit, of which 71,792 Units were issued to related parties. Each Unit consisted of one common share and one warrant from each of two series of warrants. The Company received gross proceeds of \$5.4 million in connection with the sale of the Units. The warrants were exercisable to purchase 181,400 common shares in the aggregate. In July 2017, the warrants issued between December 30, 2016 and March 16, 2017 became null and void as a result of the amended and restated warrant agreements.

9. Equity Incentive Plans

During the nine months ended September 30, 2018 and 2017, the Company granted awards of restricted stock units of 50 and 67,694, respectively, of which 25,779 were granted outside of the 2015 Performance Incentive Plan. The restricted stock units were recorded at fair value on the date of grant. During the nine months ended September 30, 2018 and 2017, the Company granted awards of stock options of zero and 10,825, respectively. The stock options were recorded at fair value using the Black-Scholes option pricing model on the date of grant. The restricted stock units and stock options typically vest over a period of approximately three years.

Restricted Stock Awards

During the nine months ended September 30, 2018 and 2017, the Company granted restricted stock awards (“RSA”) in lieu of cash payment for services performed by third parties. The estimated fair value of the RSAs was based on the market value of the Company’s common shares on the date of grant. During the nine months ended September 30, 2018 and 2017, the Company granted RSAs of 100,197 and 1,842, respectively, with a fair value of \$1.0 million and \$0.1 million, respectively.

Stock Options

The fair value of each option is estimated on the date of grant using the Black-Scholes option pricing model, which uses the weighted-average assumptions noted in the following table:

	Nine Months Ended September 30,	
	2018	2017
Expected volatility	n/a	120.0%
Risk-free interest rate	n/a	2.1%
Dividend yield	n/a	—
Expected term (in years)	n/a	4.7

The expected volatility was based on the Company’s historical share price. The risk-free interest rate is determined based upon a constant maturity U.S. Treasury security with a contractual life approximating the expected term of the option. The expected

term of options granted is estimated based on a number of factors, including but not limited to the vesting term of the award, historical employee exercise behavior, the expected volatility of the Company's common shares and an employee's average length of service.

Share-Based Compensation Expense

The Company recorded the following compensation expense related to its share-based compensation awards (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Cost of sales	\$ 4	\$ 104	\$ 46	\$ 271
Sales and marketing	23	551	301	1,574
Research and development	37	370	191	1,080
General and administrative	191	956	982	2,722
Total share-based compensation expense	\$ 255	\$ 1,981	\$ 1,520	\$ 5,647

As of September 30, 2018, there was a total of \$1.4 million of unrecognized compensation expense related to unvested equity-based compensation awards. The expense associated with non-vested restricted stock units and options awards granted as of September 30, 2018 is expected to be recognized over a weighted-average period of 1.5 years.

10. Net Loss per Share

Basic net loss per share is computed by dividing net loss applicable to common shareholders by the weighted-average number of common shares outstanding during the period. For all periods presented, there is no difference in the number of shares used to calculate basic and diluted shares outstanding due to the Company's net loss position.

Anti-dilutive common share equivalents excluded from the computation of diluted net loss per share were as follows (in thousands):

	Three and Nine Months Ended September 30,	
	2018	2017
Common share purchase warrants	248	274
Restricted stock not yet vested or released	73	55
Options outstanding	20	24
Convertible notes	—	41
Convertible notes interest	—	83

11. Related Party Transactions

Professional services provided by affiliates of the Company were \$0.2 million and zero during the three months ended September 30, 2018 and 2017, respectively, and \$0.7 million and zero during the nine months ended September 30, 2018 and 2017, respectively.

12. Commitments and Contingencies

Letters of credit

During the ordinary course of business, the Company provides standby letters of credit to third parties as required for certain transactions initiated by the Company. As of September 30, 2018, the Company had no outstanding standby letters of credit.

Warranty and Extended Warranty

The Company had \$0.6 million and \$0.8 million in deferred costs included in other current and non-current assets related to deferred service revenue at September 30, 2018 and December 31, 2017, respectively. Changes in the liability for product warranty and deferred revenue associated with extended warranties and service contracts were as follows (in thousands):

	Product Warranty	Deferred Revenue
Liability at December 31, 2017	\$ 996	\$ 5,672
Settlements made during the period	(331)	(4,352)
Change in liability for warranties issued during the period	322	3,438
Change in liability for pre-existing warranties	11	—
Liability at September 30, 2018	<u>\$ 998</u>	<u>\$ 4,758</u>
Current liability	\$ 616	\$ 3,122
Non-current liability	382	1,636
Liability at September 30, 2018	<u>\$ 998</u>	<u>\$ 4,758</u>

Litigation

The Company is, from time to time, subject to claims and suits arising in the ordinary course of business. In the opinion of management, the ultimate resolution of such pending proceedings will not have a material effect on the Company's results of operations, financial position or cash flows.

Patent Litigation Funding Agreement

In December 2010, Overland entered into a litigation funding agreement (the "Funding Agreement") with Special Situations Fund III QP, L.P., Special Situations Private Equity Fund, L.P., Special Situations Technology Fund, L.P., and Special Situations Technology Fund II, L.P. (collectively, the "Special Situations Funds") pursuant to which the Special Situations Funds agreed to fund certain patent litigation brought by Overland. In May 2014, the Special Situations Funds filed a complaint against Overland in the Supreme Court for New York County, alleging breach of the Funding Agreement. The Special Situations Funds alleged that Overland's January 2014 acquisition of Tandberg Data entitled the Special Situations Funds to a \$6.0 million payment under the Funding Agreement, and therefore Overland's refusal to make the payment constituted a breach of the Funding Agreement by Overland. In November 2014, the Special Situations Funds amended their complaint to allege that Overland breached the Funding Agreement's implied covenant of good faith and fair dealing by settling the patent litigation with BDT in bad faith to avoid a payment obligation under the Funding Agreement. The Special Situations Funds sought \$6.0 million in contractual damages as well as costs and fees. On October 10, 2017, the Court entered an order granting Overland's motion for summary judgment and dismissing the Special Situations Funds' complaint in its entirety with prejudice, and in April 2018, the parties entered into a settlement agreement ending the litigation that did not require payment from either party.

Other

In January 2018, Mr. Vito Lupis filed a statement of claim in the Ontario Court of Justice alleging, among other things, breach of contracts, deceit and negligence against Mr. Giovanni J. Morelli, a former officer of the Company, and vicarious liability against the Company, in connection with stock purchase agreements and other related agreements that would have been entered into between Mr. Lupis and the Company in 2012. The Company believes the allegations are without merit and plans to vigorously defend itself against the allegations.

In April 2015, we filed a proof of claim in connection with bankruptcy proceedings of V3 Systems, Inc. (“V3”) based on breaches by V3 of the Asset Purchase Agreement entered into between V3 and the Company dated February 11, 2014 (the “APA”). On October 6, 2015, UD Dissolution Liquidating Trust (“UD Trust”), the apparent successor to V3, filed a complaint against us and certain of our current and former directors in the U.S. Bankruptcy Court for the District of Utah Central Division objecting to our proof of claim and asserting claims for affirmative relief against us and our directors. This complaint alleges, among other things, that Sphere 3D breached the APA and engaged in certain other actions and/or omissions that caused V3 to be unable to timely sell the Sphere 3D common shares received by V3 pursuant to the APA. The plaintiff seeks, among other things, monetary damages for the loss of the potential earn-out consideration, the value of the common shares held back by us pursuant to the APA and costs and fees. We believe the lawsuit to be without merit and intend to vigorously defend against the action.

On December 23, 2015, we filed a motion seeking to dismiss the majority of the claims asserted by the UD Trust. On January 13, 2016, we filed a counterclaim against the UD Trust in which we allege that V3 breached numerous provisions of the APA. On July 22, 2016, we filed a motion seeking to transfer venue of this action to the United States District Court for the District of Delaware. The Bankruptcy Court granted our motion to transfer venue on August 30, 2016, and the case was formally transferred to the Delaware Court on October 11, 2016. There is currently no hearing set on our motion to dismiss.

In March 2018, UD Trust filed a complaint in U.S. District Court, Northern California District (“California Complaint”) asserting that two transactions involving the Company constitute fraudulent transfers under federal and state law. First, UD Trust alleges that the consolidation of the Company’s and its subsidiaries’ indebtedness to the Cyrus Group into a debenture between FBC and the Company in the principal amount of \$19.5 million in December 2014 constitutes a fraudulent transfer. Second, UD Trust alleges that the Share Purchase Agreement constitutes a fraudulent transfer, and seeks to enjoin the Share Purchase or that the proceeds of the transaction be placed in escrow until the V3 litigation is resolved. The California Complaint also asserts a claim against the Company’s CEO for breach of fiduciary duty, and a claim against the Cyrus Group for aiding and abetting breach of fiduciary duty. We believe the lawsuit to be without merit and intend to vigorously defend against the action. On July 25, 2018, we filed a motion seeking to dismiss all of the claims asserted against the Company and its CEO. On the same day, the Cyrus Group filed a motion seeking to dismiss all claims asserted against the Cyrus Group.

13. Segmented Information

The Company reports segment information as a single reportable business segment based upon the manner in which related information is organized, reviewed, and managed. The Company operates in one segment providing data storage and desktop virtualization solutions for small and medium businesses and distributed enterprises.

The following table summarizes net revenue (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Disk systems	\$ 10,113	\$ 14,144	\$ 35,947	\$ 40,601
Tape automation systems	1,680	2,491	5,765	7,295
Tape drives and media	2,062	2,993	5,851	8,272
Service	2,036	2,051	6,237	6,687
	<u>\$ 15,891</u>	<u>\$ 21,679</u>	<u>\$ 53,800</u>	<u>\$ 62,855</u>

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following quarterly management's discussion and analysis ("MD&A") should be read in conjunction with our unaudited condensed consolidated financial statements and the accompanying notes of Sphere 3D Corp. (the "Company") for the three and nine months ended September 30, 2018. The condensed consolidated financial statements have been presented in United States ("U.S.") dollars and have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). Unless the context otherwise requires, any reference to the "Company," "Sphere 3D," "we," "our," "us" or similar terms refers to Sphere 3D Corp. and its subsidiaries. Unless otherwise indicated, all references to "\$" and "dollars" in this discussion and analysis mean U.S. dollars.

