
**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 June 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.)

240 Matheson Blvd. East

Mississauga, Ontario, Canada, L4Z 1X

(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 August 3, 2018, there were 15,300,533 shares of the registrant's common stock outstanding.

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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 June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
Net revenue:	(Unaudited)		(Unaudited)	
Product revenue	\$ 16,289	\$ 17,095	\$ 33,708	\$ 36,540
Service revenue	2,172	2,343	4,201	4,636
	18,461	19,438	37,909	41,176
Cost of product revenue	11,856	13,304	24,391	27,389
Cost of service revenue	884	747	1,787	1,569
Gross profit	5,721	5,387	11,731	12,218
Operating expenses:				
Sales and marketing	4,014	4,707	8,404	9,504
Research and development	1,029	1,896	2,317	3,667
General and administrative	4,030	4,914	9,451	9,903
	9,073	11,517	20,172	23,074
Loss from operations	(3,352)	(6,130)	(8,441)	(10,856)
Other income (expense):				
Interest expense	(1,006)	(1,061)	(1,459)	(2,251)
Interest expense, related party	(1,278)	(638)	(1,933)	(1,298)
Other income (expense), net	123	508	(163)	(419)
Loss before income taxes	(5,513)	(7,321)	(11,996)	(14,824)
Provision for income taxes	489	192	829	498
Net loss	\$ (6,002)	\$ (7,513)	\$ (12,825)	\$ (15,322)
Net loss per share:				
Basic and diluted	\$ (0.44)	\$ (1.81)	\$ (1.20)	\$ (4.22)
Shares used in computing net loss per share:				
Basic and diluted	13,651	4,140	10,681	3,631

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 June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
	(Unaudited)		(Unaudited)	
Net loss	\$ (6,002)	\$ (7,513)	\$ (12,825)	\$ (15,322)
Other comprehensive (loss) income:				
Foreign currency translation adjustment	(407)	(114)	234	(123)
Total other comprehensive (loss) income	(407)	(114)	234	(123)
Comprehensive loss	\$ (6,409)	\$ (7,627)	\$ (12,591)	\$ (15,445)

See accompanying notes to condensed consolidated financial statements.

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

	June 30, 2018	December 31, 2017
Assets	(Unaudited)	
Current assets:		
Cash and cash equivalents	\$ 2,858	\$ 4,598
Accounts receivable, net of allowance for doubtful accounts of \$1,640 and \$1,675, respectively	8,849	11,482
Inventories	7,377	8,366
Other current assets	2,151	1,829
Total current assets	21,235	26,275
Property and equipment, net	2,448	2,742
Intangible assets, net	39,181	41,473
Goodwill	11,590	11,590
Other assets	1,325	1,200
Total assets	\$ 75,779	\$ 83,280
Liabilities and Shareholders' Equity		
Current liabilities:		
Accounts payable	\$ 10,274	\$ 9,362
Accrued liabilities	4,109	4,157
Accrued payroll and employee compensation	2,952	3,240
Deferred revenue	3,542	5,060
Debt, related party	26,643	26,613
Debt	18,195	18,195
Other current liabilities	1,033	1,283
Total current liabilities	66,748	67,910
Deferred revenue, long-term	1,776	1,276
Deferred income taxes	1,316	1,342
Other non-current liabilities	753	2,289
Total liabilities	70,593	72,817
Commitments and contingencies (Note 12)		
Shareholders' equity:		
Common shares, no par value; 15,250 and 7,116 shares issued and outstanding as of June 30, 2018 and December 31, 2017, respectively	180,866	173,871
Accumulated other comprehensive loss	(1,747)	(1,981)
Accumulated deficit	(173,933)	(161,427)
Total shareholders' equity	5,186	10,463
Total liabilities and shareholders' equity	\$ 75,779	\$ 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)

	Six Months Ended June 30,	
	2018	2017
Operating activities:	(Unaudited)	
Net loss	\$ (12,825)	\$ (15,322)
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation and amortization	2,410	3,057
Share-based compensation	1,265	3,666
Amortization of debt issuance costs	1,532	1,740
Fair value adjustment of warrants	(259)	(235)
Payment in-kind interest expense, related party	129	—
Loss on revaluation of investment	—	1,145
Changes in operating assets and liabilities (net of effects of acquisition):		
Accounts receivable	2,549	1,440
Inventories	990	675
Accounts payable and accrued liabilities	2,064	(1,318)
Accrued payroll and employee compensation	(263)	365
Deferred revenue	(721)	(121)
Other assets and liabilities, net	(343)	(2,135)
Net cash used in operating activities	<u>(3,472)</u>	<u>(7,043)</u>
Investing activities:		
Acquisition, net of cash acquired	—	(1,051)
Purchase of property and equipment	(31)	(69)
Net cash used in investing activities	<u>(31)</u>	<u>(1,120)</u>
Financing activities:		
Proceeds from issuance of common shares and warrants	2,310	7,862
Payment for issuance costs	(359)	(433)
Payments on debt, related party	(192)	(1,154)
Net cash provided by financing activities	<u>1,759</u>	<u>6,275</u>
Effect of exchange rate changes on cash	4	104
Net decrease in cash and cash equivalents	(1,740)	(1,784)
Cash and cash equivalents, beginning of period	4,598	5,056
Cash and cash equivalents, end of period	<u>\$ 2,858</u>	<u>\$ 3,272</u>
Supplemental disclosures of cash flow information:		
Cash paid for interest	\$ 633	\$ 819
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	\$ 1,162	\$ 73
Costs accrued for issuance of common shares	\$ 191	\$ 285
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[®], Glassware 2.0[™], SnapCLOUD[®], SnapServer[®], SnapSync[™], NEO[®], and V3[®].

Default 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 constitutes an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings, S.à r.l (“FBC” and together with Colbeck, the “Lenders”). The Company, Overland and their subsidiaries are in continuing discussions for a potential resolution with the Lenders. Despite these efforts, there can be no assurance that the Lenders will ultimately agree to any such resolution.

Management has projected that cash on hand will not be sufficient to allow the Company to continue operations if the Company is unable to negotiate a resolution of its defaults. Even if the Company is able to successfully resolve its existing defaults, 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 dates, or to raise the funding required to do so, whether through the Share Purchase described below or otherwise.

If the Company is able to resolve its existing defaults, management projects that cash on hand will not be sufficient to continue operations through the end of the third quarter of 2018 if the Company is otherwise unable to further amend, refinance, or pay off its debt and credit facilities. If the Share Purchase (as described below) is consummated, the Company expects that the proceeds to be received by the Company would be sufficient to pay off its outstanding debt and credit facilities. However, 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) 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 Colbeck, 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 six months ended June 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, even if it is able to resolve its existing defaults under its debt and credit facilities, it may not have sufficient liquidity necessary to sustain operations through the end of the third quarter of 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 (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 for \$45.0 million (the "Purchase Price"), subject to a working capital adjustment (the "Share Purchase"). The net proceeds from the Share Purchase will be used to repay: (i) the Company's outstanding obligations under its Credit Agreement with Colbeck; (ii) its outstanding obligations under the related party convertible note with FBC Holdings S.a.r.l. ("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).

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 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, (iii) to convene and hold a meeting of its shareholders for the purpose of obtaining the Shareholder Approval and (iv) 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 August 19, 2018.

Reverse Stock Split

On July 5, 2017, 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 1-for-25, which became effective on July 11, 2017. All share and per share amounts in the accompanying consolidated financial statements and the notes thereto have been restated for all periods 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 gain of \$0.1 million and \$0.5 million in three months ended June 30, 2018 and 2017, respectively, and a loss of \$0.4 million in the six months ended June 30, 2018 and a gain of \$0.5 million in the six months ended June 30, 2017.

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 its 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 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 157,894 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 88,235 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	\$	1,787

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):

	June 30, 2018	December 31, 2017
Raw materials	\$ 1,771	\$ 1,222
Work in process	1,880	2,217
Finished goods	3,726	4,927
	<u>\$ 7,377</u>	<u>\$ 8,366</u>

5. Intangible Assets

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

	June 30, 2018	December 31, 2017
Developed technology	\$ 23,414	\$ 23,414
Channel partner relationships ⁽¹⁾	12,880	12,929
Capitalized development costs ⁽¹⁾	2,980	3,164
Customer relationships ⁽¹⁾	1,625	1,647
	<u>40,899</u>	<u>41,154</u>
Accumulated amortization:		
Developed technology	(16,774)	(15,276)
Channel partner relationships ⁽¹⁾	(1,509)	(1,201)
Capitalized development costs ⁽¹⁾	(1,510)	(1,409)
Customer relationships ⁽¹⁾	(625)	(495)
	<u>(20,418)</u>	<u>(18,381)</u>
Total finite-lived assets, net	20,481	22,773
Indefinite-lived intangible assets - trade names	18,700	18,700
Total intangible assets, net	<u>\$ 39,181</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 June 30, 2018 and 2017, respectively, and \$2.1 million and \$2.7 million during the six months ended June 30, 2018 and 2017, respectively. Estimated amortization expense for intangible assets is expected to be approximately \$1.5 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

Related Party Convertible 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. The convertible note bears interest at an 8.0% simple annual interest rate, payable semi-annually. The obligations under the convertible note are secured by substantially all assets of the Company. At June 30, 2018, the Company had \$24.5 million outstanding on the convertible note.

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 March 2018, the Company and FBC Holdings entered into an amendment to the convertible note which extended the maturity date and altered the schedule for interest payments under the FBC 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 consideration for the amendment, the Company paid to FBC Holdings a fee of \$735,000. The majority of the fee was settled in 962,554 shares of the Company's stock.

