
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 6-K

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

For the month of December 2021

Commission File Number: 001-36532

Sphere 3D Corp.

**895 Don Mills Road, Bldg. 2, Suite 900
Toronto, Ontario, M3C 1W3, Canada
(Address of principal executive offices)**

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

Form 20-F Form 40-F

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

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

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

Amendment to Merger Agreement

On June 3, 2021, Sphere 3D Corp. ("Sphere" or the "Company") entered into an Agreement and Plan of Merger (the "Merger Agreement") with Gryphon Digital Mining, Inc. ("Gryphon"). On December 29, 2021, the Company and Gryphon entered into Amendment No. 1 to the Merger Agreement to, among other matters, (i) increase the number of Sphere common shares that will be issued by the Company in the Merger as a result of certain equity financings completed by Gryphon following the execution and delivery of the Merger Agreement; (ii) replace the existing termination provisions of the Merger Agreement with provisions that allow either party to terminate the Merger Agreement prior to March 31, 2022 upon a breach of the Merger Agreement by the other party following an opportunity to cure such breach, and to allow either party to terminate the Merger Agreement on or after March 31, 2022 for any reason or no reason by notice to the other party; (iii) amend the existing termination fees and penalties associated with a termination of the Merger Agreement to provide that upon any such termination of the Merger Agreement, the Company will forgive all amounts outstanding under the Promissory Note (as described below) and release to Gryphon certain Company common shares or cash to be deposited into an escrow account prior to February 15, 2022; and (iv) provide that, in connection with any termination of the Merger Agreement, each party shall have released the other party and its affiliates from any claims, actions or proceedings such party shall have at the time of such termination against the other party existing by reason of, based upon or arising out of the Merger Agreement.

The foregoing summary of the terms of the Merger Amendment is subject to, and qualified in its entirety by reference to the full text of the Merger Amendment filed as Exhibit 99.1 to this Report of Foreign Private Issuer on Form 6-K.

Amendment to Promissory Note and Security Agreement

On July 6, 2021, the Company entered into a Promissory Note (the "Promissory Note") and Security Agreement with Gryphon, pursuant to which the Company loaned Gryphon \$2.7 million in exchange for the Promissory Note bearing interest at 9.5% per annum. On August 30, 2021, the Company entered into Amendment No. 1 to the Promissory Note and Security Agreement pursuant to which the Company loaned Gryphon an additional \$3,650,000. On September 29, 2021, the Company entered into Amendment No. 2 to the Promissory Note and Security Agreement pursuant to which the Company loaned Gryphon an additional \$3,650,000 and an adjustment of the payment schedule. On December 29, 2021, the Company entered into Amendment No. 3 to the Promissory Note and Security Agreement pursuant to which the Company (i) agreed to loan an additional \$2.5 million to Gryphon, which would increase the principal amount of the Promissory Note to \$12.5 million; (ii) changed the repayment schedule of the Promissory Note so that payments by Gryphon will commence following completion of the Merger; (iii) released all of the collateral pledged by Gryphon to secure the Promissory Note; and (iv) agreed to forgive the indebtedness of Gryphon evidenced by the Promissory Note if the Merger Agreement is terminated pursuant to Section 8.01 of the Merger Agreement, as amended (the "Note Amendment").

The foregoing summary of the terms of the Note Amendment is subject to, and qualified in its entirety by reference to the full text of the Note Amendment filed as Exhibit 99.2 to this Report of Foreign Private Issuer on Form 6-K.

Amendment to Master Services Agreement

On August 19, 2021, Gryphon entered into a Master Services Agreement with the Company (the "MSA"). To provide greater certainty as to the term of the MSA, on December 29, 2021, the Company and Gryphon entered into Amendment No. 1 to the MSA (the "MSA Amendment") to extend the initial term of the MSA from three to four years, or to five years in the event the Company does not receive delivery of a specified minimum number of Bitcoin mining machines during 2022. Subject to written notice from the Company and an opportunity by Gryphon to cure for a period of up to one hundred eighty (180) days, the Company shall be entitled to terminate the Company MSA in the event of: (i) Gryphon's failure to perform the services under the MSA in a professional and workmanlike manner in accordance with generally recognized crypto-mining industry standards for similar services, or (ii) Gryphon's gross negligence, fraud or willful misconduct in connection with performing the services. Gryphon shall be entitled to specific performance or termination for cause in the event of a breach by the Company, subject to written notice and an opportunity to cure for a period of up to one hundred eighty (180) days.

The foregoing summary of the terms of the MSA Amendment is subject to, and qualified in its entirety by reference to the full text of the MSA Amendment filed as Exhibit 99.3 to this Report of Foreign Private Issuer on Form 6-K.