This MD&A includes forward-looking statements that involve risks, uncertainties and assumptions that are difficult to predict. Words and expressions reflecting optimism, satisfaction or disappointment with current prospects, as well as words such as "believes," "hopes," "intends," "estimates," "expects," "projects," "plans," "anticipates" and variations thereof, or the use of future tense, identify forward-looking statements, but their absence does not mean that a statement is not forward-looking. Forward-looking statements are based on information currently available to us and on estimates and assumptions made by us regarding, among other things, general economic conditions, in light of our experience and perception of historical trends, current conditions and expected future developments, as well as other factors that we believe are appropriate and reasonable in the circumstances, but there can be no assurance that such estimates and assumptions will prove to be correct. Many factors could cause actual results, performance or achievements or future events or developments to differ materially from those expressed or implied by the forward-looking statements, including, but not limited to: our entry into the Purchase Agreement dated February 20, 2018 with Silicon Valley Technology Partners Inc. (formerly known as Silicon Valley Technology Partners LLC) ("Purchaser"), an entity established and controlled by Eric Kelly, chairman and chief executive officer of the Company, pursuant to which Purchaser proposes to acquire Overland and the Data Protection and Archive business from Sphere 3D; Purchaser's ability to obtain sufficient financing to fund such acquisition and our inability to meet the closing conditions and to close such acquisition on a timely basis; our ability to refinance our credit facilities and to raise additional debt or equity financing; the inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or inability to maintain listing with the NASDAQ Capital Market; the limited operating history of Sphere 3D; the ability of Sphere 3D to manage growth and specifically, its recent acquisition of Unified ConneXions, Inc. ("UCX") and HVE ConneXions, LLC ("HVE"); the impact of competition; the investment in technological innovation; any defects in components or design of Sphere 3D's products; the retention or maintenance of key personnel; the possibility of significant fluctuations in operating results; currency fluctuations; the ability of Sphere 3D to maintain business relationships; financial, political or economic conditions; financing risks; future acquisitions; the ability of Sphere 3D to protect its intellectual property; third party intellectual property rights; volatility in the market price for the common shares of the Company; compliance by Sphere 3D with financial reporting and other requirements as a public company; conflicts of interests; future sales of common shares by Sphere 3D's directors, officers and other shareholders; dilution and future sales of common shares. For more information on these risks, you should refer to the Company's filings with the securities regulatory authorities, including the Company's most recently filed Annual Report on Form 10-K, which is available on SEDAR at www.sedar.com and EDGAR at www.sec.gov. In evaluating such statements, we urge you to specifically consider various factors identified in this report, any of which could cause actual results to differ materially from those indicated by such forward-looking statements. Forward-looking statements speak only as of the date of this report and we undertake no obligation to publicly update any forward-looking statements to reflect new information, events or circumstances after the date of this report. Actual events or results may differ materially from such statements. All share and per share amounts herein have been adjusted to give effect to the November 5, 2018 1-for-8 reverse stock split.

Overview

Sphere 3D provides next-generation solutions for standalone storage and long-term data archive products, as well as technologies that converge the traditional silos of compute, storage and network into one integrated “hyper-converged” or converged solution. We provide enterprise storage management solutions, the archiving of the data created by these solutions, and the ability to connect to public cloud services such as Microsoft Azure for additional delivery options and hybrid cloud capabilities. Our solutions are tightly integrated and include a patented portfolio for operating systems for storage, proprietary virtual desktop orchestration software, and proprietary application container software. Our software, combined with commodity x86 servers, or its purpose built appliances, deliver solutions that provide application mobility, security, data integrity and simplified management. These solutions can be deployed through a public, private or hybrid cloud and are delivered through our global reseller network and professional services organization. We have a portfolio of brands including Overland-Tandberg™, HVE ConneXions and UCX ConneXions, dedicated to helping customers achieve their IT goals.

We have created our own platform, Glassware 2.0™ (“Glassware”) for the delivery of applications from a server-based computing architecture. This is accomplished through a number of unique approaches to virtualization utilized by Glassware including the use of software “containers” and “microvisors.” A container refers to software that takes an application and all the things required to run that application and encapsulates them with software. By doing so, users can run numerous applications from a single server and on a single copy of the operating system. A microvisor refers to the technology that allows non-Windows® based applications to run on the same servers as Windows software using a lightweight emulator. Glassware sales are not material.

Related Party Share Purchase Agreement

On February 20, 2018, the Company, Overland Storage, Inc., a California corporation and a wholly owned subsidiary of the Company (“Overland”), and Silicon Valley Technology Partners Inc. (formerly known as Silicon Valley Technology Partners LLC) (“SVTP”), a Delaware corporation established and controlled by Eric Kelly, the Company’s Chief Executive Officer and Chairman of the Board of Directors (the “Purchaser”) entered into a share purchase agreement (as amended by that certain First Amendment to Share Purchase Agreement dated as of August 21, 2018 and as further amended by that certain Second Amendment to Share Purchase Agreement dated as of November 1, 2018, the “Purchase Agreement”), pursuant to which, among other things, and subject to certain closing conditions, the Company will sell to Purchaser all of the issued and outstanding shares of capital stock of Overland (the “Share Purchase”) for \$45.0 million (the “Purchase Price”). As previously announced, the net proceeds from the Share Purchase were to be used to repay: (i) the Company’s outstanding obligations under its Credit Agreement with FBC Holdings; (ii) its outstanding obligations under the related party secured note with FBC Holdings; and (iii) its related party subordinated promissory note with MF Ventures, LLC. The Special Committee of the Board of Directors of the Company and the Board of Directors of the Company (with Eric Kelly recusing himself) unanimously approved the entry into the Purchase Agreement by the Company. The Company held a special shareholder meeting on May 31, 2018 at which the requisite shareholders of the Company approved the Share Purchase. The consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (including Purchaser’s receipt of adequate funding to close the Share Purchase, which it has not yet secured).

On November 1, 2018, the parties entered into a second amendment to the Purchase Agreement (the “Second Amendment”), which provides, among other things, that the Purchase Price will be satisfied through and upon (i) the issuance to the Company shares of Series A Preferred Stock of Purchaser representing 19.9% of the fully diluted outstanding securities of Purchaser as of the closing of the Share Purchase (or such other percentage as mutually agreed upon by Purchaser and the Company), and (ii) the release of the Company and all of its subsidiaries (other than Overland) from all the obligations and liabilities under the Closing Indebtedness (as defined below) and assumption thereof by Purchaser. For purposes of the Purchase Agreement, as amended by the Second Amendment, “Closing Indebtedness” means the Indebtedness (as defined in the Purchase Agreement) totaling approximately \$39.1 million. The value of the liabilities of the Company that will be released upon the closing is expected to be not less than \$45.0 million (the amount of the Purchase Price).

Under the terms of the Purchase Agreement, the Share Purchase is contingent upon, and Purchaser must use its best efforts to arrange for, debt and/or equity financing in an amount at least equal to the Purchase Price in order to consummate the Share Purchase (the “Financing”). In addition, the Company must use commercially reasonable efforts to provide all cooperation reasonably requested by Purchaser regarding the Financing. Until the Financing is committed in accordance with a Contingency Termination Event (as defined below), the Company is free to solicit and negotiate other offers to purchase the Company, Overland or any or all of their assets and has the right to terminate the Purchase Agreement for any or no reason without penalty (subject to the expense reimbursement provisions described below).

The closing of the Share Purchase and of the other transactions contemplated by the Purchase Agreement are subject to (i) the adoption of the Purchase Agreement by the affirmative vote of the holders of (a) at least 66 2/3% of the outstanding common shares of the Company cast in person or by proxy at the special meeting of shareholders and (b) a majority of the votes cast by certain “minority shareholders” in person or by proxy at the special meeting of shareholders (the “Shareholder Approval”), both of which votes were obtained at the special shareholder meeting on May 31, 2018, and (ii) the transfer by the Company of (a) the businesses of (x) Unified ConneXions, Inc. and (y) HVE ConneXions, LLC (including the provision of information technology consulting services and hardware solutions around cloud computing, data storage and server virtualization to corporate, government, and educational institutions), and (b) the SNAP network attached storage business to a subsidiary of the Company other than Overland or a subsidiary of Overland. The closing of the Share Purchase and of the other transactions contemplated by the Purchase Agreement are also subject to various other conditions, including the parties entry into a mutually agreed upon transition services agreement, the consummation of the Financing, the absence of any order, statute, rule, regulation, executive order, decree or injunction issued by any governmental entity prohibiting the Share Purchase, the absence of a pending claim, suit, action or proceeding material claims seeking to prohibit the Share Purchase, the accuracy of the representations and warranties contained in the Purchase Agreement, compliance with the covenants and agreements contained in the Purchase Agreement in all material respects, and the absence of a material adverse effect on either the Company or Overland.

The Company has made customary representations, warranties and covenants in the Purchase Agreement, including, among others, covenants (i) to conduct its business in the ordinary course during the period between the execution of the Purchaser Agreement and the closing of the Share Purchase, (ii) not to engage in specified types of transactions during this period unless agreed to in writing by Purchaser, and (iii) subject to certain exceptions and only following the occurrence of the Contingency Termination Event (as defined below), not to solicit and negotiate other offers to purchase the Company, Overland or any or all of their assets or to withdraw, modify or qualify in a manner adverse to Purchaser the recommendation of the Board that the Company’s shareholders vote in favor of approving the Share Purchase. The Company has also agreed to indemnification provisions in favor of Purchaser that are customary for transactions of this type.

Prior to the (i) execution and delivery of financing commitments in forms reasonably acceptable to the Company, which provide, among other things, for commitments from financing sources sufficient to pay the Purchase Price in the Share Purchase, (ii) execution and delivery by Purchaser of an irrevocable waiver in a form reasonably acceptable to the Company waiving Purchaser’s condition to the obligation to close the Share Purchase that the Financing has been received and (iii) an executed certificate delivered by Purchaser to the Company regarding the accuracy of certain representations regarding the Financing (the “Contingency Termination Event”), the Company has the right to terminate the Purchase Agreement for any reason or for no reason. The Purchase Agreement also provides that, upon such termination of the Purchase Agreement by the Company, the Company has agreed to reimburse Purchaser up to approximately \$350,000 for the reasonable and documented out-of-pocket expenses incurred by the Purchaser and the sources for the Financing in connection with the negotiation, execution and performance of the Purchase Agreement and the transactions contemplated thereby, as well as the fees and expenses of the Purchaser’s outside counsel.