The Company has the option under the amendment to the convertible 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 convertible note and will be determined by dividing the amount of interest due by the current market price as defined in the convertible note agreement. For the six months ended June 30, 2018 and 2017, the Company issued 792,405 and 176,317 common shares, respectively, for the settlement of accrued interest expense.

In November 2015, the convertible note's conversion price was adjusted to \$75.00 per share. At the option of the Company, the convertible note is convertible into common shares at the conversion price at any time that the weighted average trading price for the common shares exceeds 150% of the conversion price (i.e. exceeds \$112.50 per share), for ten consecutive trading days on its principal stock exchange that the common shares trade.

The convertible 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 convertible note, the Holder may declare all amounts outstanding to be immediately due and payable. The convertible 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 June 30, 2018, the Company was in compliance with all covenants of the convertible note. The Company is currently in default of the Debenture as a result of its default under the Credit Agreement with Colbeck as described in Note 1 to these condensed consolidated financial statements.

For the three months ended June 30, 2018 and 2017, interest expense, including amortization of debt costs, on the convertible note was \$1.2 million and \$0.5 million, respectively, and \$1.8 million and \$1.1 million for the six months ended June 30, 2018 and 2017, respectively.

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 convertible 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 credit agreement with Colbeck and the FBC Holdings indebtedness; or (iii) immediately after the Company's refinancing of both the Colbeck credit agreement and the FBC Holdings indebtedness. 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 June 30, 2018, the Company had \$2.1 million outstanding on the promissory note. For the three and six months ended June 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 six months ended June 30, 2017, interest expense, including amortization of debt costs, on the term loan was \$0.1 million and \$0.2 million, respectively.

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. On June 6, 2018, the Credit Agreement was assigned by Opus Bank to Colbeck. 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.

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 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 \$363,900 on July 13, 2018, which was added to the outstanding principal amount of the term loan. At June 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 to Opus Bank a fee of \$0.1 million, payable in cash on the date on which the obligations under the Credit Agreement are paid in full.

In March 2017, the Company and Opus Bank entered into Amendment Number Two to Credit Agreement, Amendment Number One to Amendment Number 1, Waiver and Reaffirmation (the "Second Amendment"). As a condition of the Second Amendment, the Company issued to Opus Bank (i) a warrant, exercisable for 15,957 shares at an exercise price of \$0.25 per common share as the debt was not repaid by April 17, 2017 and (ii) a warrant, exercisable for 35,242 shares at an exercise price of \$0.25 per common share as the debt was not repaid by May 31, 2017.

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 June 30, 2018, the Company was in compliance with all covenants of the term loan and revolving credit facility. The Company is currently in default under the Credit Agreement as a result of its failure to make an interest payment as described in Note 1 to these condensed consolidated financial statements.

At June 30, 2018, the outstanding balances of the term loan and revolving credit facility were \$10.0 million and \$8.2 million, respectively. For the three months ended June 30, 2018 and 2017, interest expense, including amortization of debt costs, on the term loan and revolving credit facility was \$1.0 million and \$1.1 million, respectively, and \$1.5 million and \$2.2 million for the six months ended June 30, 2018 and 2017, respectively.

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 June 30, 2018	\$	—

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 3,300,000 common shares and warrants to purchase up to an aggregate of 990,000 common shares at an aggregate purchase price of \$0.70 per common share and accompanying warrant, as well as a concurrent closing of warrants to purchase an additional 112,500 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 640,800 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 July 5, 2017, 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 1-for-25, which became effective on July 11, 2017. All share and per share amounts have been restated for all periods to reflect the share consolidation.

At June 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	\$100.00	33,600	May 31, 2020
October 2015	5	\$58.25	16,077	October 14, 2020
December 2015	3	\$38.50	20,000	December 21, 2018
December 2015	5	\$62.50	41,100	December 15, 2020
December 2015	5	\$27.00	60,000 ⁽¹⁾	December 4, 2020
January 2016	3	\$51.50	3,539	November 30, 2018
February 2016	3	\$40.50	20,000	February 26, 2019
March 2016	5	\$62.50	1,200	March 4, 2021
November 2016	3	\$50.00	1,000	November 8, 2019
December 2016	6	\$0.25	34,483	December 30, 2022
March 2017	6	\$0.25	15,957	April 18, 2023
March 2017	6	\$0.25	35,242	June 1, 2023
August 2017	5	\$5.25	300,000	August 11, 2022
August 2017	5	\$5.25	95,000	August 16, 2022
August 2017	5	\$5.25	205,000	August 22, 2022
April 2018	5	\$0.70	1,102,500	April 17, 2023
			<u>1,984,698</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 340,000 common shares, in the aggregate, outstanding to related parties at June 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) 600,000 common shares, of which 395,000 common shares were issued to related parties, and (ii) warrants for the purchase of up to 600,000 common shares, of which warrants to purchase up to 395,000 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 \$5.00 per common share and warrant to purchase one common share, and the exercise price of the warrants is \$5.25 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 1,617,917 common shares, of which 1,315,385 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, 818,182 of the Company's common shares 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 867,272 common shares. Each warrant had an exercise price of \$7.50 per warrant share. MF Ventures, LLC, a related party, participated in the offering by acquiring 181,818 common shares and warrants to purchase 181,818 shares. In August 2017, the Company issued additional common shares, which triggered a price adjustment for the March 2017 warrants from \$7.50 to \$5.00 and the Company issued, in the aggregate, additional warrants exercisable to purchase up to 433,638 common shares, of which MF Ventures, LLC received warrants exercisable to purchase 90,909 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 1,430,998 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. MF Ventures, LLC, participated in the Exchange by acquiring 299,999 common shares in exchange for the cancellation of a warrant to purchase 272,727 common shares.

Between December 30, 2016 and March 16, 2017, the Company completed a private placement and issued a total of 725,599 "Units" at a purchase price of \$7.50 per Unit. 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 1,451,198 common shares in the aggregate. MF Ventures, LLC participated in the private placements by acquiring 333,333 common shares and warrants to purchase 666,666 common shares. Lynn Factor and Sheldon Inwentash, a married couple and related party to the Company, participated in the private placements by acquiring 213,000 common shares and warrants to purchase 426,000 common shares. An additional 28,000 common shares and warrants to purchase 56,000 common shares were acquired by ThreeD Capital Inc. Mr. Inwentash is the Chief Executive Officer of ThreeD Capital Inc. 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. As of December 31, 2017, Lynn Factor and Sheldon Inwentash no longer have a significant direct or indirect ownership of the Company and are no longer classified as a related party.

9. Equity Incentive Plans

During the six months ended June 30, 2018 and 2017, the Company granted awards of restricted stock units of 400 and 237,559, respectively, of which 206,238 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 six months ended June 30, 2018 and 2017, the Company granted awards of stock options of zero and 1,400, 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 six months ended June 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 six months ended June 30, 2018 and 2017, the Company granted RSAs of 618,550 and 10,891, respectively, with a value of \$0.9 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:

	Six Months Ended June 30,	
	2018	2017
Expected volatility	n/a	93.0%
Risk-free interest rate	n/a	1.5%
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 June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
Cost of sales	\$ 10	\$ 83	\$ 42	\$ 167
Sales and marketing	94	372	278	1,023
Research and development	58	340	154	710
General and administrative	282	702	791	1,766
Total share-based compensation expense	\$ 444	\$ 1,497	\$ 1,265	\$ 3,666

As of June 30, 2018, there was a total of \$1.7 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 June 30, 2018 is expected to be recognized over a weighted-average period of 1.6 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 Six Months Ended June 30,	
	2018	2017
Common share purchase warrants	1,985	2,779
Convertible notes	327	327
Convertible notes interest	—	305
Restricted stock not yet vested or released	615	205
Options outstanding	168	124

11. Related Party Transactions

Professional services provided by affiliates of the Company were \$0.3 million and zero during the three months ended June 30, 2018 and 2017, respectively, and \$0.5 million and zero during the six months ended June 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 June 30, 2018, the Company had no outstanding standby letters of credit.

Warranty and Extended Warranty

The Company had \$0.9 million and \$0.8 million in deferred costs included in other current and non-current assets related to deferred service revenue at June 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	(198)	(2,938)
Change in liability for warranties issued during the period	191	2,451
Change in liability for pre-existing warranties	7	—
Liability at June 30, 2018	\$ 996	\$ 5,185
Current liability	\$ 626	\$ 3,476
Non-current liability	370	1,709
Liability at June 30, 2018	\$ 996	\$ 5,185

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 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.

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 June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
Disk systems	\$ 12,670	\$ 11,492	\$ 25,834	\$ 26,457
Tape automation systems	2,021	2,406	4,085	4,804
Tape drives and media	1,598	3,197	3,789	5,279
Service	2,172	2,343	4,201	4,636
	<u>\$ 18,461</u>	<u>\$ 19,438</u>	<u>\$ 37,909</u>	<u>\$ 41,176</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 six months ended June 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.

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.

Default Under Credit 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 constitutes an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings, S.à r.l (“FBC” and together with Colbeck, the “Lenders”). The Company, Overland and their subsidiaries are in continuing discussions for a potential resolution with the Lenders. Despite these efforts, there can be no assurance that the Lenders will ultimately agree to any such resolution.