Amendment to Sub-License and Delegation Agreement

On October 8, 2021, the Company and Gryphon entered into a Sub-License and Delegation Agreement (the "Sub-Lease Agreement"), which assigned to the Company a Master Services Agreement, dated as of September 12, 2021, between Core Scientific, Inc. ("Core") and Gryphon and Master Services Agreement Order #2. The Sub-Lease Agreement allows for approximately 230 MW of carbon neutral bitcoin mining hosting capacity to be managed by Core as hosting partner. On December 29, 2021, the Company and Gryphon entered into Amendment No. 1 to the Sub-Lease Agreement (the "Sub-Lease Amendment") to provide Gryphon the right to recapture the usage of up to 50% of the hosting capacity to be managed by Core if the Merger Agreement is terminated prior to consummation of the Merger.

The foregoing summary of the terms of the Sub-Lease Amendment is subject to, and qualified in its entirety by reference to the full text of the Sub-License Amendment filed as Exhibit 99.4 to this Report of Foreign Private Issuer on Form 6-K.

SUBMITTED HEREWITH

Exhibits

- | | |
|----------------------|---|
| 99.1 | Amendment No. 1 to Agreement and Plan of Merger dated December 29, 2021 |
| 99.2 | Amendment No. 3 to Promissory Note and Security Agreement dated December 29, 2021 |
| 99.3 | Amendment No. 1 to Master Services Agreement dated December 29, 2021 |
| 99.4 | Amendment No. 1 to Sub-License and Delegation Agreement dated December 29, 2021 |
-

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

THE COMPANY CORP.

Date: January 5, 2022

/s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

**AMENDMENT NO. 1
TO AGREEMENT AND PLAN OF MERGER**

This AMENDMENT NO. 1 TO AGREEMENT AND PLAN OF MERGER (this "Amendment") is made and entered into as of December 29, 2021, by and among Sphere 3D Corp., an Ontario corporation ("Public Company"), Sphere GDM Corp., a Delaware corporation and a wholly-owned subsidiary of Public Company (the "Merger Sub") and Gryphon Digital Mining, Inc., a Delaware corporation ("Merger Partner", together with Public Company and Merger Sub, the "Parties").

RECITALS

- A. On June 3, 2021, the Parties entered into an Agreement and Plan of Merger (the "Merger Agreement").
- B. Pursuant to Section 8.04 of the Merger Agreement, the Merger Agreement may be amended by the Parties at any time by execution of an instrument in writing signed on behalf of each of the Parties.
- C. The parties hereto desire to amend the Merger Agreement as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants, agreements, representations and warranties contained herein and in the Merger Agreement, the Parties, intending to be legally bound, agree to amend and supplement the Merger Agreement as follows: Definitions. All capitalized terms used herein without definition shall have the meanings ascribed to them in the Merger Agreement unless otherwise defined herein.

1. Amendments.

- a. The definition of "Merger Partner Business Consideration" in Section 2.01(c) of the Merger Agreement is hereby amended and restated in its entirety as follows:

"Merger Partner Business Consideration" means 122,005,564 Public Company Common Shares, subject to an equitable adjustment for stock splits, stock combinations, recapitalizations or similar transactions.

- b. The definition of "Merger Partner Financing Consideration" in Section 2.01(c) of the Merger Agreement is hereby amended and restated in its entirety as follows:

"Merger Partner Financing Consideration" means, with respect to any sale by Merger Partner of equity or equity-linked securities from or after December 29, 2021, up to a maximum of \$7.4 million, the quotient of (a) the net proceeds received by Merger Partner from such sale, divided by (b) 70% of the volume-weighted average trading price of the Public Company Common Shares for the consecutive ten (10) trading days prior to the date on which Merger Partner provides written notice to Public Company of such sale pursuant to Section 5.01(b); provided, that such sale is consummated within five (5) business days of the date that Public Company receives written notice of such sale.

c. Section 5.01 of the Merger Agreement is hereby amended such that the following section (t) shall be included:

(t) amend the terms of any existing notes, warrants or other convertible securities existing as of December 29, 2021 without the prior written consent of Public Company.

d. The following shall be added as Section 7.02(j) of the Merger Agreement:

(j) Conversion of Debt. Prior to or concurrently with the Closing, all convertible debt issued pursuant to those certain Gryphon Unit Subscription Agreements between Gryphon and the subscribers thereunder, dated as of various dates between June 25, 2021 and August 3, 2021, inclusive, shall have been converted to Gryphon common stock.

e. Each of Sections 8.01, 8.02 and 8.03 of Article VIII of the Merger Agreement shall be replaced in its entirety with the following:

ARTICLE VIII
TERMINATION AND AMENDMENT

Section 8.01. Termination.