In addition, the Purchase Agreement contains certain other termination rights, including, following the occurrence of the Contingency Termination Event, the right of the Company to terminate the Purchase Agreement under specified circumstances to accept an unsolicited superior proposal from a third party. The Purchase Agreement provides that, following the occurrence of the Contingency Termination Event and upon termination of the Purchase Agreement by the Company under specified circumstances (including termination by the Company to accept a superior proposal) or by Purchaser under specified circumstances, a termination fee equal to the lesser of (i) \$1.0 million and (ii) the amount of Purchaser’s reasonable fees and expenses in connection with the

negotiation, execution and performance of the Purchase Agreement (including the amount that the Purchaser must pay or reimburse to the sources for the Financing) will be payable by the Company to the Purchaser. Such termination fee is also payable following the occurrence of the Contingency Termination Event under certain other specified circumstances set forth in the Purchase Agreement. The Purchase Agreement also provides that each party to the Purchase Agreement may compel the other party or parties thereto to specifically perform its or their obligations under the Purchase Agreement. However, if the Purchase Agreement is terminated such that the Company termination fee becomes payable, the Purchaser will be precluded from any other remedy against the Company or Overland, including expense reimbursement and specific performance. Further, if the Purchase Agreement is terminated such that the expense reimbursement becomes payable, the Purchaser will be precluded from any other remedy against the Company or Overland, including the Company termination fee and specific performance. Subject to certain exceptions and limitations, either party may terminate the Purchase Agreement if the Share Purchase is not consummated by December 17, 2018.

Additional Transaction Details; Steps to Closing

On November 1, 2018, the Company issued a press release announcing its intention to, in connection with the consummation of the Share Purchase, enter into a series of agreements in connection with the closing, including, without limitation, the agreements described below.

In connection with the closing, the Company anticipates it will adopt an amendment to its Articles of Amalgamation setting forth the rights, privileges, restrictions and conditions of a new series of non-voting preferred shares of the Company (the "Preferred Shares") and enter into a Conversion Agreement, by and between the Company and FBC Holdings, pursuant to which \$6.5 million of the outstanding principal amount of the 8% Senior Secured Convertible Debenture ("Secured Note") (representing the principal amount not assumed as a result of the completion of the Share Purchase) will be converted into 6,500,000 Preferred Shares. Further, the Company anticipates it will enter into a Conversion and Royalty Agreement, by and among the Company, Purchaser, and FBC Holdings, pursuant to which, among other things, Purchaser will assume the obligations and liabilities of the Company with regard to \$18.0 million of the Secured Note, and effective upon the execution of such Conversion and Royalty Agreement, the Company and its subsidiaries will automatically be released as obligors and guarantors under the Secured Note and any lien or security interest granted by the Company or its subsidiaries with respect to the Secured Note will automatically terminate and be released.

The Preferred Shares will (i) subject to prior shareholder approval, be convertible into the Company's common shares, at a conversion rate equal to \$1.00 per share, plus accrued and unpaid dividends, divided by an amount equal to 0.85 multiplied by a 15-day volume weighted average price per common share prior to the date the conversion notice is provided (the "Conversion Rate"), subject to a conversion price floor of \$0.10, (ii) carry a cumulative preferred dividend at a rate of 8.0% of the subscription price per Preferred Share, (iii) be subject to mandatory redemption for cash at the option of the holders thereof after a two-year period, and (iv) carry a liquidation preference equal to the subscription price per Preferred Share plus any accrued and unpaid dividends.

The common shares issuable upon the conversion of the Preferred Shares may constitute more than 20% of the common shares of the Company currently outstanding and therefore the Company will seek shareholder approval for the issuance of all common shares issuable upon conversion of the Preferred Shares; provided, however, that the Company shall not seek shareholder approval unless such approval would occur after the six-month anniversary of the initial issue date of the Preferred Shares. In the event shareholder approval is not obtained, FBC Holdings and its affiliates will not be entitled to convert such Preferred Shares into common shares, but any unaffiliated transferee may convert all or any part of the Preferred Shares held by such transferee into the number of fully paid and non-assessable common shares that is equal to the number of Preferred Shares to be converted multiplied by the Conversion Rate in effect on the date of conversion; provided that, (x) after such conversion, the common shares issuable upon such conversion, together with all common shares held by such third party transferee that are or would be deemed to be aggregate under the rules of the Nasdaq Stock Market, in the aggregate would not exceed 19.9% of the total number of common shares of the Company then outstanding and (y) such conversion and issuance would not otherwise violate or cause the Company to violate the Company's obligations under the rules or regulations of the Nasdaq Stock Market.

In connection with the closing, the Company anticipates it will also enter into an Exchange and Buy-Out Agreement, by and among the Company, FBC Holdings, Purchaser, and MF Ventures, LLC, pursuant to which, among other things, (i) the Company will grant FBC Holdings the right to exchange all or any portion of the Preferred Shares held by FBC Holdings for up to all of the SVTP Shares held by the Company, and (ii) MF Ventures, LLC and Purchaser will have a buy-out right with respect to the Preferred Shares (or, following exercise of the exchange right, the SVTP Shares) held by FBC Holdings and/or the SVTP Shares held by the Company.

Proximate to the time of the closing, the Company may seek financing from the Purchaser in an amount not expected to exceed \$0.5 million, the proceeds of which would be used for the payment of certain transition expenses on or after the closing. Such financing would be evidenced by a promissory note.

Each of the foregoing transactions (other than the Second Amendment) are subject to approval by the Special Committee of the Board previously constituted for purposes of reviewing and determining whether to approve the Purchase Agreement and related matters, as well as the Board, and is subject to the entering by the Company into definitive agreements with respect thereto. The Share Purchase (including the Second Amendment), the issuance of the Preferred Shares in accordance with the Conversion Agreement, the entering into of the Conversion and Royalty Agreement, the entering into of the Exchange and Buy-Out agreement and the ancillary actions described herein including transition services or the financing of transition expenses (collectively, the "Transactions") constitute or would constitute "related party transactions" within the meaning of Multilateral Instrument 61-101 - Protection of Minority Security Holders in Special Transactions adopted by certain of the Canadian securities regulatory authorities ("MI 61-101"), including as a result of the participation of FBC Holdings, MF Ventures, LLC, Eric Kelly and/or their respective affiliates therein. The Board has, and all directors of the Company who are independent in respect of the Transactions have, determined that: (i) the Company is in serious financial difficulty; (ii) the Transactions are designed to improve the Company's financial position; and (iii) the Transactions are reasonable for the Company in the circumstances. Accordingly, the Company is relying on the "financial hardship" exemptions from the "minority approval" and "formal valuation" requirements contained in sections 5.5(g) and 5.7(e) of MI 61-101.

Nasdaq Listing

On May 29, 2018, the Company received a letter from the Nasdaq Listing Qualifications department of The Nasdaq Stock Market LLC ("Nasdaq") notifying the Company that it was not in compliance with the requirement of Nasdaq Marketplace Rule 5550(a)(2) for continued inclusion on The Nasdaq Capital Market as a result of the closing bid price for the Company's common stock being below \$1.00 for 30 consecutive business days. This notification has no effect on the listing of the Company's common shares at this time. The Nasdaq Marketplace Rules provide the Company with 180 calendar days, or until November 26, 2018, to regain compliance, which will require a closing bid price for the Company's common stock above \$1.00 for a minimum of 10 consecutive business days. If the Company does not comply with Marketplace Rule 5550(a)(2) by November 26, 2018, the Company may be eligible for additional time to demonstrate compliance with the bid price requirement. To qualify, the Company will be required to meet the continued listing requirement for market value of publicly held shares and all other initial listing standards for The Nasdaq Capital Market, with the exception of the bid price requirement, and will need to provide written notice of its intention to cure the deficiency during the second compliance period, by effecting a reverse stock split, if necessary. If the Company meets these requirements, the Company will be granted an additional 180 days or until May 27, 2019 to become compliant. If the Company does not qualify for the second compliance period or fails to regain compliance during the second 180-day period, then Nasdaq will notify the Company of its determination to delist the Company's common shares, at which point the Company would have an opportunity to appeal the delisting determination to a Hearings Panel.

On October 31, 2018, the Company held a special meeting and passed a special resolution authorizing the filing of an amendment to the Company's articles to effect a share consolidation (also known as a reverse stock split). The Board of Directors believes that the proposed share consolidation is a potentially effective means for the Company to maintain compliance with the \$1.00 minimum bid requirement and to avoid, or at least mitigate, the likely adverse consequences of our common shares being delisted from the Nasdaq Capital Market by producing the immediate effect of increasing the bid price of our common shares; however, any such effect cannot be predicted with any certainty. On October 24, 2018, the Board of Directors authorized a share consolidation of the Company's issued and outstanding common shares at a ratio of one-for-eight, which became effective on November 5, 2018. All share and per share amounts herein have been restated for all periods presented to reflect the share consolidation.

Third Quarter of 2018 and Recent Highlights

- On November 1, 2018, the Company entered into the Second Amendment to the Purchase Agreement. See above *Overview* section for additional details.
- On October 24, 2018, the Board of Directors authorized a share consolidation of the Company's issued and outstanding common shares at a ratio of one-for-eight, which became effective on November 5, 2018. See above *Nasdaq Listing* section for additional details.
- On August 31, 2018, FBC Holdings notified the Company in writing that it was abandoning its right to convert that certain 8% Senior Secured Convertible Debenture into common shares of the Company and informed the Company that such conversion rights, and any related provisions of the convertible note, shall no longer apply and have no further force or effect.
- On August 1, 2018, Overland, together with its subsidiary, Tandberg Data GmbH, as co-borrowers under that certain Credit Agreement dated as of April 6, 2016 (as amended from time to time, the "Credit Agreement"), with CB CA SPV, LLC ("Colbeck"), as lender, failed to make a required payment of interest due on such date. Such failure constituted an event of default as of August 6, 2018 under the Credit Agreement after expiration of a five-day cure period. On August 7, 2018, Overland received a notice from Colbeck stating that, as a result of such failure, all amounts under the Credit Agreement are immediately due and payable. The foregoing also constituted an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings.