Second Quarter of 2018 and Recent Highlights

- On July 23, 2018, the Company and FBC Holdings S.A.R.L., as lender, entered into the Ninth Amendment to 8% Senior Secured Convertible Debenture, under which, among other things, (i) the maturity date of the Debenture 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 Debenture. The Company is currently in default of the Debenture as a result of its default under the Credit Agreement with Colbeck described above.
- 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, (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. The Company is currently in default under the Credit Agreement as a result of its failure to make an interest payment as described above.
- On June 6, 2018, the Company’s outstanding Credit Agreement with Opus Bank was assumed by Colbeck. On June 29, 2018, the Company and Colbeck entered into Amendment Number Twelve to the Credit Agreement dated April 6, 2016, as amended, under which, among other things, (i) the interest rate of the loans owing to Colbeck under the Credit Agreement was changed from 8.25% to 13.25%. In consideration for the amendment, the Company incurred a fee of \$363,900 on July 13, 2018, which was added to the outstanding principal amount of the term loan.

- 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.
- On April 17, 2018, the Company closed an underwritten public offering of 3,300,000 common shares and warrants to purchase up to an aggregate of 990,000 common shares at an aggregate purchase price of \$0.70 per common share and accompanying warrant, as well as a concurrent closing of warrants to purchase an additional 112,500 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.

Results of Operations

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

	Three Months Ended June 30,		Six Months Ended June 30,	
	2018	2017	2018	2017
Net revenue	100.0 %	100.0 %	100.0 %	100.0 %
Cost of revenue	69.0	72.3	69.1	70.3
Gross profit	31.0	27.7	30.9	29.7
Operating expenses:				
Sales and marketing	21.7	24.2	22.2	23.1
Research and development	5.6	9.8	6.1	8.9
General and administrative	21.8	25.3	24.9	24.1
	49.1	59.3	53.2	56.1
Loss from operations	(18.1)	(31.6)	(22.3)	(26.4)
Interest expense	(12.3)	(8.8)	(8.9)	(8.7)
Other income (expense), net	0.7	2.6	(0.4)	(1.0)
Loss before income taxes	(29.7)	(37.8)	(31.6)	(36.1)
Provision for income taxes	2.6	1.0	2.2	1.2
Net loss	(32.3)%	(38.8)%	(33.8)%	(37.3)%

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

	Three Months Ended June 30,			Six Months Ended June 30,		
	2018	2017	Change	2018	2017	Change
Disk systems	\$ 12,670	\$ 11,492	10.3 %	\$ 25,834	\$ 26,457	(2.4)%
Tape automation systems	2,021	2,406	(16.0)%	4,085	4,804	(15.0)%
Tape drives and media	1,598	3,197	(50.0)%	3,789	5,279	(28.2)%
Service	2,172	2,343	(7.3)%	4,201	4,636	(9.4)%
Total	\$ 18,461	\$ 19,438	(5.0)%	\$ 37,909	\$ 41,176	(7.9)%

The Second Quarter of 2018 Compared with The Second Quarter of 2017

Net Revenue

We had revenue of \$18.5 million during the second quarter of 2018 compared to \$19.4 million during the second quarter of 2017. The decrease in net revenue is a result of a decrease in product revenue of \$0.8 million primarily due a \$2.0 million decrease in tape automation and tape drives and media, offset by a \$1.2 million increase in disk systems revenue primarily from our RDX product line. Original equipment manufacturer (“OEM”) net revenue accounted for 18.2% and 17.2% of net revenue during the second quarter of 2018 and 2017, respectively.

Product Revenue

Net product revenue decreased to \$16.3 million during the second quarter of 2018 from \$17.1 million during the second quarter of 2017, a decrease of \$0.8 million. Revenue from tape automation and tape drives and media decreased by \$2.0 million due to lower tape automation and tape drives and media revenue due to lower tape media sales volume, offset by an increase in revenue from disk systems of \$1.2 million primarily related to our RDX product line.

Service Revenue

Net service revenue was \$2.2 million during the second quarter of 2018 compared to \$2.3 million during the second quarter of 2017. The decrease of approximately \$0.1 million 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):

	Three Months Ended June 30,		Change
	2018	2017	
Gross profit	5,721	5,387	6.2 %
Gross margin	31.0%	27.7%	3.3 pt
Gross profit - product	4,433	3,791	16.9 %
Gross margin - product	27.2%	22.2%	5.0 pt
Gross profit - service	1,288	1,596	(19.3)%
Gross margin - service	59.3%	68.1%	(8.8)pt

In the second quarter of 2018, gross profit for product increased primarily due to increased sales volume of our RDX product line which have higher profit margins. In the second quarter of 2018, gross profit for service decreased primarily due to lower sales volume in our disk systems product line and 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 \$4.0 million and \$4.7 million for the second quarter of 2018 and 2017, respectively. The decrease of \$0.7 million was primarily due to a decrease of \$0.4 million in employee and related expenses associated with a lower average headcount, and a \$0.3 million decrease in share-based compensation.

Research and Development Expense

Research and development expenses were \$1.0 million and \$1.9 million for the second quarter of 2018 and 2017, respectively. The decrease of \$0.9 million was primarily due to a decrease of \$0.4 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 \$4.0 million and \$4.9 million for the second quarter of 2018 and 2017, respectively. The decrease of \$0.9 million was primarily due to decreases of \$0.6 million in amortization of intangible assets, \$0.4 million in share-based compensation expense, and \$0.3 million in employee and related expenses, offset by a \$0.5 million increase in transaction costs related to the share purchase agreement entered into in February 2018.

Non-Operating Expenses

Interest Expense

Interest expense was \$2.3 million and \$1.7 million for the second quarter of 2018 and 2017, respectively. The increase was primarily related to an increase in amortization of debt costs of \$0.6 million.

Other Income, Net.

Other income, net, in the second quarter of 2018 and 2017 was \$0.1 million and \$0.5 million, respectively. In the second quarter of 2018 and 2017, other income, net, primarily related to realized foreign currency gains of \$0.1 million and \$0.5 million, respectively.

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 gain of \$0.1 million and \$0.5 million in the second quarter of 2018 and 2017, respectively.

The First Half of 2018 Compared with the First Half of 2017

Net Revenue

We had revenue of \$37.9 million during the first half of 2018 compared to \$41.2 million during the first half of 2017. The decrease in net revenue is a result of a decrease in product revenue of \$2.8 million primarily due a decrease of sales units for disk systems from our HVE product line, and a decrease in service revenue of \$0.4 million. OEM net revenue accounted for 19.5% and 16.3% of net revenue during the first half of 2018 and 2017, respectively.

Product Revenue

Net product revenue decreased to \$33.7 million during the first half of 2018 from \$36.5 million during the first half of 2017, a decrease of \$2.8 million. Revenue from disk systems decreased by \$0.6 million primarily related to a \$1.6 million decrease in our HVE product line related to a transaction in the first quarter of 2017 that did not recur in the first half of 2018, offset by an increase of \$1.1 million in our RDX product line. In addition, there was a \$2.2 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 \$4.2 million during the first half of 2018 from \$4.6 million during the first half of 2017. The decrease of approximately \$0.4 million 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):

	Six Months Ended June 30,		Change
	2018	2017	
Gross profit	11,731	12,218	(4.0)%
Gross margin	30.9%	29.7%	1.2 pt
Gross profit - product	9,317	9,151	1.8 %
Gross margin - product	27.6%	25.0%	2.6 pt
Gross profit - service	2,414	3,067	(21.3)%
Gross margin - service	57.5%	66.2%	(8.7)pt

In the first half of 2018, gross profit for product increased primarily due to increased sales volume of our RDX product line which have higher profit margins. In the first half 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 \$8.4 million and \$9.5 million for the first half of 2018 and 2017, respectively. The decrease of \$1.1 million was primarily due to a decrease of \$0.9 million in employee and related expenses associated with a lower average headcount, and a \$0.7 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 \$2.3 million and \$3.7 million for the first half of 2018 and 2017, respectively. The decrease of \$1.4 million was primarily due to a decrease of \$0.6 million in employee and related expenses associated with a lower average headcount, and a \$0.6 million decrease in share-based compensation.

General and Administrative Expense

General and administrative expenses were \$9.5 million and \$9.9 million for the first half of 2018 and 2017, respectively. The decrease of \$0.4 million was primarily due to decreases of \$1.0 million in share-based compensation expense, \$0.5 million in employee related expenses, and \$0.5 million in amortization of intangible assets, offset by a \$1.6 million increase in transaction costs related to the share purchase agreement entered into in February 2018.

Non-Operating Expenses

Interest Expense

Interest expense was \$3.4 million and \$3.5 million for the first half of 2018 and 2017, respectively.

Other Expense, Net.

Other expense, net, in the first half of 2018 and 2017 was \$0.2 million and \$0.4 million, respectively. In the first half of 2018, other expense, net, primarily related to realized foreign currency loss of \$0.4 million, offset by a gain on the revaluation of warrants of \$0.3 million. In the first half of 2017, other expense, net, was primarily related to a \$1.1 million loss from the revaluation of our investment in connection with our January 2017 acquisition, offset by realized foreign currency gain of \$0.5 million and \$0.2 million gain on revaluation of warrants.

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 \$0.4 million in the first half of 2018 and a \$0.5 million gain in the first half 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 June 30, 2018, we had cash of \$2.9 million compared to cash of \$4.6 million at December 31, 2017. As of June 30, 2018, we had a working capital deficit of \$45.5 million, reflecting a decrease in current assets of \$5.0 million and a decrease in current liabilities of \$1.2 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 continue to maintain and increase our sales volume, and maintain operational efficiencies.

In April 2018, the Company closed an underwritten public offering of 3,300,000 common shares and warrants to purchase up to an aggregate of 990,000 common shares at an aggregate purchase price of \$0.70 per common share and accompanying warrant, as well as a concurrent closing of warrants to purchase an additional 112,500 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.