(a) Prior to March 31, 2022, this Agreement may be terminated by either Public Company or Merger Partner as a result of any breach by the other party of or failure by the other party to perform any representation, warranty, covenant or agreement set forth in this Agreement; provided that prior to any such termination, the terminating party shall have provided breaching party thirty (30) days prior written notice of such breach of or failure to perform this Agreement, and the breaching party shall have failed to cure such breach or failure to perform during such thirty (30) day period. Notwithstanding the foregoing, in the event of a breach of Section 8.03(a) hereof, Merger Partner may immediately terminate the Agreement by notifying the Public Company under this Section 8.01.

(b) On or after March 31, 2022, this Agreement may be terminated at any time prior to the Effective Time, whether before or, subject to the terms hereof, after approval of the Merger Partner Voting Proposal by the Shareholders of Merger Partner or approval of the Public Company Voting Proposals by the Shareholders of Public Company, by either Public Company or Merger Partner, for any reason whatsoever, by notifying the other party in writing of such termination under this Section 8.01.

Section 8.02. Effect of Termination.

(a) Upon termination of this Agreement pursuant to Section 8.01:

(i) without any further action by either party, except as provided in Section 8.02(a)(iv) below, (A) all obligations of both Public Company and Merger Partner to the other party under this Agreement shall be deemed to be waived by the other party or satisfied in full, (B) this Agreement shall be terminated and (C) the Escrow Agent (as defined below) shall be authorized by the Escrow Agreement (as defined below) to release the Escrow Amount (as defined below);

(ii) Public Company and all of its affiliates, successors, predecessors, assigns, parents, subsidiaries, divisions (whether incorporated or unincorporated), and all of its and their past and present owners, directors, officers, trustees, employees and agents (in their individual and representative capacities) (collectively, the "Public Company Parties") do hereby fully and forever release, acquit and discharge Merger Partner and all of its affiliates, successors, predecessors, assigns, parents, subsidiaries, divisions (whether incorporated or unincorporated), and all of its and their past and present owners, directors, officers, trustees, employees and agents (in their individual and representative capacities) (collectively, the "Merger Partner Parties") from and for all manner of claims, actions, suits, charges, grievances and/or causes of action, in law or in equity, existing by reason of and/or based upon any fact or set of facts, known or unknown, or any action or inaction existing from the date of this Agreement, including but not limited to any claims arising out of or based upon this Agreement, or the execution and delivery hereof or the performance of duties or obligations hereunder, whether known or unknown, suspected or unsuspected, including, without limitation, any claim or recovery for any type of damages, attorneys' fees, costs, or other relief that is or may be available to the Public Company Parties through the date this Agreement is terminated pursuant to Section 8.01 of this Agreement. While nothing in this Agreement prevents federal, state or local authorities from enforcing laws within their jurisdictions or prevents the Public Company Parties from participating in investigations by such agencies, the Public Company Parties release and relinquish any right to receive any money, property, or any other thing of value, or any other financial benefit or award, as a result of any proceeding of any kind or character whether initiated by such agency or some other person or group. Notwithstanding the foregoing, this release does not constitute a release or waiver of: (A) claims which cannot be waived as a matter of law or (B) the Public Company Parties' rights to enforce this Agreement. To the fullest extent permitted by law, the Public Company Parties shall not take any action that is contrary to the promises made by the Public Company Parties in Section 8.02(b) of this Agreement.

(iii) Merger Partner Parties do hereby fully and forever release, acquit and discharge the Public Company Parties from and for all manner of claims, actions, suits, charges, grievances and/or causes of action, in law or in equity, existing by reason of and/or based upon any fact or set of facts, known or unknown, or any action or inaction existing from the date of this Agreement, including but not limited to any claims arising out of or based upon this Agreement, or the execution and delivery hereof or the performance of duties or obligations hereunder, whether known or unknown, suspected or unsuspected, including, without limitation, any claim or recovery for any type of damages, attorneys' fees, costs, or other relief that is or may be available to the Merger Partner Parties through the date Public Company or Merger Partner provides notice of termination under Section 8.01 of this Agreement. While nothing in this Agreement prevents federal, state or local authorities from enforcing laws within their jurisdictions or prevents the Merger Partner Parties from participating in investigations by such agencies, the Merger Partner Parties release and relinquish any right to receive any money, property, or any other thing of value, or any other financial benefit or award, as a result of any proceeding of any kind or character whether initiated by such agency or some other person or group. Notwithstanding the foregoing, this release does not constitute a release or waiver of: (A) claims which cannot be waived as a matter of law or (B) the Merger Partner Parties' rights to enforce this Agreement. To the fullest extent permitted by law, the Merger Partner Parties shall not take any action that is contrary to the promises made by the Merger Partner Parties in this Agreement;

(iv) the provisions of Section 5.03 (Confidentiality), this Section 8.02 (Effect of Termination), Section 8.03 (Fees and Expenses) and Article IX (Miscellaneous), of this Agreement and the Confidentiality Agreement shall remain in full force and effect and survive any termination of this Agreement.