On August 16, 2018, the Credit Agreement was assigned from Colbeck to FBC Holdings. In connection with the assignment, the Company and Overland also received from FBC Holdings (i) a waiver of the defaults and cross-defaults under the Credit Agreement and the 8% Senior Secured Convertible Debenture, as amended from time to time, respectively, and (ii) a revocation of the demand that all amounts payable under the Credit Agreement and the 8% Senior Secured Convertible Debenture are immediately due and payable.

- On July 23, 2018, the Company and FBC Holdings, as lender, entered into the Ninth Amendment to 8% Senior Secured Convertible Debenture, under which, among other things, the maturity date of the secured note was extended to November 19, 2018.
- On July 23, 2018, the Company and Colbeck entered into Amendment Number Fourteen to the Credit Agreement dated April 6, 2016, as amended, under which, among other things, the maturity date of the loans under the Credit Agreement was extended to November 19, 2018.

Results of Operations

The following table sets forth certain financial data as a percentage of net revenue:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Net revenue	100.0 %	100.0 %	100.0 %	100.0 %
Cost of revenue	69.6	68.9	69.2	69.8
Gross profit	30.4	31.1	30.8	30.2
Operating expenses:				
Sales and marketing	20.8	21.2	21.8	22.4
Research and development	4.4	8.3	5.6	8.7
General and administrative	23.5	22.3	24.5	23.5
	48.7	51.8	51.9	54.6
Loss from operations	(18.3)	(20.7)	(21.1)	(24.4)
Interest expense	(9.9)	(5.2)	(9.2)	(7.4)
Other (expense) income, net	(0.4)	12.2	(0.4)	3.5
Loss before income taxes	(28.6)	(13.7)	(30.7)	(28.3)
Provision for income taxes	2.0	2.3	2.1	1.6
Net loss	(30.6)%	(16.0)%	(32.8)%	(29.9)%

A summary of the sales mix by product follows (in thousands):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2018	2017	Change	2018	2017	Change
Disk systems	\$ 10,113	\$ 14,144	(28.5)%	\$ 35,947	\$ 40,601	(11.5)%
Tape automation systems	1,680	2,491	(32.6)%	5,765	7,295	(21.0)%
Tape drives and media	2,062	2,993	(31.1)%	5,851	8,272	(29.3)%
Service	2,036	2,051	(0.7)%	6,237	6,687	(6.7)%
Total	\$ 15,891	\$ 21,679	(26.7)%	\$ 53,800	\$ 62,855	(14.4)%

The Third Quarter of 2018 Compared with The Third Quarter of 2017

Net Revenue

We had revenue of \$15.9 million during the third quarter of 2018 compared to \$21.7 million during the third quarter of 2017. The decrease in net revenue is a result of a decrease in product revenue of \$5.8 million primarily due a \$4.0 million decrease in disk systems revenue primarily from our RDX product line and HVE product line, and a \$1.7 million decrease in tape automation and tape drives and media. The overall decrease in net revenue is primarily due to an increase of approximately \$5.7 million of backlog at the end of the third quarter of 2018 compared with the third quarter of 2017 primarily due to the inability to acquire, on a timely basis, adequate supply of product to meet customer demand within the quarter. Original equipment manufacturer ("OEM") net revenue accounted for 19.9% and 18.0% of net revenue during the third quarter of 2018 and 2017, respectively.

Product Revenue

Net product revenue decreased to \$13.9 million during the third quarter of 2018 from \$19.6 million during the third quarter of 2017, a decrease of \$5.7 million. Revenue from disk systems decreased by \$4.0 million due to decreases primarily from our RDX and HVE product lines, and revenue from tape automation and tape drives and media decreased by \$1.7 million due to lower tape automation and tape drives and media revenue due to lower tape media sales volume.

Service Revenue

Net service revenue was \$2.0 million during the third quarter of 2018 compared to \$2.1 million during the third quarter of 2017.

Gross Profit

Gross profit and margin were as follows (in thousands, unless otherwise noted):

	Three Months Ended September 30,		Change
	2018	2017	
Gross profit	4,835	6,733	(28.2)%
Gross margin	30.4%	31.1%	(0.7)pt
Gross profit - product	4,067	5,994	(32.1)%
Gross margin - product	29.4%	30.5%	(1.1)pt
Gross profit - service	768	739	3.9 %
Gross margin - service	37.7%	36.0%	1.7 pt

In the third quarter of 2018, gross profit for product decreased primarily due to decreased sales volume of our RDX product line which have higher profit margins.

Operating Expenses

Sales and Marketing Expense

Sales and marketing expenses were \$3.3 million and \$4.6 million for the third quarter of 2018 and 2017, respectively. The decrease of \$1.3 million was primarily due to a decrease of \$0.7 million in employee and related expenses associated with a lower average headcount, and a \$0.5 million decrease in share-based compensation.

Research and Development Expense

Research and development expenses were \$0.7 million and \$1.8 million for the third quarter of 2018 and 2017, respectively. The decrease of \$1.1 million was primarily due to a decrease of \$0.8 million in employee and related expenses associated with a lower average headcount, and a \$0.3 million decrease in share-based compensation.

General and Administrative Expense

General and administrative expenses were \$3.7 million and \$4.8 million for the third quarter of 2018 and 2017, respectively. The decrease of \$1.1 million was primarily due to decreases of \$0.8 million in share-based compensation expense, \$0.5 million in amortization of intangible assets, and \$0.4 million in employee and related expenses, offset by a \$0.6 million increase in legal and transaction costs primarily related to the share purchase agreement entered into in February 2018.

Non-Operating Expenses

Interest Expense

Interest expense was \$1.6 million and \$1.1 million for the third quarter of 2018 and 2017, respectively. The increase was primarily related to an increase in amortization of debt costs of \$0.2 million and interest expense related to the related party debt agreement entered into in December 2017.

Other (Expense) Income, Net.

Other (expense) income, net, in the third quarter of 2018 and 2017 was \$0.1 million expense, net, and \$2.6 million of income, net, respectively. The expense, net, in the third quarter of 2018 was primarily related to realized foreign currency losses. The income, net, in the third quarter of 2017, related to a \$2.3 million gain on revaluation of warrants and approximately \$0.4 million in realized foreign currency gains.

Foreign Currency Risk

We conduct business on a global basis and a significant portion of our sales in international markets are not denominated in U.S. dollars. Our wholly-owned foreign subsidiaries incur costs that are denominated in local currencies. As exchange rates vary, these results may vary from expectations when translated into U.S. dollars, which could adversely impact overall expected results. The effect of exchange rate fluctuations on our results of operations resulted in a loss of \$0.2 million and a gain of \$0.4 million in the third quarter of 2018 and 2017, respectively.

The First Nine Months of 2018 Compared with the First Nine Months of 2017

Net Revenue

We had revenue of \$53.8 million during the first nine months of 2018 compared to \$62.9 million during the first nine months of 2017. The decrease in net revenue is a result of a decrease in product revenue of \$8.6 million primarily due a decrease of sales units for disk systems from our RDX and HVE product lines, and a decrease in service revenue of \$0.4 million. The overall decrease in net revenue is primarily due to an increase of approximately \$5.7 million of backlog at the end of the third quarter of 2018 compared with the third quarter of 2017 primarily due to the inability to acquire, on a timely basis, adequate supply of product to meet customer demand within the quarter. OEM net revenue accounted for 19.6% and 16.9% of net revenue during the first nine months of 2018 and 2017, respectively.

Product Revenue

Net product revenue decreased to \$47.6 million during the first nine months of 2018 from \$56.2 million during the first nine months of 2017, a decrease of \$8.6 million. Revenue from disk systems decreased by \$4.7 million primarily related to a \$3.1 million decrease in our HVE product line related to a transaction in the first quarter of 2017 that did not recur in the first nine months of 2018, and a decrease of \$0.7 million in our RDX product line. In addition, there was a \$4.0 million decrease in tape automation, and tape drives and media revenue related to lower tape media sales volume.

Service Revenue

Net service revenue decreased to \$6.2 million during the first nine months of 2018 from \$6.7 million during the first nine months of 2017. The decrease was due to a decrease in virtualization and extended service contracts related to tape automation product sales.

Gross Profit

Gross profit and margin were as follows (in thousands, unless otherwise noted):

	Nine Months Ended September 30,		Change
	2018	2017	
Gross profit	16,566	18,951	(12.6)%
Gross margin	30.8%	30.2%	0.6 pt
Gross profit - product	13,384	15,145	(11.6)%
Gross margin - product	28.1%	27.0%	1.1 pt
Gross profit - service	3,182	3,806	(16.4)%
Gross margin - service	51.0%	56.9%	(5.9)pt

In the first nine months of 2018, gross profit for product decreased primarily due to decreased sales volume of our RDX product line which have higher profit margins. In the first nine months of 2018, gross profit for service decreased primarily due to a decrease in extended service contracts related to virtualization and tape automation product sales.

Operating Expenses

Sales and Marketing Expense

Sales and marketing expenses were \$11.7 million and \$14.1 million for the first nine months of 2018 and 2017, respectively. The decrease of \$2.4 million was primarily due to a decrease of \$1.6 million in employee and related expenses associated with a lower average headcount, and a \$1.3 million decrease in share-based compensation, offset by a \$0.5 million increase in strategic marketing and outside contractor fees.

Research and Development Expense

Research and development expenses were \$3.0 million and \$5.5 million for the first nine months of 2018 and 2017, respectively. The decrease of \$2.5 million was primarily due to a decrease of \$1.4 million in employee and related expenses associated with a lower average headcount, and a \$0.9 million decrease in share-based compensation.

General and Administrative Expense

General and administrative expenses were \$13.2 million and \$14.7 million for the first nine months of 2018 and 2017, respectively. The decrease of \$1.5 million was primarily due to decreases of \$1.7 million in share-based compensation expense, \$0.9 million in employee related expenses, and \$1.1 million in amortization of intangible assets, offset by a \$2.2 million increase in legal and transaction costs related to the share purchase agreement entered into in February 2018.

Non-Operating Expenses

Interest Expense

Interest expense was \$5.0 million and \$4.7 million for the first nine months of 2018 and 2017, respectively. The increase in interest expense was primarily related to an increase in the interest rates on our term loan and revolving loan.