On February 20, 2018, 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 (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 for \$45.0 million (the "Purchase Price"), subject to working capital adjustments (the "Share Purchase"). The net proceeds from the Share Purchase will be used to repay: (i) the Company's outstanding obligations under its Credit Agreement with Colbeck; (ii) its outstanding obligations under the related party convertible note with FBC Holdings S.a.r.l. ("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) unanimously approved the entry into the Purchase Agreement by the Company. On May 10, 2018, the Company issued 640,800 common shares to satisfy payment obligations incurred by the Company in the aggregate amount of \$0.3 million related to the Purchase Agreement. See *Note 1 - Organization and Business* for additional details.

Management has projected that cash on hand will not be sufficient to allow the Company to continue operations if the Company is unable to negotiate a resolution of its defaults. Even if the Company is able to successfully resolve its existing defaults, 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 dates, or to raise the funding required to do so, whether through the Share Purchase described below or otherwise.

If the Company is able to resolve its existing defaults, management projects that cash on hand will not be sufficient to continue operations through the end of the third quarter of 2018 if the Company is unable to amend, refinance, or pay off its debt and credit facilities. In February 2018, the Company entered into the Purchase Agreement. If the transactions contemplated by the Purchase Agreement are consummated, the Company expects that the proceeds to be received by the Company would be sufficient to pay off its outstanding debt and credit facilities. 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 Colbeck, 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.

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

	Maturity Date	Interest Rate	Amount Outstanding
Convertible note related party	11/19/2018	8.0%	\$ 24,500
Term loan	11/19/2018	13.25%	\$ 10,000
Revolving loan	11/19/2018	13.25%	\$ 8,195
Subordinated promissory note, related party	11/19/2018	12.5%	\$ 2,143

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 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 \$735,000. 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. The Company is currently in default of the Debenture as a result of its default under the Credit Agreement with Colbeck described above.

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 \$363,900 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. The Company is currently in default under the Credit Agreement as a result of its failure to make an interest payment as described above.

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):

	Six Months Ended June 30,	
	2018	2017
Net cash used in operating activities	\$ (3,472)	\$ (7,043)
Net cash used in investing activities	\$ (31)	\$ (1,120)
Net cash provided by financing activities	\$ 1,759	\$ 6,275

The use of cash during the first half of 2018 was primarily a result of our net loss of \$12.8 million, offset by \$5.1 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 half of 2017, net cash used in investing activities were primarily related to our January 2017 acquisition.

During the first half of 2018, we received \$2.0 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 half of 2017, we received \$7.4 million in net proceeds from the issuance of common shares and warrants, offset by \$1.2 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 June 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 gain of \$0.1 million and \$0.5 million in three months ended June 30, 2018 and 2017, respectively, and a loss of \$0.4 million in the six months ended June 30, 2018 compared to a gain of \$0.5 million in the six months ended June 30, 2017.

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 June 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.

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 Default Under our Debt and Credit Facilities and our Liquidity

We are in default under our Credit Agreement with Colbeck and under our 8% Senior Secured Convertible Debenture issued to FBC Holdings. If we are unable to resolve such default, or if we are able to resolve such default but are unable to refinance or amend our debt and credit facilities before their November 19, 2018 maturity dates, we will likely 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 constitutes an event of default under that certain 8% Senior Secured Convertible Debenture in favor of FBC Holdings, S.à r.l (“FBC” and together with Colbeck, the “Lenders”). The Company, Overland and their subsidiaries are in continuing discussions for a potential resolution with the Lenders. Despite these efforts, there can be no assurance that the Lenders will ultimately agree to any such resolution. If no such resolution is reached, the Company may file for bankruptcy protection or be subject to an involuntary bankruptcy petition, either of which could result in a complete loss of shareholders’ investment.

Even if we are able to resolve the existing defaults with the Lenders, 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, Colbeck may elect to declare all amounts outstanding to be immediately due and payable and terminate all commitments to extend further credit. Our existing default under the Credit Agreement has resulted in default and cross-acceleration under the Convertible Note, and if such defaults are resolved with the Lenders, any further default under the Credit Agreement could result in a further default and cross-acceleration under the Convertible Note and other indebtedness. In February 2018, the Company entered into the Purchase Agreement. If the existing defaults under the Credit Agreement and Convertible Note are resolved with the Lenders and the transactions contemplated by the Purchase Agreement are consummated, the Company expects that the proceeds to be received by the Company would be sufficient to pay off its outstanding debt and credit facilities. 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 resolve our existing defaults with the Lenders, 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 resolve our existing defaults with the Lenders, 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 if the existing defaults under our credit and debt facilities are not resolved with the Lenders, nor through the end of the third quarter of 2018 if such defaults are resolved. 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 if the Company is unable to negotiate a resolution of its defaults. Even if the Company is able to successfully resolve its existing defaults, 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 dates, or to raise the funding required to do so, whether through the Share Purchase described below or otherwise.

If the Company is able to resolve its existing defaults, management projects that cash on hand will not be sufficient to continue operations through the end of the third quarter of 2018 if the Company is unable to amend, refinance, or pay off its debt and credit facilities. In February 2018, the Company entered into the Purchase Agreement. If the transactions contemplated by the Purchase Agreement are consummated, the Company expects that the proceeds to be received by the Company would be sufficient to pay off its outstanding debt and credit facilities. 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 Colbeck, 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 (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, subject to a working capital adjustment (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 Colbeck and the outstanding obligations under the \$24.5 million convertible note with FBC Holdings, which are both scheduled to mature November 19, 2018. As discussed above, it is possible that the net proceeds will not be sufficient to pay all of the above debts, liabilities and expenses or that there will be enough cash or working capital in the Company to fund its continuing operations. 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.

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
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	By-Law No. 1, as Amended		6-K	001-36532	7/17/2017
3.4	By-Law No. 2		6-K	001-36532	5/12/2017
4.1	Form of Warrant		8-K	001-36532	4/17/2018
4.2	Form of Lock-up Agreement		8-K	001-36532	4/17/2018
10.1	Amendment Number Nine to Credit Agreement dated June 1, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and Opus Bank	X			
10.2	Fourth Amendment to 8% Senior Secured Convertible Debenture dated June 1, 2018 between the Company and FBC Holdings S.A.R.L.	X			
10.3	Amendment Number Ten to Credit Agreement dated June 4, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and Opus Bank	X			
10.4	Fifth Amendment to 8% Senior Secured Convertible Debenture dated June 4, 2018 between the Company and FBC Holdings S.A.R.L.	X			
10.5	Assignment and Acceptance dated June 6, 2018 between Overland Storage, Inc., Tandberg Data Gmbh, Opus Bank and CB CA SPV, LLC	X			
10.6	Amendment Number Eleven to Credit Agreement dated June 15, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC	X			
10.7	Sixth Amendment to 8% Senior Secured Convertible Debenture dated June 15, 2018 between the Company and FBC Holdings S.A.R.L.	X			
10.8	Amendment Number Twelve to Credit Agreement dated June 29, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC	X			
10.9	Seventh Amendment to 8% Senior Secured Convertible Debenture dated June 29, 2018 between the Company and FBC Holdings S.A.R.L.	X			
10.10	Amendment Number Thirteen to Credit Agreement dated July 13, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC	X			

Exhibit Number	Description	Filed	Incorporated by Reference		
		Herewith	Form	File No.	Date Filed
10.11	Eighth Amendment to 8% Senior Secured Convertible Debenture dated July 13, 2018 between the Company and FBC Holdings S.A.R.L.	X			
10.12	Amendment Number Fourteen to Credit Agreement dated July 23, 2018 between Overland Storage, Inc., Tandberg Data Gmbh and CB CA SPV, LLC	X			
10.13	Ninth Amendment to 8% Senior Secured Convertible Debenture dated July 23, 2018 between the Company 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			
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			

AMENDMENT NUMBER NINE TO CREDIT AGREEMENT

This **AMENDMENT NUMBER NINE TO CREDIT AGREEMENT** (this "Agreement") is made as of June 1, 2018, by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower" and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and **OPUS BANK**, a California commercial bank ("Lender").

W I T N E S S E T H:

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

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

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

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

1. Capitalized Terms. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Credit Agreement.
2. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.
3. Amendments to Credit Agreement.

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

"*Amendment Number Nine*" means that certain Amendment Number Nine to Credit Agreement, dated as of June 1, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 4, 2018 or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 4, 2018, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting "May 28, 2018" and substituting "June 4, 2018" therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to June 4, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Lender shall have received an amendment to the Subordination Agreement, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(d) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Bankruptcy Matters.

(a) Each Loan Party represents and warrants to Lender that no Loan Party has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it has no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

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

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

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

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER NINE]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER NINE]

LENDER:

OPUS BANK, a California commercial bank,

as Lender

By: /s Andrew Jarvis
Name: Andrew Jarvis
Its: FVP

[SIGNATURE PAGE TO AMENDMENT NUMBER NINE]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF OPUS BANK, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**FOURTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This FOURTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this “**Amendment**”) is made as of May 31, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the “**Holder**”).

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the “**Debenture**”) in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the “**Obligations**”), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the “**Security**”);

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the “**Guaranty**”);

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

“**Maturity Date**” means June 4, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) a copy of the side letter to the subordination agreement between, among others, Holder and Senior Secured Creditor in form and substance satisfactory to Holder, duly executed by Corporation, Guarantors and Senior Secured Creditor;

(c) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the "Maturity Date" as defined in the Senior Credit Agreement to at least June 4, 2018;

(d) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(e) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to "this Debenture", "hereunder", "hereof" or "herein" or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FBC HOLDINGS S.A. R.L.

By /s/ G.B.A.D. Cousin and Carsten Söns

Name: Manacor (Luxembourg) S.A.