(c) Each of the Public Company Parties and the Merger Partner Parties hereby covenants not to, directly or indirectly, commence any action, suit or other proceeding or make any claim of any kind or nature against the other party arising out of or relating to any matter, cause, event, action, omission or circumstance under this Agreement occurring on or prior to the consummation of the Merger, other than with respect to a claim, action, suit or other proceeding that cannot be released under applicable law;

(d) Neither party will defame, disparage, denigrate or cast aspersions on the other party, including without limitation through any media, social media, Facebook, Twitter or similar mechanism. In the event either the Public Company Released Parties or the Merger Partner Released Parties violates the terms of this provision, such party agrees to pay liquidated damages of \$25,000.00 per breach, which amount such party agrees is reasonable. The Public Company Released Parties and the Merger Partner Released Parties further agree that the other party shall be entitled to immediate injunctive relief and/or other equitable relief to prevent or remedy a breach of these non-disparagement provisions, including the recovery of legal fees and costs the successful party incurs in obtaining the aforementioned relief or defending against a claim of such breach. Nothing in this Agreement prohibits any party from providing truthful information and/or testimony in response to any litigation matter, or any inquiry, investigation or proceeding conducted by a governmental entity or a self-regulatory organization.

Section 8.03. Escrow Shares; Fees and Expenses.

(a) On or before February 15, 2022, Public Company shall issue and deliver to an agreed upon professional escrow agent reasonably satisfactory to Public Company and Merger Agreement (the "Escrow Agent") the escrow amount (the "Escrow Amount"), which shall be 850,000 Public Company Common Shares registered in the name of Merger Partner represented by a stock certificate deposited with the Escrow Agent (the "Share Escrow Amount"), provided that if in the opinion of Public Company's legal counsel the issuance of such Share Escrow Amount shall negatively impact the ability of the Registration Statement being declared effective under the Securities Act or shall negatively impact the ability of Public Company to comply with the Nasdaq Listing covenants set forth in Section 6.03 of this Agreement then Public Company shall instead deposit \$2,500,000 in cash with the Escrow Agent as the Escrow Amount. The Escrow Amount shall be held in escrow by the Escrow Agent pursuant to the terms of an escrow agreement among Public Company, Merger Partner and the Escrow Agent, in form and substance reasonably satisfactory to Public Company, Merger Partner and the Escrow Agent (the "Escrow Agreement"). Upon any termination of the Agreement pursuant to Section 8.01 of this Agreement, the Escrow Agent shall release the Escrow Amount to Merger Partner. If the Merger Agreement is not terminated before the Effective Time, the Escrow Agent shall release the Escrow Amount to the Surviving Corporation within five (5) business days of the Effective Time.

(b) All fees and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses, whether or not the Merger is consummated; provided, however, that Merger Partner and Public Company shall share equally (i) all fees and expenses of the Exchange Agent, and (ii) all fees and expenses, other than accountant's and attorneys' fees, incurred with respect to the printing, filing and mailing of the Proxy Statement/Prospectus (including any related preliminary materials) and the Registration Statement and any amendments or supplements thereto.

(f) Section 9.10 of the Merger Agreement is amended and restated in its entirety as follows:

Section 9.10. Remedies. The only remedy available to any party for a breach by the other party of or a failure by the other party to perform any representation, warranty, covenant or agreement set forth in this Agreement shall be a termination of this Agreement pursuant to Section 8.01 hereof. Such remedy shall be the exclusive remedy for any such breach or failure to perform, and Public Company and Merger Partner each expressly waive any other remedy that may be conferred by Law or equity upon such party, and waive the right to any injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the terms and provisions of this Agreement.

2. Effect of Amendment. Except as amended by this Amendment, the Merger Agreement shall remain in full force and effect. No party shall be deemed to have waived the performance of any covenants in the Merger Agreement except as expressly amended by this Amendment. In addition, if there are any inconsistencies between the Merger Agreement and this Amendment, the terms of this Amendment shall prevail and control for all purposes.
3. Governing Law. This Amendment shall be construed in accordance with and governed by the Laws of the State of Delaware without giving effect to the principles of conflict of laws.
4. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and the same instrument.