Other (Expense) Income, Net.

Other (expense) income, net, in the first nine months of 2018 and 2017 was \$0.2 million expense, net, and \$2.2 million income, net, respectively. In the first nine months of 2018, other expense, net, primarily related to realized foreign currency loss of \$0.6 million, offset by a gain on the revaluation of warrants of \$0.3 million. In the first nine months of 2017, other income, net, was primarily related to a gain on the revaluation of warrants of \$2.5 million and realized foreign currency gains of \$0.8 million, which was offset by a \$1.1 million loss from the revaluation of our investment in connection with our January 2017 acquisition.

Foreign Currency Risk

We conduct business on a global basis and a significant portion of our sales in international markets are not denominated in U.S. dollars. Our wholly-owned foreign subsidiaries incur costs that are denominated in local currencies. As exchange rates vary, these results may vary from expectations when translated into U.S. dollars, which could adversely impact overall expected results. The effect of exchange rate fluctuations on our results of operations resulted in a loss of \$0.6 million in the first nine months of 2018 and a \$0.8 million gain in the first nine months of 2017.

Liquidity and Capital Resources

We have recurring losses from operations and a net working capital deficiency. Our primary source of cash flow is generated from sales of our disk and tape automation systems. We have financed our operations through gross proceeds from private sales of equity securities and with borrowings under our credit facilities. At September 30, 2018, we had cash of \$2.1 million compared to cash of \$4.6 million at December 31, 2017. As of September 30, 2018, we had a working capital deficit of \$49.2 million, reflecting a decrease in current assets of \$7.3 million and an increase in current liabilities of \$0.3 million compared to December 31, 2017. Cash management and preservation continue to be a top priority. We expect to incur negative operating cash flows as we work to maintain and increase our sales volume, and maintain operational efficiencies.

On February 20, 2018, the Company and SVTP entered into a share purchase agreement, pursuant to which, among other things, and subject to certain closing conditions, the Company will sell to SVTP all of the issued and outstanding shares of capital stock of Overland for \$45.0 million. As previously announced, the net proceeds were to be used to repay: (i) the Company's outstanding obligations under its Credit Agreement with FBC Holdings; (ii) its outstanding obligations under the related party secured note with FBC Holdings; and (iii) its related party subordinated promissory note with MF Ventures, LLC.

On November 1, 2018, the parties entered into the Second Amendment, which provides, among other things, that the purchase price will be satisfied through and upon (i) the issuance to the Company shares of Series A Preferred Stock of SVTP representing 19.9% of the fully diluted outstanding securities of SVTP as of the closing of the Share Purchase (or such other percentage as mutually agreed upon by Purchaser and the Company), and (ii) the release of the Company and all of its subsidiaries (other than Overland) from all the obligations and liabilities totaling approximately \$39.1 million and assumption thereof by SVTP. See above *Overview* section for additional details.

Management has projected that cash on hand will not be sufficient to allow the Company to continue operations beyond November 19, 2018 if the Company is unable to amend, refinance, or pay off its debt and credit facilities prior to their November 19, 2018 maturity date. In February 2018, the Company entered into the Purchase Agreement. If the transactions contemplated by the Purchase Agreement are consummated, the Company expects the outstanding debt and credit facilities to be settled. The Company held a special shareholder meeting on May 31, 2018 at which the Share Purchase was approved by the requisite shareholders of the Company. The consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (including Purchaser's receipt of adequate funding to close the Share Purchase, which it has not yet secured). There can be no guarantee that we will be able to raise additional funds or amend or refinance our debt and credit facilities on favorable terms or at all, nor can there be any guarantee that the Share Purchase will ultimately be consummated. Significant changes from the Company's current forecasts, including but not limited to: (i) any delay in the closing of the Share Purchase promptly and in any event before its debt with FBC Holdings and/or MF Ventures, LLC becomes due (including as a result of the failure of the Purchaser to obtain funding adequate to pay the Purchase Price, or the failure to satisfy certain closing conditions); (ii) failure to comply with the financial or other covenants in its credit facilities; (iii) shortfalls from projected sales levels; (iv) unexpected increases in product costs; (v) increases in operating costs; (vi) changes in the historical timing of collecting accounts receivable; and (vii) inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or inability to maintain listing with the NASDAQ Capital Market could have a material adverse impact on the Company's ability to access the level of funding necessary to continue its operations at current levels. If any of these events occurs or the Company is unable to generate sufficient cash from operations or financing sources, the Company may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any, which would have a material adverse effect on the Company's business, results of operations, financial position and liquidity.

As a result of our recurring losses from operations and negative cash flows, the report from our independent registered public accounting firm regarding our consolidated financial statements for the year ended December 31, 2017 includes an explanatory paragraph expressing substantial doubt about our ability to continue as a going concern.

Default, Assignment and Waiver Under Credit and Debt Facilities

On August 1, 2018, Overland, together with its subsidiary, Tandberg Data GmbH, as co-borrowers under the Credit Agreement, with Colbeck, as lender, failed to make a required payment of interest due on such date. Such failure constituted an event of default as of August 6, 2018 under the Credit Agreement after expiration of a five-day cure period. On August 7, 2018, Overland received a notice from Colbeck stating that, as a result of such failure, all amounts under the Credit Agreement are immediately due and payable. The foregoing also constituted an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings (and together with Colbeck, the “Lenders”). On August 16, 2018, the Credit Agreement was assigned from Colbeck to FBC Holdings. In connection with the assignment, the Company and Overland also received from FBC Holdings (i) a waiver of the defaults and cross-defaults under the Credit Agreement and the 8% Senior Secured Convertible Debenture, as amended from time to time, respectively, and (ii) a revocation of the demand that all amounts payable under the Credit Agreement and the 8% Senior Secured Convertible Debenture are immediately due and payable. As part of the waiver, accrued interest through August 15, 2018 on the Credit Agreement was paid in kind by increasing the principal amount of the term loan and revolving loan by \$0.2 million and \$0.1 million, respectively.

As of September 30, 2018, our outstanding debt balance was as follows (in thousands):

	Maturity Date	Interest Rate	Amount Outstanding
Secured note, related party	11/19/2018	8.0%	\$ 24,500
Term loan, related party	11/19/2018	13.25%	\$ 10,538
Revolving loan, related party	11/19/2018	13.25%	\$ 8,334
Subordinated promissory note, related party	11/19/2018	12.5%	\$ 2,212

In March 2018, the Company and FBC Holdings entered into an amendment to the convertible note which, among other things, altered the schedule for interest payments under the FBC Holdings Debenture by providing for future accrued interest to be paid twice monthly rather than semi-annually, which was then subsequently modified to accrued interest to be paid at maturity. In partial consideration for the extension, the Company paid, in shares of common stock, to FBC Holdings a fee of \$0.7 million. In July 2018, the Company and FBC Holdings entered into an amendment to the convertible note under which the maturity date was extended to November 19, 2018. In addition, the Company must satisfy certain milestones which the failure to comply therewith would constitute an event of default under the convertible note. In August 2018, FBC Holdings notified the Company in writing that it was abandoning its right to convert the convertible note into common shares of the Company and informed the Company that such conversion rights, and any related provisions of the convertible note, shall no longer apply and have no further force or effect. As such, the convertible note is now disclosed as a secured note.

In June 2018, the Company’s outstanding Credit Agreement with Opus Bank was assumed by Colbeck. In June 2018, the Company and Colbeck entered into Amendment Number Twelve to the Credit Agreement under which, among other things, the interest rate applicable to the obligations under the Credit Agreement was changed from 8.25% to 13.25%. In consideration for the amendment, the Company incurred a fee of \$0.4 million on July 13, 2018, which was added to the outstanding principal amount of the term loan. In July 2018, the Company and Colbeck entered into Amendment Number Fourteen to the Credit Agreement under which, among other things, (i) the maturity date of the loans owing to Colbeck under the Credit Agreement was extended to November 19, 2018, and (ii) the Company must satisfy certain milestones which the failure to comply therewith would constitute an event of default under the Credit Agreement.

All debt and credit facilities are denominated in U.S. dollars. Our debt and credit facilities contain standard borrowing conditions and can be recalled by the lenders if certain conditions are not met.

The following table shows a summary of our cash flows (used in) provided by operating activities, investing activities and financing activities (in thousands):

	Nine Months Ended September 30,	
	2018	2017
Net cash used in operating activities	\$ (4,210)	\$ (8,633)
Net cash used in investing activities	\$ (55)	\$ (1,166)
Net cash provided by financing activities	\$ 1,754	\$ 8,476

The use of cash during the first nine months of 2018 was primarily a result of our net loss of \$17.7 million, offset by \$7.0 million in non-cash items, which included share-based compensation, depreciation and amortization, amortization of debt issuance costs, payment in-kind interest expense, and fair value adjustment of warrants.

During the first nine months of 2017, net cash used in investing activities was primarily related to our January 2017 acquisition.

During the first nine months of 2018, we received \$1.9 million in net proceeds from the issuance of common shares and warrants and made \$0.2 million of payments on our related party debt. During the first nine months of 2017, we received \$10.2 million in net proceeds from the issuance of common shares and warrants, offset by \$1.7 million of payments on our related party debt.

Off-Balance Sheet Information

During the ordinary course of business, we may provide standby letters of credit to third parties as required for certain transactions initiated by us. As of September 30, 2018, we had no standby letters of credit outstanding.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial position and results of operations is based on our unaudited consolidated interim financial statements included elsewhere in this Form 10-Q, which have been prepared in accordance with accounting principles generally accepted in the United States. We believe certain of our accounting policies are critical to understanding our financial position and results of operations. Except for policy changes in accounting for revenues associated with our adoption of Topic 606 (see Note 2 “Revenue Recognition” in the Notes to Condensed Consolidated Financial Statements in Item 1), there have been no significant changes to our critical accounting judgments, policies and estimates as described in our Annual Report on Form 10-K for the year ended December 31, 2017.

Recent Accounting Pronouncements

See Note 2 - *Significant Accounting Policies* to our condensed consolidated financial statements for information about recent accounting pronouncements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Market risk represents the risk of loss that may impact our financial position, results of operations, or cash flows due to adverse changes in financial and commodity market prices and rates. We are exposed to market risk from changes in foreign currency exchange rates as measured against the U.S. dollar. These exposures are directly related to our normal operating and funding activities. Historically, we have not used derivative instruments or engaged in hedging activities.