Title: Manager A

By /s/ Jennifer M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

AMENDMENT NUMBER TEN TO CREDIT AGREEMENT

This **AMENDMENT NUMBER TEN TO CREDIT AGREEMENT** (this "Agreement") is made as of June 4, 2018, by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower" and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and **OPUS BANK**, a California commercial bank ("Lender").

WITNESSETH:

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

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

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

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

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

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

3. Amendments to Credit Agreement.

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

"*Amendment Number Ten*" means that certain Amendment Number Ten to Credit Agreement, dated as of June 4, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 15, 2018 or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 15, 2018, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting "June 4, 2018" and substituting "June 12, 2018" therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to June 15, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Lender shall have received an amendment to the Subordination Agreement, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(d) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Bankruptcy Matters.

(a) Each Loan Party represents and warrants to Lender that no Loan Party has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it has no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

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

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

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

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER TEN]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER TEN]

LENDER:

OPUS BANK, a California commercial bank,

as Lender

By: /s/ Andrew Jarvis
Name: Andrew Jarvis
Its: FVP

[SIGNATURE PAGE TO AMENDMENT NUMBER TEN]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF OPUS BANK, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**FIFTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This FIFTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this “**Amendment**”) is made as of June 4, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the “**Holder**”).

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the “**Debenture**”) in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the “**Obligations**”), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the “**Security**”);

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the “**Guaranty**”);

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

“**Maturity Date**” means June 15, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) a copy of the side letter to the subordination agreement between, among others, Holder and Senior Secured Creditor in form and substance satisfactory to Holder, duly executed by Corporation, Guarantors and Senior Secured Creditor;

(c) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the "Maturity Date" as defined in the Senior Credit Agreement to at least June 15, 2018;

(d) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(e) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to "this Debenture", "hereunder", "hereof" or "herein" or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FBC HOLDINGS S.A. R.L.

By /s/ G.B.A.D. Cousin and Carsten Söns

Name: Manacor (Luxembourg) S.A.

Title: Manager A

By /s/ Jennifer M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

FIFTH AMENDMENT TO DEBENTURE

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

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 the Warrant and 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 Warrant and 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 included in 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 each Assignee.

1. Assignor: Opus Bank

2. Assignee: CB CA SPV, LLC

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, 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>
Opus Bank	CB CA SPV, LLC	\$10,000,000.00	Term Loans	Term loan facility
Opus Bank	CB CA SPV, LLC	\$8,195,017.72	Revolving Loans	Revolving credit facility

7. Trade Date / Effective Date:

Trade Date: June 6, 2018

Effective Date: June 6, 2018

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

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 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
OPUS BANK

By: /s/ Andrew Jarvis
Name: Andrew Jarvis
Title: FVP

[Signature Page to Assignment and Acceptance]

ASSIGNEE
CB CA SPV, LLC

By: /s/ Morris Beyda
Name: Morris Beyda
Title: Partner and COO

[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.

AMENDMENT NUMBER ELEVEN TO CREDIT AGREEMENT

This AMENDMENT NUMBER ELEVEN TO CREDIT AGREEMENT (this "Agreement") is made as of June 15, 2018, by and among OVERLAND STORAGE, INC., a California corporation (the "Company"), TANDBERG DATA GMBH, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower" and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and CB CA SPV, LLC, a Delaware limited liability company ("Lender").

WITNESSETH:

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

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

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

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

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

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

3. Amendments to Credit Agreement.

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

"*Amendment Number Eleven*" means that certain Amendment Number Eleven to Credit Agreement, dated as of June 15, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 29, 2018 or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) June 29, 2018, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting "June 12, 2018" and substituting "June 29, 2018" therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to June 29, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Lender shall have received an amendment to the Subordination Agreement, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(d) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Bankruptcy Matters.

(a) Each Loan Party represents and warrants to Lender that no Loan Party has any present intent to file any voluntary petition under any chapter of the Bankruptcy Code, or directly or indirectly to cause any Loan Party to file any Insolvency Proceeding or to have any Insolvency Proceeding filed against any Loan Party. Each Loan Party represents and warrants to Lender that it has no knowledge of any intention by any party or creditor to file any Insolvency Proceeding against any Loan Party.

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

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

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

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER TEN]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER ELEVEN]

LENDER:

CB CA SPV, LLC, a Delaware limited liability company, as Lender

By: /s/ Morris Beyda
Name: Morris Beyda
Its: Authorized Signatory

[SIGNATURE PAGE TO AMENDMENT NUMBER ELEVEN]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF OPUS BANK, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**SIXTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This SIXTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this “**Amendment**”) is made as of June 15, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the “**Holder**”).

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the “**Debenture**”) in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the “**Obligations**”), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the “**Security**”);

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the “**Guaranty**”);

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

“**Maturity Date**” means June 29, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) a copy of the side letter to the subordination agreement between, among others, Holder and Senior Secured Creditor in form and substance satisfactory to Holder, duly executed by Corporation, Guarantors and Senior Secured Creditor;

(c) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the "Maturity Date" as defined in the Senior Credit Agreement to at least June 29, 2018;

(d) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(e) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to "this Debenture", "hereunder", "hereof" or "herein" or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FBC HOLDINGS S.A. R.L.

By /s/ Johannes A. van den berg and
Marzena Paillardon

Name: Manacor (Luxembourg) S.A.

Title: Manager A

By /s/ Jennifer M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

AMENDMENT NUMBER TWELVE TO CREDIT AGREEMENT

This **AMENDMENT NUMBER TWELVE TO CREDIT AGREEMENT** (this "Agreement") is made as of June 29, 2018, by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower") and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and **CB CA SPV, LLC**, a Delaware limited liability company ("Lender").

WITNESSETH:

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

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

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

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

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

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

3. Amendments to Credit Agreement.

(a) Section 1.01 of the Credit Agreement is hereby amended by adding in proper alphabetical order, or amending and restating in their entirety, the following definitions:

"*Amendment Number Twelve*" means that certain Amendment Number Twelve to Credit Agreement, dated as of June 29, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) July 13, 2018 or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) July 13, 2018, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement.

(b) Section 2.03(d) of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

(d) While any Event of Default exists or after acceleration, each Borrower shall pay to Lender interest (after as well as before entry of judgment thereon to the extent permitted by law) on the principal amount of all its Outstanding Obligations, at the Default Rate. Notwithstanding the foregoing, the Borrowers acknowledge and agree that from and after June 29, 2018, the Borrower shall pay to Lender interest (after as well as before entry of judgment thereon to the extent permitted by law) on the aggregate outstanding amount of all its Obligations (including the principal amount of all Loans and outstanding fees and expenses), at the Default Rate.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting "June 29, 2018" and substituting "July 13, 2018" therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to July 13, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Lender shall have received an amendment to the Subordination Agreement, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(d) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Reserved.

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

36. Amendment Fee. Company acknowledges and agrees that if by the Maturity Date the Loan Parties have not either (i) commenced a restructuring on terms and conditions satisfactory to the Lender or (ii) entered into an amendment and restatement of the Credit Agreement on terms and conditions satisfactory to the Lender, then they shall pay a fee (the "Amendment Fee"), to the Lender in the amount equal to two percent (2.00%) of the aggregate amount of the Obligations outstanding on the Maturity Date, which Amendment Fee shall be paid in kind by being capitalized and added to the outstanding principal amount of the Term Loan. The Amendment Fee will be earned in full on the date of this Agreement.

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER TEN]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER TWELVE]

LENDER:

CB CA SPV, LLC, a Delaware limited liability company, as Lender

By: /s/ Morris Beyda
Name: Morris Beyda
Title: Partner & COO

[SIGNATURE PAGE TO AMENDMENT NUMBER TWELVE]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF OPUS BANK, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**SEVENTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This SEVENTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this "**Amendment**") is made as of June 29, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the "**Corporation**"), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the "**Holder**").

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the "**Debenture**") in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the "**Obligations**"), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the "**Security**");

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the "**Guaranty**");

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

"**Maturity Date**" means July 13, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) a copy of the side letter to the subordination agreement between, among others, Holder and Senior Secured Creditor in form and substance satisfactory to Holder, duly executed by Corporation, Guarantors and Senior Secured Creditor;

(c) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the "Maturity Date" as defined in the Senior Credit Agreement to at least July 13, 2018;

(d) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(e) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to "this Debenture", "hereunder", "hereof" or "herein" or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FBC HOLDINGS S.A. R.L.

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

Name: Manacor (Luxembourg) S.A.

Title: Manager A

By /s/ Jennifer M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

AMENDMENT NUMBER THIRTEEN TO CREDIT AGREEMENT

This **AMENDMENT NUMBER THIRTEEN TO CREDIT AGREEMENT** (this "Agreement") is made as of July 13, 2018, by and among **OVERLAND STORAGE, INC.**, a California corporation (the "Company"), **TANDBERG DATA GMBH**, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower" and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and **CB CA SPV, LLC**, a Delaware limited liability company ("Lender").

WITNESSETH:

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

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

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

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

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

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

3. Amendments to Credit Agreement.

(a) Section 1.01 of the Credit Agreement is hereby amended by adding in proper alphabetical order, or amending and restating in their entirety, the following definitions:

"*Amendment Number Thirteen*" means that certain Amendment Number Thirteen to Credit Agreement, dated as of July 13, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) July 23, 2018 or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) July 23, 2018, or (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting "July 13, 2018" and substituting "July 20, 2018" therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to July 23, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Reserved.

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

36. Twelfth Amendment Fee. Company acknowledges and agrees that the amendment fee earned pursuant to Amendment Number Twelve in the amount of \$363,900.35 is being paid in kind on the date hereof by being capitalized and added to the outstanding principal amount of the Term Loan. After such payment in kind on the date hereof, the outstanding principal amount of the Term Loan is \$10,363,900.35.