Foreign Currency Risk. We conduct business on a global basis and a significant portion of our sales in international markets are not denominated in U.S. dollars. Export sales represent a significant portion of our sales and are expected to continue to represent a significant portion of sales. Purchase contracts are typically in U.S. dollars. In addition, our wholly-owned foreign subsidiaries incur costs that are denominated in local currencies. As exchange rates vary, these results may vary from expectations when translated into U.S. dollars, which could adversely impact overall expected results. Such transactions resulted in a loss of \$0.2 million and \$0.6 million in three and nine months ended September 30, 2018 and 2017, respectively, and a gain of \$0.4 million and \$0.8 million in the three and nine months ended September 30, 2017, respectively.

Credit Risk. Credit risk is the risk that the counterparty to a financial instrument fails to meet its contractual obligations, resulting in a financial loss to us. We sell to a diverse customer base over a global geographic area. We evaluate collectability of specific customer receivables based on a variety of factors including currency risk, geopolitical risk, payment history, customer stability and other economic factors. Collectability of receivables is reviewed on an ongoing basis by management and the allowance for doubtful receivables is adjusted as required. Account balances are charged against the allowance for doubtful receivables when we determine that it is probable that the receivable will not be recovered. We believe that the geographic diversity of the customer base, combined with our established credit approval practices and ongoing monitoring of customer balances, mitigates this counterparty risk.

Liquidity Risk. Liquidity risk is the risk that we will not be able to meet our financial obligations as they come due. We continually monitor our actual and projected cash flows and believe that our internally generated cash flows will not provide us with sufficient funding to meet all working capital and financing needs for at least the next 12 months.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rules 13a-15(e) or 15d-15(e) under the Exchange Act. Based on this evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures were effective to give reasonable assurance that information required to be publicly disclosed is recorded, processed, summarized and reported on a timely basis as of the end of the period covered by this report.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting during the three months ended September 30, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings.

The Company is, from time to time, subject to claims and suits arising in the ordinary course of business. In the opinion of management, the ultimate resolution of such pending proceedings will not have a material effect on the Company's results of operations, financial position or cash flows.

Patent Litigation Funding Agreement

In December 2010, Overland entered into a litigation funding agreement (the "Funding Agreement") with Special Situations Fund III QP, L.P., Special Situations Private Equity Fund, L.P., Special Situations Technology Fund, L.P., and Special Situations Technology Fund II, L.P. (collectively, the "Special Situations Funds") pursuant to which the Special Situations Funds agreed to fund certain patent litigation brought by Overland. In May 2014, the Special Situations Funds filed a complaint against Overland in the Supreme Court for New York County, alleging breach of the Funding Agreement. The Special Situations Funds alleged that Overland's January 2014 acquisition of Tandberg Data entitled the Special Situation Funds to a \$6.0 million payment under the Funding Agreement, and therefore Overland's refusal to make the payment constituted a breach of the Funding Agreement by Overland. In November 2014, the Special Situations Funds amended their complaint to allege that Overland breached the Funding Agreement's implied covenant of good faith and fair dealing by settling the patent litigation with BDT in bad faith to avoid a payment obligation under the Funding Agreement. The Special Situations Funds sought \$6.0 million in contractual damages as well as costs and fees. On October 10, 2017, the Court entered an order granting Overland's motion for summary judgment and dismissing the Special Situations Funds' complaint in its entirety with prejudice, and in April 2018, the parties entered into a settlement agreement ending the litigation that did not require payment from either party.

Other

In January 2018, Mr. Vito Lupis filed a statement of claim in the Ontario Court of Justice alleging, among other things, breach of contracts, deceit and negligence against Mr. Giovanni J. Morelli, a former officer of the Company, and vicarious liability against the Company, in connection with stock purchase agreements and other related agreements that would have been entered into between Mr. Lupis and the Company in 2012. The Company believes the allegations are without merit and plans to vigorously defend itself against the allegations.

In April 2015, we filed a proof of claim in connection with bankruptcy proceedings of V3 Systems, Inc. ("V3") based on breaches by V3 of the Asset Purchase Agreement entered into between V3 and the Company dated February 11, 2014 (the "APA"). On October 6, 2015, UD Dissolution Liquidating Trust ("UD Trust"), the apparent successor to V3, filed a complaint against us and certain of our current and former directors in the U.S. Bankruptcy Court for the District of Utah Central Division objecting to our proof of claim and asserting claims for affirmative relief against us and our directors. This complaint alleges, among other things, that Sphere 3D breached the APA and engaged in certain other actions and/or omissions that caused V3 to be unable to timely sell the Sphere 3D common shares received by V3 pursuant to the APA. The plaintiff seeks, among other things, monetary damages for the loss of the potential earn-out consideration, the value of the common shares held back by us pursuant to the APA and costs and fees. We believe the lawsuit to be without merit and intend to vigorously defend against the action.

On December 23, 2015, we filed a motion seeking to dismiss the majority of the claims asserted by the UD Trust. On January 13, 2016, we filed a counterclaim against the UD Trust in which we allege that V3 breached numerous provisions of the APA. On July 22, 2016, we filed a motion seeking to transfer venue of this action to the United States District Court for the District of Delaware. The Bankruptcy Court granted our motion to transfer venue on August 30, 2016, and the case was formally transferred to the Delaware Court on October 11, 2016. There is currently no hearing set on our motion to dismiss.

In March 2018, UD Trust filed a complaint in U.S. District Court, Northern California District (“California Complaint”) asserting that two transactions involving the Company constitute fraudulent transfers under federal and state law. First, UD Trust alleges that the consolidation of the Company’s and its subsidiaries’ indebtedness to the Cyrus Group into a debenture between FBC and the Company in the principal amount of \$19.5 million in December 2014 constitutes a fraudulent transfer. Second, UD Trust alleges that the Share Purchase Agreement constitutes a fraudulent transfer, and seeks to enjoin the Share Purchase or that the proceeds of the transaction be placed in escrow until the V3 litigation is resolved. The California Complaint also asserts a claim against the Company’s CEO for breach of fiduciary duty, and a claim against the Cyrus Group for aiding and abetting breach of fiduciary duty. We believe the lawsuit to be without merit and intend to vigorously defend against the action. On July 25, 2018, we filed a motion seeking to dismiss all of the claims asserted against the Company and its CEO. On the same day, the Cyrus Group filed a motion seeking to dismiss all claims asserted against the Cyrus Group.

Item 1A. Risk Factors.

An investment in our Company involves a high degree of risk. In addition to the risk factors and other information included or incorporated by reference to this report, you should carefully consider each of the risk factors described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2017, which is available on SEDAR at www.sedar.com and EDGAR at www.sec.gov. These risks and uncertainties are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also impair our business operations. If any of the risks actually occur, our business and financial results could be harmed and the trading price of our common shares could decline.

Risks Related to our Debt and Credit Facilities and our Liquidity

Our Credit Agreement matures on the earlier of the maturity date in the 8% Senior Secured Convertible Debenture, or November 19, 2018. If we are unable to refinance or amend our debt and credit facilities before their maturity date, we may be forced to liquidate assets and/or curtail or cease operations.

On August 1, 2018, Overland Storage, Inc., a wholly-owned subsidiary of the Company (“Overland”), together with its subsidiary, Tandberg Data GmbH, as co-borrowers under that certain Credit Agreement dated as of April 6, 2016 (as amended from time to time, the “Credit Agreement”), with CB CA SPV, LLC (“Colbeck”), as lender, failed to make a required payment of interest due on such date. Such failure constituted an event of default as of August 6, 2018 under the Credit Agreement after expiration of a five-day cure period. On August 7, 2018, Overland received a notice from Colbeck stating that, as a result of such failure, all amounts under the Credit Agreement are immediately due and payable. The foregoing also constituted an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings, S.à r.l (“FBC Holdings” and together with Colbeck, the “Lenders”). On August 16, 2018, the Credit Agreement was assigned from Colbeck to FBC Holdings. In connection with the assignment, the Company and Overland also received from FBC Holdings (i) a waiver of the defaults and cross-defaults under the Credit Agreement and the 8% Senior Secured Convertible Debenture, as amended from time to time, respectively, and (ii) a revocation of the demand that all amounts payable under the Credit Agreement and the 8% Senior Secured Convertible Debenture are immediately due and payable.

The debt facilities under the Credit Agreement mature on the earliest of (a) the maturity date in the Convertible Note, (b) November 19, 2018 or (c) such earlier date upon which the obligations may be accelerated in accordance with terms of the Credit Agreement. We will need to raise additional funds and/or amend or refinance our credit facility in order to satisfy our obligations under the Credit Agreement. In addition, upon the occurrence of certain events of default under the Credit Agreement, FBC Holdings may elect to declare all amounts outstanding to be immediately due and payable and terminate all commitments to extend further credit. In February 2018, the Company entered into the Purchase Agreement. If the transactions contemplated by the Purchase Agreement are consummated, the Company expects the outstanding debt and credit facilities to be settled. The consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (including Purchaser’s receipt of adequate funding to close the Share Purchase, which it has not yet secured). There can be no guarantee that we will be able to raise additional funds or amend or refinance our debt and credit facilities on favorable terms or at all, nor can there be any guarantee that the Share Purchase will be consummated.

If we are unable to amend or refinance our debt and credit facilities, the Share Purchase is not timely consummated or the Company is unable to generate sufficient cash from operations or financing sources, the Company may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any of which would have a material adverse effect on the Company’s business, results of operations, financial position and liquidity.

Our cash and other sources of liquidity will not be sufficient to fund our operations beyond November 19, 2018. If we raise additional funding through sales of equity or equity-based securities, your shares will be diluted. If we need additional funding for operations and we are unable to raise it, we may be forced to liquidate assets and/or curtail or cease operations or seek bankruptcy protection or be subject to an involuntary bankruptcy petition.

Management has projected that cash on hand will not be sufficient to allow the Company to continue operations beyond November 19, 2018 if the Company is unable to amend, refinance, or pay off its debt and credit facilities. There can be no guarantee that the Company will be able to otherwise remain in compliance with its obligations under such facilities or to amend or refinance these facilities prior to their November 19, 2018 maturity date, or to raise the funding required to do so, whether through the Share Purchase described below or otherwise.

In February 2018, the Company entered into the Purchase Agreement. If the transactions contemplated by the Purchase Agreement are consummated, the Company expects the outstanding debt and credit facilities to be settled. The consummation of the Share Purchase remains subject to certain closing conditions contained in the Purchase Agreement (including Purchaser's receipt of adequate funding to close the Share Purchase, which it has not yet secured). There can be no guarantee that we will be able to raise additional funds or amend or refinance our debt and credit facilities on favorable terms or at all, nor can there be any guarantee that the Share Purchase will ultimately be consummated. Significant changes from the Company's current forecasts, including but not limited to: (i) any delay in the closing of the Share Purchase promptly and in any event before its debt with FBC Holdings and/or MF Ventures, LLC becomes due (including as a result of the failure of the Purchaser to obtain funding adequate to pay the Purchase Price, or the failure to satisfy certain closing conditions); (ii) failure to comply with the financial covenants in its credit facilities; (iii) shortfalls from projected sales levels; (iv) unexpected increases in product costs; (v) increases in operating costs; (vi) changes in the historical timing of collecting accounts receivable; and (vii) inability to maintain compliance with the requirements of the NASDAQ Capital Market and/or inability to maintain listing with the NASDAQ Capital Market could have a material adverse impact on the Company's ability to access the level of funding necessary to continue its operations at current levels. If any of these events occurs or the Company is unable to generate sufficient cash from operations or financing sources, the Company may be forced to liquidate assets where possible and/or curtail, suspend or cease planned programs or operations generally or seek bankruptcy protection or be subject to an involuntary bankruptcy petition, any of, which would have a material adverse effect on the Company's business, results of operations, financial position and liquidity.

If we raise additional funds by selling additional shares of our capital stock, or securities convertible into shares of our capital stock, the ownership interest of our existing shareholders will be diluted. The amount of dilution could be increased by the issuance of warrants or securities with other dilutive characteristics, such as anti-dilution clauses or price resets.

We urge you to review the additional information about our liquidity and capital resources in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this report. If our business ceases to continue as a going concern due to lack of available capital or otherwise, it could have a material adverse effect on our business, results of operations, financial position, and liquidity.

Risks Related to the Share Purchase Agreement

Our agreement to sell Overland is subject to a number of conditions, some of which are outside of our control. If such conditions are not timely met, such sale may not occur, which would cause us to need immediate funding to pay our existing debt and other obligations and to continue our operations.

On February 20, 2018, we, Overland, and Silicon Valley Technology Partners Inc. (formerly known as Silicon Valley Technology Partners LLC), a Delaware corporation established and controlled by Eric Kelly, our Chief Executive Officer and Chairman of the Board of Directors (the “Purchaser”) entered into a share purchase agreement (as amended by that certain First Amendment to Share Purchase Agreement dated as of August 21, 2018 and as further amended by that certain Second Amendment to Share Purchase Agreement dated as of November 1, 2018, (the “Purchase Agreement”), under which, subject to the terms and conditions of the Purchase Agreement, the Company will sell to Purchaser all of the issued and outstanding shares of capital stock of Overland for \$45.0 million (the “Share Purchase”). The consummation of the Share Purchase is subject to certain customary conditions. A number of the conditions are not within the control of us, Overland, or Purchaser, and it is possible that such conditions may prevent, delay or otherwise materially adversely affect the completion of the Share Purchase. These conditions include, among others (i) the Purchaser’s securing of adequate financing to fund the purchase price, (ii) the transfer by the Company of (a) the businesses of (x) Unified ConneXions, Inc. and (y) HVE ConneXions, LLC (including the provision of information technology consulting services and hardware solutions around cloud computing, data storage and server virtualization to corporate, government, and educational institutions), and (b) the SNAP network attached storage business to a subsidiary of the Company other than Overland or a subsidiary of Overland, and (iii) other customary closing conditions, including (among others) (a) the accuracy of each party’s representation and warranties, (b) each party’s performance in all material respects with its obligations under the Purchase Agreement, and (c) the absence of a material adverse effect on the Company (as defined in the Purchase Agreement). The Company cannot predict with certainty, whether and when any of the required closing conditions will be satisfied or if another uncertainty may arise. If an event occurs that delays or prevents the Share Purchase, such delay or failure to complete the Share Purchase may cause uncertainty or other negative consequences that may materially and adversely affect the Company’s business, financial condition and results of operations and, to the extent that the current price of the Company’s common stock reflects an assumption that the Share Purchase will be completed, the price per share for the Company’s common stock.

If we fail to complete the Share Purchase, we will be required to seek financing to pay off our existing secured debt, satisfy our other liabilities, pay our transaction expenses and continue our operations as a going concern.

If we do not complete the Share Purchase, we will continue to face challenges and uncertainties in our ability to repay the outstanding obligations due under the Credit Agreement with FBC Holdings and the outstanding obligations under the \$24.5 million convertible note with FBC Holdings, which are both scheduled to mature November 19, 2018. Accordingly, the Company may need to raise additional capital through debt or equity financings before, at or around the time of the closing of the Share Purchase, failing which the Company may not be able to continue to operate as a going concern.

Further, if the Share Purchase is not consummated, our directors, executive officers and other employees will have expended extensive time and effort and will have experienced significant distractions from their work during the period the transaction was pending and we will have incurred significant third party transaction costs, in each case, without any commensurate benefit, which may have a material and adverse effect on our common share price and results of operations.

Risks Related to Our Public Company Status and Our Common Shares

If our common shares are delisted from the NASDAQ Capital Market, our business, financial condition, results of operations and share price could be adversely affected, and the liquidity of our common shares and our ability to obtain financing could be impaired.

We have in the past failed to comply with the minimum \$1.00 per share closing bid price requirement for continued listing on the NASDAQ Capital Market. Maintaining the listing of our common shares on the NASDAQ Capital Market requires that we comply with the closing bid price requirement, amongst other certain listing requirements. If our common shares cease to be listed for trading on NASDAQ for any reason, it may harm our share price, increase the volatility of our share price, decrease the level of trading activity and make it more difficult for investors to buy or sell shares of our common shares. Our failure to maintain a listing on NASDAQ may constitute an event of default under our outstanding indebtedness as well as any future indebtedness, which would accelerate the maturity date of such debt or trigger other obligations. In addition, certain institutional investors that are not permitted to own securities of non-listed companies may be required to sell their shares, which would adversely affect the trading price of our common shares. If we are not listed on NASDAQ, we will be limited in our ability to raise additional capital we may need.

On May 29, 2018, we received a letter from the Nasdaq Listing Qualifications department of The Nasdaq Stock Market LLC notifying us that we were not in compliance with the requirement of Nasdaq Marketplace Rule 5550(a)(2) for continued inclusion on the NASDAQ Capital Market as a result of the closing bid price for the Company's common stock being below \$1.00 for 30 consecutive business days. This notification has no effect on the listing of the Company's common shares at this time. The Nasdaq Marketplace Rules provide the Company with 180 calendar days, or until November 26, 2018, to regain compliance.

On October 31, 2018, the Company held a special meeting and passed a special resolution authorizing the filing of an amendment to the Company's articles to effect a share consolidation (also known as a reverse stock split). The Board of Directors believes that the proposed share consolidation is a potentially effective means for the Company to maintain compliance with the \$1.00 minimum bid requirement and to avoid, or at least mitigate, the likely adverse consequences of our common shares being delisted from the Nasdaq Capital Market by producing the immediate effect of increasing the bid price of our common shares; however, any such effect cannot be predicted with any certainty. On October 24, 2018, the Board of Directors authorized a share consolidation (also known as a reverse stock split) of the Company's issued and outstanding common shares at a ratio of one-for-eight, which became effective on November 5, 2018.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

Exhibit Number	Description	Filed	Incorporated by Reference		
		Herewith	Form	File No.	Date Filed
1.1	Underwriting Agreement, dated April 13, 2018 by and among the Company and the several underwriters named in Schedule I thereto		8-K	001-36532	4/17/2018
2.1	Amendment to Share Purchase Agreement by and among the Company, Overland Storage, Inc. and Silicon Valley Technology Partners, Inc. dated as of August 21, 2018		8-K	001-36532	8/21/2018
2.2	Second Amendment to Share Purchase Agreement by and among the Company, Overland Storage, Inc., and Silicon Valley Technology Partners, Inc. dated as of November 1, 2018		8-K	001-36532	11/2/2018
3.1	Certificate and Articles of Amalgamation		6-K	001-36532	3/25/2015
3.2	Certificate of Amendment to the Articles of Amalgamation of the Company		6-K	001-36532	7/17/2017
3.3	Certificate of Amendment to the Articles of Amalgamation of the Company		8-K	001-36532	10/2/2018
3.4	Certificate of Amendment to the Articles of Amalgamation of the Company		8-K	001-36532	10/5/2018
3.5	By-Law No. 1, as Amended		6-K	001-36532	7/17/2017
3.6	By-Law No. 2		6-K	001-36532	5/12/2017
10.1	Amendment Number Thirteen to Credit Agreement dated July 13, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC		10-Q	001-36532	8/14/2018
10.2	Eighth Amendment to 8% Senior Secured Convertible Debenture dated July 13, 2018 between the Company and FBC Holdings S.A.R.L.		10-Q	001-36532	8/14/2018
10.3	Amendment Number Fourteen to Credit Agreement dated July 23, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC		10-Q	001-36532	8/14/2018
10.4	Ninth Amendment to 8% Senior Secured Convertible Debenture dated July 23, 2018 between the Company and FBC Holdings S.A.R.L.		10-Q	001-36532	8/14/2018
10.5	Assignment and Acceptance effective August 16, 2018 between Overland Storage, Inc., Tandberg Data Gmbh, CB CA SPV, LLC and FBC Holdings S.A.R.L.	X			
10.6	Default Waiver for Credit Agreement dated August 16, 2018 between Overland Storage, Inc., Tandberg Data Gmbh, and FBC Holdings S.A.R.L.	X			
31.1	Certification of CEO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
31.2	Certification of CFO pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			

Exhibit Number	Description	Filed	Incorporated by Reference		
		Herewith	Form	File No.	Date Filed
32	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	X			
101.INS	XBRL Instance Document	X			
101.SCH	XBRL Taxonomy Extension Schema	X			
101.CAL	XBRL Taxonomy Extension Calculation Linkbase	X			
101.DEF	XBRL Taxonomy Extension Definition Linkbase	X			
101.LAB	XBRL Taxonomy Extension Label Linkbase	X			
101.PRE	XBRL Taxonomy Presentation Linkbase	X			

ASSIGNMENT AND ACCEPTANCE

This Assignment and Acceptance (this “Assignment and Acceptance”) is dated as of the Effective Date set forth below and is entered into by and among the Assignor identified in item 1 below (the “Assignor”), the Assignee identified in item 2 below (the “Assignee”) and each of the Loan Parties to the Credit Agreement identified below (the “Credit Agreement”). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement, receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto (the “Standard Terms and Conditions”) are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Acceptance as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Lender as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount identified below of all of such outstanding rights and obligations of the Assignor in respect of the Commitments and Loans identified below and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by the Assignor to the Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as the “Assigned Interest”). For the avoidance of doubt, all rights, title and interest to the Warrant shall be excluded from the Assigned Interest. Each such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Acceptance, without representation or warranty by the Assignor. The benefit of each Security Document shall be maintained in favor of the Assignee.