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER THIRTEEN]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER THIRTEEN]

LENDER:

CB CA SPV, LLC, a Delaware limited liability company, as Lender

By: /s/ Morris Beyda
Name: Morris Beyda
Title: Partner & COO

[SIGNATURE PAGE TO AMENDMENT NUMBER THIRTEEN]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF OPUS BANK, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**EIGHTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This EIGHTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this “**Amendment**”) is made as of July 13, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the “**Holder**”).

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the “**Debenture**”) in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the “**Obligations**”), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the “**Security**”);

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the “**Guaranty**”);

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS, Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

“**Maturity Date**” means July 23, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the "Maturity Date" as defined in the Senior Credit Agreement to at least July 23, 2018, on terms satisfactory to Holder;

(c) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(d) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

3.6 Senior Secured Creditor Extension. That certain Amendment Number Thirteen to Credit Agreement, dated as of July 13, 2018, among Corporation, Guarantors and Senior Secured Creditor contains all of the terms (including, without limitation, any fees payable to Senior Secured Creditor) of Senior Secured Creditor's agreement to extend the "Maturity Date" (as defined in the Senior Credit Agreement) to at least July 23, 2018 and there is no other document, writing, side letter or otherwise which supplements or otherwise amends such terms.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

4.5 Provision of information. Corporation agrees to provide Holder with copies of all information provided to Senior Secured Creditor (including any financial information and any 13-week cash flow analysis provided pursuant to the provisions of that certain Amendment Number Thirteen to Credit Agreement, dated as of July 13, 2018) concurrently with the provision of such information to Senior Secured Creditor.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to "this Debenture", "hereunder", "hereof" or "herein" or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

FBC HOLDINGS S.A. R.L.

By /s/ Johannes A. van den Berg and
Corinne Muller

Name: Trustemoore Luxembourg S.A.

Title: Manager A

By /s/ Jennifer M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

AMENDMENT NUMBER FOURTEEN TO CREDIT AGREEMENT

This AMENDMENT NUMBER FOURTEEN TO CREDIT AGREEMENT (this "Agreement") is made as of July 23, 2018, by and among OVERLAND STORAGE, INC., a California corporation (the "Company"), TANDBERG DATA GMBH, a German limited liability company registered with the commercial register of the local court in Dortmund under HRB 5589 ("Subsidiary Borrower" and, collectively with Company, the "Borrowers" and each individually a "Borrower"), each undersigned Guarantor signatory hereto, and CB CA SPV, LLC, a Delaware limited liability company ("Lender").

WITNESSETH:

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

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

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

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

1. Capitalized Terms. Each capitalized term used but not defined herein shall have the meaning ascribed to such term in the Credit Agreement.
2. Affirmation of Recitals. The recitals set forth above are true and correct and are incorporated herein by this reference.
3. Amendments to Credit Agreement.

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

"*Amendment Number Fourteen*" means that certain Amendment Number Fourteen to Credit Agreement, dated as of July 23, 2018, among Borrowers, Guarantors and Lender.

"*Maturity Date*" means, with respect to (a) the Term Loan, the earliest of (i) the Global Debenture Maturity, (ii) November 19, 2018, (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (iv) such earlier date upon which a Milestone Default has occurred, and (b) each Revolving Loan, the earliest of (i) the Global Debenture Maturity, (ii) November 19, 2018, (iii) such earlier date upon which the Obligations may be accelerated in accordance with the terms of this Agreement, and (iv) such earlier date upon which a Milestone Default has occurred.

“*Milestone Default*” means the occurrence of an Event of Default under Section 8.01(c) as a result of a breach of Section 6.17(b), (j), (k), (l), (m), or (n).

(b) Section 6.17(b) of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

(b) commencing the week of July 23, 2018, Borrowers shall deliver to Lender, on or before Friday of each week (commencing July 27, 2018) by no later than 2:00 p.m. Pacific time, an updated rolling 13-week cash flow forecast approved by the Engagement Principal retained by the Company on July 18, 2018 (the “*Engagement Principal*”) and in form and detail satisfactory to Lender, together with (i) a variance analysis of actual versus forecasted amounts for the preceding week, and (ii) a certificate of the Engagement Principal certifying that the actual amounts shown on the report for such period do not exceed the line item amount, or, if the line item amount is exceeded, the variance between the amounts for the applicable category;

(c) Section 6.17 of the Credit Agreement is hereby further amended to (i) delete the “and” at the end of clause (h), (ii) delete the “.” at the end of clause (i) and replace it with “;”, and (iii) add the following new clauses (j), (k), (l), (m) and (n) immediately following clause (i):

(j) on or before July 27, 2018 (or such later date as Lender may agree in writing in its sole discretion), Borrowers shall have signed an engagement letter for the retention of an investment banker acceptable to Lender (the “*Investment Banker Engagement Letter*”), who will, among other things, provide advice to the Borrowers and conduct a potential sale process of the Borrowers’ business;

(k) on or before July 31, 2018 (or such later date as Lender may agree in writing in its sole discretion), Borrowers shall have delivered to Lender a fully executed and delivered Investment Banker Engagement Letter;

(l) on or before August 10, 2018 (or such later date as Lender may agree in writing in its sole discretion), Borrowers shall deliver a final, definitive confidential information memorandum to Lender regarding Borrowers’ business and in form and substance reasonably satisfactory to Lender;

(m) on or before September 14, 2018 (or such later date as Lender may agree in writing in its sole discretion), Borrowers shall deliver to Lender one or more fully-executed letters of intent in connection with a potential sale of the Borrowers’ business, in each case on with conditions reasonably satisfactory to Lender and on commercially reasonable terms; and

(n) on or before October 19, 2018 (or such later date as Lender may agree in writing in its sole discretion), Borrowers shall deliver evidence satisfactory to Lender that the Borrowers have entered into an exclusivity agreement with a prospective buyer of the Borrowers’ business on conditions reasonably satisfactory to Lender and on sale terms that are commercially reasonable.

(d) Section 8.01(c) of the Credit Agreement is hereby amended and restated in its entirety to read as follows:

(c) Any default occurs in the observance or performance of any agreement contained in (i) Section 6.16, (ii) subject to (iii), Section 6.17, (iii) clause (b) and clauses (j) through (n) of Section 6.17 and/or Section 3(c) of Amendment Number Eight, in each case which is continuing for 5 days, and/or (iv) Section 7.

4. Amendment to Amendment Number Eight.

(a) Section 3(c) of Amendment Number Eight is hereby amended by deleting “July 20, 2018” and substituting “October 10, 2018” therefor.

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

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

(b) Lender shall have received a written extension of the Global Debenture Maturity to November 19, 2018 or later, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(c) Lender shall have received an amendment to the Subordination Agreement, duly executed and delivered by Parent and FBC Holdings S.a.r.l. and in form and substance satisfactory to Lender;

(d) Borrowers shall pay concurrently with the closing of the transactions evidenced by this Agreement all fees, costs, expenses and taxes then payable pursuant the Credit Agreement or incurred in connection with this Agreement and any other Loan Documents (including, without limitation, legal fees and legal expenses);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Covenants. Each Loan Party hereby covenants and agrees with Lender that each Loan Party shall strictly adhere to all the terms, conditions and covenants of the Loan Documents, including terms requiring payment of interest, fees and expenses when due.

8. Reserved.

9. Other Acknowledgements.

(a) Acknowledgement and Reaffirmation of Obligations. Each Borrower and Guarantor hereby acknowledges that the Loan Documents to which it is a party and the Obligations constitute the valid and binding obligations of such Borrower and Guarantor enforceable against such Borrower or Guarantor, as applicable, in accordance with their respective terms, and each Borrower and Guarantor hereby reaffirms its obligations under the Loan Documents to which it is a party. Lender's entry into this Agreement or any of the documents referenced herein, their negotiations with any party with respect to each Borrower and any Guarantor, their conduct of any analysis or investigation of any Collateral for the Obligations or any Loan Document, their acceptance of any payment from any Borrower or any other party of any payments made prior to the date hereof, or any other action or failure to act on the part of Lender shall not constitute (i) a modification of any Loan Document (except as expressly amended in this Agreement), or (ii) a waiver of any Default or Event of Default under the Credit Agreement, except as expressly waived pursuant to this Agreement, or a waiver of any term or provision of any Loan Document.

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

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

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

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

(f) Appointment of Receiver. Each Loan Party acknowledges and agrees that upon the occurrence of any Event of Default, Lender shall have the right to the appointment of a receiver for the properties and assets of Borrowers, and Borrowers hereby consent to such rights and such appointment and hereby waive any objection Borrowers may have thereto or the right to have a bond or other security posted by Lender.

10. Payment of Costs and Fees. Borrowers jointly and severally shall pay to Lender all costs, fees, expenses, and charges of every kind in connection with the preparation, negotiation, execution and delivery of this Agreement and any documents and instruments relating hereto. In addition thereto, Borrowers jointly and severally agree to reimburse Lender on demand for its costs arising out of this Agreement and all documents or instruments relating hereto (which costs may include the fees and expenses of any attorneys retained by Lender). The undertaking in this Section 10 shall survive the payment in full of the Obligations.

11. Tolling of Statute of Limitations.

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

(b) Except for the tolling of the statute of limitations applicable to Lender's rights, causes of action, claims and remedies against each other party set forth above, nothing in this Section 11 is intended to modify or amend the obligations of any Loan Party to Lender, or to be any waiver, estoppel or election as to any right, claim, defense or objection of any Lender. Any and all substantive rights of Lender are hereby expressly preserved.

(c) It is expressly understood and agreed that nothing in this Section 11 shall operate or be construed to defeat or diminish Lender's right to file actions or assess claims against any Loan Party (in conformance with the terms of this Agreement), without prior verbal or written notice, or any issue, including but not limited to the matters discussed hereinabove.

12. Compromise Negotiations. Other than the provisions of this Agreement explicitly set forth herein, any discussions between the parties hereto in reference to the drafting hereof (the "Negotiations") shall not be utilized or admissible in any subsequent litigation between the parties hereto. All such Negotiations shall be considered "compromise negotiations" pursuant to N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations, and none of such Negotiations shall be considered "otherwise discoverable" or be permitted to be discoverable or admissible for any other purpose except to prove "bias, prejudice, interest of a witness or a party, negating a contention of undue delay, or an effort to obstruct a criminal investigation or prosecution" as provided by N.Y. C.P.L.R. 4547, Fed. R. Evid. 408 and any comparable provision of any other state or federal law which may now or in the future be deemed applicable to the Negotiations. For purposes of clarification, notwithstanding the foregoing, if a dispute arises out of this Agreement, the parties shall have the absolute right to resolve such dispute in the courts specified in Section 13 below.

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

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

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

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

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

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

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

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

(b) Each Loan Party, for itself and on behalf of its successors, assigns, and officers, directors, employees, agents and attorneys, and any Person acting for or on behalf of, or claiming through it, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee above that (i) none of the provisions of the above release shall be construed as or constitute an admission of any liability on the part of any Releasee; (ii) it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by such Person pursuant to this Section 16; and (iii) any attempt to assert a Claim barred by the provisions of this Section 16 shall subject it to the provisions of applicable law setting forth the remedies for the bringing of groundless, frivolous or baseless claims or causes of action. Each Loan Party further agrees that it shall not dispute the validity or enforceability of the Credit Agreement or any of the other Loan Documents or any of its obligations thereunder, or the validity, priority, enforceability or the extent of Lender's Lien on any item of Collateral under the Credit Agreement or the other Loan Documents. If any Loan Party or any Person acting for or on behalf of, or claiming through it, violate the foregoing covenant, such Loan Party, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys' fees and costs incurred by such Releasee as a result of such violation. In agreeing to the foregoing release, each Loan Party expressly disclaims any reliance on any representations or warranties, acts or omissions by any of the Releasees and hereby agrees and acknowledges that the validity and effectiveness of the above release do not depend in any way on any such representations or warranties, acts or omissions or the accuracy, completeness or validity thereof.

(c) The provisions of this Section 16 shall survive the termination of this Agreement and the other Loan Documents and the payment in full of the Obligations.

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

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

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

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

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

21. Modification and No Further Commitment. This Agreement may not be amended, waived, supplemented or otherwise modified in any manner without the written consent of the party against whom the amendment, waiver, supplement or other modification is sought to be enforced. Each Loan Party acknowledges and agrees that (a) Lender has no obligation whatsoever to discuss, negotiate or to agree to any restructuring of the loans or other Obligations under the Credit Agreement, or any modification, amendment, waiver, supplement, restructuring or reinstatement of the Loan Documents, or to forbear from exercising Lender's rights and remedies under the Loan Documents, except as specifically provided in this Agreement, and (b) if there are any future discussions among Lender and the Loan Parties concerning any such modification, amendment, waiver, supplement, restructuring or reinstatement, then no modification, amendment, waiver, supplement, restructuring, reinstatement, compromise, settlement, agreement or understanding with respect to the loans or Obligations under the Credit Agreement or the Loan Documents shall constitute a legally binding agreement or contract or have any force or effect whatsoever unless and until reduced to writing and signed by authorized representatives of Lender, and none of the parties hereto shall assert or claim in any legal proceedings or otherwise that any such agreement exists except in accordance with the terms of this Section 21.

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

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

24. Effect on Loan Documents.

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

(b) This Agreement is a Loan Document.

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

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

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

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

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

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

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

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

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

33. Releasees Not Agents of Any Loan Party. Each Loan Party acknowledges that at the time this Agreement was negotiated and entered that no "Releasee" as defined in Section 16 of this Agreement is an agent, dual agent or fiduciary of any Loan Party.

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

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

[Signature pages follow]

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

BORROWERS:

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

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

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

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

[SIGNATURE PAGE TO AMENDMENT NUMBER FOURTEEN]

GUARANTORS:

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

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

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

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

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

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

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

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

OVERLAND TECHNOLOGIES LUXEMBOURG S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

TANDBERG DATA HOLDINGS S.À R.L., a Luxembourg limited liability company, as a Guarantor

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

[SIGNATURE PAGE TO AMENDMENT NUMBER FOURTEEN]

LENDER:

CB CA SPV, LLC, a Delaware limited liability company, as Lender

By: /s/ Morris Beyda

Name: Morris Beyda

Title: Partner & COO

[SIGNATURE PAGE TO AMENDMENT NUMBER FOURTEEN]

THE DEBENTURE, AS AMENDED HEREBY, IS SUBJECT TO THE TERMS OF A SUBORDINATION AGREEMENT DATED AS OF APRIL 6, 2016 (AS AMENDED FROM TIME TO TIME) IN FAVOR OF CB CA SPV, LLC, AS LENDER, WHICH AGREEMENT (AS AMENDED IN ACCORDANCE WITH ITS TERMS) IS INCORPORATED HEREIN BY REFERENCE.

**NINTH AMENDMENT TO
8% SENIOR SECURED CONVERTIBLE DEBENTURE**

This NINTH AMENDMENT TO 8% SENIOR SECURED CONVERTIBLE DEBENTURE (this “**Amendment**”) is made as of July 23, 2018, by and among SPHERE 3D CORPORATION, a corporation incorporated under the laws of the Province of Ontario (the “**Corporation**”), the Guarantors party hereto, and FBC HOLDINGS S.A R.L., a private limited liability company incorporated under the laws of the Grand Duchy of Luxembourg (the “**Holder**”).

RECITALS

WHEREAS, Corporation issued a 8% Senior Secured Convertible Debenture originally due March 31, 2018 to Holder (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the “**Debenture**”) in a principal amount of US\$24,500,000. Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Debenture;

WHEREAS, the outstanding principal balance owed by Corporation to Holder is \$24,500,000;

WHEREAS, as security for all of the indebtedness and obligations due to Holder under the Debenture (collectively, the “**Obligations**”), Corporation and the Guarantors granted a security interest in the Collateral in favour of Holder pursuant to the Debenture (the “**Security**”);

WHEREAS, Guarantors are party to the Debenture to whereby they unconditionally guaranteed payment to Holder of the Obligations owing by Corporation to Holder under the Debenture (the “**Guaranty**”);

WHEREAS, Corporation has informed Holder that is will not be able to redeem Debenture on the Maturity Date and has requested an extension to the Maturity Date;

WHEREAS, Corporation and the Holder desire to amend the Debenture to extend the Maturity Date, among other things, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Amendment to the Debenture.

1.1 Amendments. Subject to compliance by Corporation and Guarantors with the terms and conditions of this Agreement, Holder hereby agrees that with effect on and from the Effective Date the Debenture is amended as follows:

(a) The definition of Maturity Date in the introductory paragraph to the Debenture and in Section 1.1 (*Definitions*) is hereby amended and restated in its entirety as follows:

“**Maturity Date**” means November 19, 2018 or such earlier date on which the entire principal owing pursuant to this Debenture is due and payable by the Corporation;

(b) A new definition of Milestone Default is added in Section 1.1 (*Definitions*) in the correct alphabetical place as follows:

“**Milestone Default**” means Corporation or any Guarantor failing to comply with any provision of Section 7.5 (*Milestones*);

(c) A new Section 7.5 is added as follows:

“Section 7.5 Milestones

(a) commencing the week of July 23, 2018, Corporation and Guarantors shall deliver to Holder, on or before Friday of each week (commencing July 27, 2018) by no later than 2:00 p.m. Pacific time, an updated rolling 13-week cash flow forecast approved by the Engagement Principal retained by Corporation’s subsidiary, Overland Storage, Inc, on July 18, 2018 (the “**Engagement Principal**”) and in form and detail satisfactory to Holder, together with (i) a variance analysis of actual versus forecasted amounts for the preceding week, and (ii) a certificate of the Engagement Principal certifying that the actual amounts shown on the report for such period do not exceed the line item amount, or, if the line item amount is exceeded, the variance between the amounts for the applicable category;

(b) on or before July 27, 2018 (or such later date as Holder may agree in writing in its sole discretion), Corporation and Guarantors shall have signed an engagement letter for the retention of an investment banker acceptable to Holder (the “**Investment Banker Engagement Letter**”), who will, among other things, provide advice to Corporation and Guarantors and conduct a potential sale process of the Corporation and Guarantors’ business;

(c) on or before July 31, 2018 (or such later date as Holder may agree in writing in its sole discretion), Corporation and Guarantors shall have delivered to Holder a fully executed and delivered Investment Banker Engagement Letter;

(d) on or before August 10, 2018 (or such later date as Holder may agree in writing in its sole discretion), Corporation and Guarantors shall deliver a final, definitive confidential information memorandum to Holder regarding Corporation and Guarantors’ business and in form and substance reasonably satisfactory to Holder;

(e) on or before September 14, 2018 (or such later date as Holder may agree in writing in its sole discretion), Corporation and Guarantors shall deliver to Holder one or more fully-executed letters of intent in connection with a potential sale of the Corporation and Guarantors’ business, in each case with conditions reasonably satisfactory to Holder and on commercially reasonable terms;

(f) on or before October 19, 2018 (or such later date as Holder may agree in writing in its sole discretion), Corporation and Guarantors shall deliver evidence satisfactory to Holder that Corporation and Guarantors have entered into an exclusivity agreement with a prospective buyer of the Corporation and Guarantors business on conditions reasonably satisfactory to Holder and on sale terms that are commercially reasonable; and

(g) on or before October 10, 2018, Corporation and Guarantor shall deliver to Holder drafts of legal documents, in form and substance satisfactory to Holder, with respect to their proposed restructuring framework in the event that the Proposed Transaction is not consummated, in form and detail satisfactory to Holder.”