1. Assignor: CB CA SPV, LLC

2. Assignee: FBC Holdings S.A R.L.

3. Assignee Status:

The Assignee is a Lender Yes No

The Assignee is an Affiliate of a Lender Yes No

The Assignee is a Borrower, or an Affiliate or Subsidiary of a Borrower Yes No

4. Borrowers: Overland Storage, Inc. and Tandberg Data GmbH

5. Credit Agreement: Credit Agreement, dated as of April 6, 2016, by and among Overland Storage, Inc. and Tandberg Data GmbH, as borrowers, CB CA SPV, LLC (as successor to Opus Bank), as lender and each of the other parties party thereto (as amended, supplemented, waived or otherwise modified from time to time, the "Credit Agreement").

6. Assigned Interest:

<u>Assignor</u>	<u>Assignee</u>	<u>Purchase Amount</u>	<u>Type of Debt</u>	<u>Facility</u>
CB CA SPV, LLC	FBC Holdings S.A. R.L.	\$10,363,900.35	Term Loans	Term loan facility
CB CA SPV, LLC	FBC Holdings S.A. R.L.	\$8,195,017.72	Revolving Loans	Revolving credit facility

7. Agreement Date / Effective Date:

Agreement Date: August 15, 2018

Effective Date: August 16, 2018

8. Release by Loan Parties; Covenant not to Sue; Cancellation of Warrant:

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

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

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

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

Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 8; and (iii) any attempt to assert a Claim barred by the provisions of this Section 8 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

The Loan Parties and the Assignor agree that with effect on and from the Effective Date, the Warrant be and hereby is cancelled and terminated and is of no further force and effect and the Assignor shall promptly return the original certificate in respect of such Warrant to Overland Storage Inc.

The provisions of this Section 8 shall survive the termination of this Assignment and Acceptance and the other Loan Documents and the payment in full of the Obligations.

[Remainder of page intentionally left blank.]

The terms set forth in this Assignment and Acceptance are hereby agreed to:

ASSIGNOR

CB CA SPV, LLC

By: /s/ Morris Beyda

Name: Morris Beyda

Title: Partner and COO

[Signature Page to Assignment and Acceptance]

ASSIGNEE

FBC HOLDINGS S.A R.L.

By /s/Johannes A. van den berg and
Paul van den Belt

Name: Trustemoore Luxembourg S.A.

Title: Manager A

By: /s/ Jennifer Pulick

Name: Cyrus Capital Partner, LP

Title: Manager B

[Signature Page to Assignment and Acceptance]

Consented to:

OVERLAND STORAGE, INC., as a Borrower

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

TANDBERG DATA GMBH, as a Borrower

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

[Signature Page to Assignment and Acceptance]

GUARANTORS:

OVERLAND STORAGE, INC., as a Guarantor

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

SPHERE 3D CORP., as a Guarantor

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

SPHERE 3D INC., as a Guarantor

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

V3 SYSTEMS HOLDINGS, INC., as a Guarantor

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., as a Guarantor

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

[Signature Page to Assignment and Acceptance]

ANNEX 1 TO ASSIGNMENT AND ACCEPTANCE

STANDARD TERMS AND CONDITIONS FOR

ASSIGNMENT AND ACCEPTANCE

1. Representations and Warranties.

1.1. Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document and (iv) the performance or observance by the Borrowers, any of their Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Acceptance and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 9.04(a) of the Credit Agreement (subject to such consents, if any, as may be required under Section 9.04(a) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has (x) received a copy of the Credit Agreement and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.01 of the Credit Agreement, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Acceptance and to purchase the Assigned Interest and (y) attached to this Assignment and Acceptance is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee, and (v) it is not a Borrower or an Affiliate or Subsidiary of a Borrower; and (b) agrees that (i) it will, independently and without reliance upon the Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. General Provisions. This Assignment and Acceptance shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Acceptance may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Acceptance by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Acceptance. This Assignment and Acceptance shall be governed by, and construed in accordance with, the law of the State of California.

FBC Holdings S.à r.l.
c/o Trustmoore Luxembourg S.A.
6 Rue Dicks
L-1417 Luxembourg
Luxembourg

August 16, 2018

Overland Storage, Inc.
9112 Spectrum Center Blvd.
San Diego, California 92123
Attn: Kurt Kalbfleisch

Tandberg Data GmbH
c/o Overland Storage, Inc.
9112 Spectrum Center Blvd.
San Diego, California 92123
Attn: Kurt Kalbfleisch

Email: kkalbfleisch@overlandstorage.com

Ladies and Gentlemen

Waiver of Default

Reference is made to the Credit Agreement, dated as of April 6, 2016 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement") by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower") and, together with the Company, collectively, the "Borrowers", certain other loan parties as named therein and **FBC HOLDINGS S.À R.L.** (as successor to CB CA SPV, LLC) as Lender (the "Lender" and the "Credit Agreement").

Reference is also made to that certain default notice, dated August 7, 2018, from CB CA SPV, LLC (in its capacity as Lender) to the Company (the "Default Notice").

Capitalised terms defined in the Credit Agreement or the Default Notice have the same meaning when used in this letter, unless the context requires otherwise.

The Borrowers failed to deliver a final, definitive confidential information memorandum to the Lender regarding the Borrowers' business on or before the date required under the Credit Agreement in accordance with Section 6.17(l) of the Credit Agreement. Such failure constitutes an Event of Default pursuant to Section 8.01(c)(iii) of the Credit Agreement (the "Milestone Event of Default"). Such failure also constituted an event of default under the Global Debenture which constitutes an Event of Default pursuant to Section 8.01(g) of the Credit Agreement (the "Cross Default Event of Default")

With effect from the date of this letter the Lender hereby (a) waives the Specified Event of Default, the Milestone Event of Default and the Cross Default Event of Default, (b) revokes the declaration set out in the Default Notice that the entire unpaid principal amount of the Loans, all interest accrued and unpaid thereon and all other amount payable under the Credit Agreement and the other Loan Documents are immediately due and payable and (c) revokes the demand set out in the Default Notice that all such amounts are paid immediately to the Lender. This letter does not by its terms reinstate the Commitments which were cancelled pursuant to the Default Notice.

The waiver set out in this letter is given without prejudice to any rights or remedies the Lender may have now or in the future with respect to any other matters. The waiver is limited to the Specified Event of Default, the Milestone Event of Default and the Cross Default Event of Default only.

By countersigning this letter, each Borrower acknowledges and agrees that all accrued but unpaid interest as at the date of this letter is being paid in kind on the date hereof by being capitalised and added to the principal amount of the Term Loan and the Revolving Loans, as applicable.

Nothing in this letter shall be, or construed as, a waiver, amendment, consent or agreement in respect of any provisions of the Credit Agreement or the other Loan Documents, except for the specified waiver and interest capitalization set out above. All terms and conditions of the Credit Agreement and other Loan Documents shall remain in full force and effect.

This letter may be executed in counterparts. This has the same effect as if the signatures were on a single copy of this letter.

This letter is a Loan Document.

Section 9.20 of the Credit Agreement is incorporated herein by reference.

By FBC Holdings S.à r.l. as Lender

By /s/Johannes A. van den berg and

Paul van den Belt

Name: Trustmoore Luxembourg S.A.

Title: Manager A

By: Jennifer Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

Acknowledged and Agreed

OVERLAND STORAGE, INC., as a Borrower

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

TANDBERG DATA GMBH, as a Borrower

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

GUARANTORS:

OVERLAND STORAGE, INC., as a Guarantor

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

SPHERE 3D CORP., as a Guarantor

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

SPHERE 3D INC., as a Guarantor

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

V3 SYSTEMS HOLDINGS, INC., as a Guarantor

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., as a Guarantor

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

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Eric L. Kelly, Chief Executive Officer of Sphere 3D Corp. certify that:

1. I have reviewed this quarterly report on Form 10-Q of Sphere 3D Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the issuer's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee of the issuer's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

Date: November 7, 2018

/s/ Eric L. Kelly

Eric L. Kelly

Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Kurt L. Kalbfleisch, Chief Financial Officer of Sphere 3D Corp. certify that:

1. I have reviewed this quarterly report on Form 10-Q of Sphere 3D Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this report;
4. The company's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the issuer's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting; and
5. The company's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the issuer's auditors and the audit committee of the issuer's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the issuer's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal control over financial reporting.

Date: November 7, 2018

/s/ Kurt L. Kalbfleisch

Kurt L. Kalbfleisch
Senior Vice-President and
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION. 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Sphere 3D Corp. (the "Registrant") on Form 10-Q for the quarterly period ended September 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Eric L. Kelly, Chief Executive Officer of the Registrant, certify pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

Date: November 7, 2018

/s/ Eric L. Kelly

Eric L. Kelly

Chief Executive Officer

In connection with the Quarterly Report of Sphere 3D Corp. (the "Registrant") on Form 10-Q for the quarterly period ended September 30, 2018, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Kurt L. Kalbfleisch, Senior Vice-President and Chief Financial Officer of the Registrant, certify pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- The Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934; and
- The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2018

/s/ Kurt L. Kalbfleisch

Kurt L. Kalbfleisch

Senior Vice-President and

Chief Financial Officer