(d) Section 8.1 (*Events of Default*) is amended by re-numbering existing sub-section (c) as (c)(i), adding “subject to (c)(ii) below” at the beginning of such sub-section (c)(i) and adding a new sub-section (c)(ii) as follows:

“(c)(ii) if a Milestone Default occurs which is continuing for 5 days; or”.

2. Conditions Precedent. This Agreement shall not become effective unless and until the date (the "Effective Date") that each of the following conditions shall have been satisfied in Holder's sole discretion, unless waived in writing by Holder:

(a) a copy of this Agreement, duly executed by Corporation and each Guarantor;

(b) evidence in form and satisfactory to Holder that Senior Secured Creditor has agreed to extend the “Maturity Date” as defined in the Senior Credit Agreement to at least November 19, 2018, on terms satisfactory to Holder;

(c) a copy of the side letter to the subordination agreement between, among others, Holder and Senior Secured Creditor in form and substance satisfactory to Holder, duly executed by Corporation, Guarantors and Senior Secured Creditor;

(d) the representations and warranties herein and in the Debenture shall be true and correct in all material respects (except where any such representation and warranty is already subject to a materiality standard, in which case such representation and warranty is true and correct in all respects) on and as of the date hereof, as though made on such date (except to the extent that such representations and warranties relate solely to an earlier day); and

(e) no Event of Default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transactions contemplated herein.

3. Representations and Warranties Corporation and each Guarantor represent and warrant as to itself that all representations and warranties relating to it contained in the Debenture are true and correct as of the Effective Date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date. Corporation and Guarantors further represent and warrant to Holder as follows:

3.1 Authorization. The execution, delivery, and performance of this Agreement are within its corporate power and have been duly authorized by all necessary corporate action.

3.2 Enforceability. This Agreement constitutes a valid and legally binding Agreement enforceable against Corporation and Guarantors in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, and similar laws affecting creditors' rights generally and to general principles of equity.

3.3 No Violation. The execution, delivery, and performance of this Agreement do not and will not (i) violate any law, regulation, or court order to which Corporation or Guarantors are subject; (ii) conflict with Corporation or Guarantors' organizational documents; or (iii) result in the creation or imposition of any lien, security interest, or encumbrance on any property of Corporation, Guarantors, or any of their subsidiaries, whether now owned or hereafter acquired.

3.4 No Litigation. No action, suit, litigation, investigation, or proceeding of or before any arbitrator or Governmental Authority is pending or, to the knowledge of Corporation or Guarantors, threatened by or against or affecting Corporation or Guarantors or against any of their property or assets with respect to any of the Debenture or any of the transactions contemplated hereby or thereby.

3.5 Advice of Counsel. Corporation and Guarantors have freely and voluntarily entered into this Agreement with the advice of legal counsel of their choosing.

3.6 Senior Secured Creditor Extension. That certain Amendment Number Fourteen to Credit Agreement, dated as of July 23, 2018, among Corporation, Guarantors and Senior Secured Creditor contains all of the terms (including, without limitation, any fees payable to Senior Secured Creditor) of Senior Secured Creditor's agreement to extend the "Maturity Date" (as defined in the Senior Credit Agreement) to at least November 19, 2018 and there is no other document, writing, side letter or otherwise which supplements or otherwise amends such terms.

4. Covenants. In addition, in order to induce Holder to enter into this Amendment Agreement, Corporation and Guarantors hereby covenant and agree as follows:

4.1 Compliance with Debenture. Corporation and Guarantors shall continue to perform and observe all covenants, terms and conditions, and other obligations contained in all of the Debenture and this Agreement.

4.2 Perfection of Holder's Liens. Corporation and Guarantors shall execute and deliver to Holder such documents and take such actions as Holder deems necessary or advisable to perfect or protect Holder's security interests, mortgages, or liens granted by Corporation or Guarantors to Holder.

4.3 Notice of Adverse Claims. If Corporation or Guarantors shall become aware that any person or entity is asserting any lien, encumbrance, security interest, or adverse claim (including any writ, garnishment, judgment, warrant of attachment, execution, or similar process or any claim of control) against any of them or any of their property (each, an "**Adverse Claim**"), they shall promptly notify Holder in writing thereof, and provide to Holder all documentation and other information it may request regarding such Adverse Claim.

4.4 Further Assurances. Promptly upon the request of Holder, Corporation and Guarantors shall take any and all actions of any kind or nature whatsoever, and execute and deliver additional documents, that relate to this Agreement and the transactions contemplated herein.

5. Reaffirmation of Guaranty and Security.

5.1 Reaffirmation of Guaranty. Each Guarantor hereby ratifies and reaffirms (i) the validity, legality, and enforceability of the Guaranty; (ii) that its reaffirmation of the Guaranty is a material inducement to Holder to enter into this Agreement; and (iii) that its obligations under the Guaranty shall remain in full force and effect until all the Obligations have been paid in full.

5.2 Reaffirmation of Security. Holder and each Guarantor confirms that the Debenture (a) ranks as continuing security for the payment and discharge of the liabilities owing to Holder pursuant to the Debenture, including without limitation, all present and future monies, obligations and liabilities owed by Corporation and each Guarantor to Holder, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Debenture and in accordance with the provisions thereof; and (ii) shall continue in full force and effect in all respects and the Debenture and this Agreement shall be read and construed together.

6. Miscellaneous.

6.1 Notices. Any notices with respect to this Agreement shall be given in the manner provided for in Article 12 of the Debenture.

6.2 Integration; Modification of Agreement. This Agreement and the Debenture embody the entire understanding between the parties hereto and supersedes all prior agreements and understandings (whether written or oral) relating to the subject matter hereof and thereof. On and after the date hereof, each reference in the Debenture to “this Debenture”, “hereunder”, “hereof” or “herein” or words of like import referring to the Debenture shall mean and be reference to the Debenture as amended and supplemented by this Agreement. The terms of this Agreement may not be waived, modified, altered, or amended except by agreement in writing signed by all the parties hereto. This Agreement shall not be construed against the drafter hereof.

6.3 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.4 Full Force and Effect. The Debenture shall remain unchanged, in full force and effect and continue to govern and control the relationship between the parties hereto, except to the extent it is inconsistent with, superseded, or expressly modified herein. To the extent of any inconsistency, amendment, or superseding provision, this Agreement shall govern and control.

6.5 Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective permitted heirs, successors, and assigns, provided that the Corporation's and Guarantors' rights under this Agreement are not assignable.

6.6 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6.7 No Waiver. No failure to exercise and no delay in exercising, on the part of the Holder any right, remedy, power, or privilege hereunder or under the Debenture shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Further, Holder's acceptance of payment on account of the Obligations or other performance by Corporation or Guarantors after the occurrence of an Event of Default shall not be construed as a waiver of such Event of Default, any other Event of Default, or any of Holder's rights or remedies.

6.8 Cumulative Rights. The rights, remedies, powers, and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers, and privileges provided by law.

6.9 Reimbursement of Costs and Expenses. Notwithstanding any provision in the Debenture to the contrary, Corporation and Guarantors agree to pay all costs, fees, and expenses of Holder (including attorneys' fees), expended or incurred by Holder in connection with the negotiation, preparation, administration, and enforcement of this Agreement, the Debenture, the Obligations, any of the Collateral and all fees, costs, and expenses incurred in connection with any bankruptcy or insolvency proceeding (including, without limitation, any adversary proceeding, contested matter, or motion brought by Holder or any other person). Corporation and Guarantors are jointly and severally liable for their obligations under this Section 6.9.

6.10 Headings. The section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.11 Counterparts; Electronic Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

6.12 **Indemnity.** Corporation and Guarantors (as "**Indemnifying Party**") shall indemnify, hold harmless, and defend Holder, Cyrus Capital Partners, LP and its employees, managers, officers, related parties, entities or funds its advises and affiliates (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including professional fees and attorneys' fees, that are incurred directly or indirectly by Indemnified Party and/or awarded against Indemnified Party (collectively, "**Losses**"), whether now existing or that are incurred in the future, suffered by an Indemnified Party arising out of or in connection with any decision by the Corporation to pay any sums that became or become due and payable to an Indemnified Party under or in connection with the Debenture by issuing securities of the Corporation, including, but not limited to, Common Stock of the Corporation, in lieu of immediately payable funds and the disposition of such securities. This indemnity shall survive the termination of the Debenture.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

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 M. Pulick

Name: Cyrus Capital Partners, LP

Title: Manager B

SPHERE 3D CORPORATION

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

SPHERE 3D INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP, CFO and Secretary

V3 SYSTEMS HOLDINGS, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Secretary and CFO

OVERLAND STORAGE, INC.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: SVP and CFO

TANDBERG DATA HOLDINGS S.A. R.L.

By /s/ Kurt Kalbfleisch

Name: Kurt Kalbfleisch

Title: Manager

**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: August 14, 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: August 14, 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 June 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: August 14, 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 June 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: August 14, 2018

/s/ Kurt L. Kalbfleisch

Kurt L. Kalbfleisch

Senior Vice-President and

Chief Financial Officer