[Signature page follows]

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

SPHERE 3D CORP.

By: /s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

SPHERE GDM CORP.

By: /s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

GRYPHON DIGITAL MINING, INC.

By: /s/ Robby Chang

Name: Robby Chang

Title: Chief Executive Officer

**AMENDMENT NO. 3
TO PROMISSORY NOTE and SECURITY AGREEMENT**

This AMENDMENT TO PROMISSORY NOTE and SECURITY AGREEMENT (this "Amendment") is made and entered into as of December 29, 2021, by and among Sphere 3D Corp., an Ontario corporation ("Lender"), and Gryphon Digital Mining, Inc., a Delaware corporation ("Borrower"), and Lender and Borrower, each a "Party" and collectively the "Parties").

RECITALS

A. On July 6, 2021, the Parties entered into a Promissory Note to a loan in the sum of \$2,700,000 (the "Promissory Note") and a Security Agreement related thereto (the "Security Agreement"). On August 27, 2021, the Parties entered into Amendment No. 1 to Promissory Note and Security Agreement related to an additional loan in the sum of \$3,650,000. On September 29, 2021, the Parties entered into Amendment No. 2 to Promissory Note and Security Agreement related to an additional loan in the sum of \$3,650,000 and an adjustment of the payment schedule (such Promissory Note and Security Agreement, as amended, the "Loan Documents").

B. On June 3, 2021, the Parties entered into an Agreement and Plan of Merger, as amended as of the date hereof (the "Merger Agreement").

C. The parties hereto desire to amend the Loan Documents as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants, agreements, representations and warranties contained herein and in the Loan Documents, the Parties, intending to be legally bound, agree to amend and supplement the Loan Documents as follows:

1. Definitions. All capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Documents unless otherwise defined herein.
2. Amendments.
 - a. The Security Agreement is hereby terminated and null and void. The Lender as the Secured Party under the Security Agreement shall execute, deliver and file amendments to any and all financing statements filed by it to secure its security interests in the Collateral, including those filed pursuant to the UCC, to release its secured claims to the Collateral within five (5) business days of the date hereof.
 - b. The Lender agrees and acknowledges that it no longer holds any priority security interest or lien in the Collateral and that all references to security interests, liens and Collateral in the Promissory Note are hereby deleted.
 - c. Section 3(c) of the Promissory Note shall be deleted and replaced in its entirety with: "The principal amount of indebtedness evidenced under this Note together with accrued and unpaid interest and Revenue Share shall be payable monthly, with the first payment consisting of all accrued interest under the Loan documents to become due and payable on the fifteenth of the month following the month in which the Merger Agreement is consummated in accordance with its terms. \$400,412 shall become due and payable on the fifteenth of each month thereafter for thirty-four months. Any remaining principal balance and accrued but unpaid interest shall become due and payable on the fifteenth of the subsequent month. In the event that the Merger Agreement is terminated in accordance with Section 8.01 thereof, the principal amount of indebtedness evidenced under this Note together with accrued and unpaid interest and Revenue Shares shall be fully forgiven and the Borrower shall be forever released from all of its obligations and liabilities under this Note with regards to the principal amount under the Note and the accrued interest."

- d. Schedule 1 shall be deleted in its entirety.
- e. The Lender agrees to provide the Borrower with Additional Funds as follows:
 - \$2,500,000 on January 3, 2022 (the "New Loan").

The New Loan will increase the total capital loaned by the Borrower to \$12,500,000.

- f. The principal sum in "Obligation to Pay" in Section 1 of the Promissory Note shall be revised to \$12,500,000 upon the Borrower's receipt of the New Loan.
 - g. The principal sum in "Interest Rate and Revenue Share" in Section 2 of the Promissory Note shall be revised to \$12,500,000 upon the Borrower's receipt of the New Loan.
2. Effect of Amendment. Except as amended by this Amendment, the Loan Documents shall remain in full force and effect. No party shall be deemed to have waived the performance of any covenants in the Loan Documents except as expressly amended by this Amendment. In addition, if there are any inconsistencies between the Loan Documents and this Amendment, the terms of this Amendment shall prevail and control for all purposes.
 4. Governing Law. This Amendment shall be construed in accordance with and governed by the Laws of the State of Delaware without giving effect to the principles of conflict of laws.
 5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and the same instrument.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first above written.

SPHERE 3D CORP.

By: /s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

GRYPHON DIGITAL MINING, INC.

By: /s/ Robby Chang

Name: Robby Chang

Title: Chief Executive Officer

**AMENDMENT NO. 1
Master Services Agreement
(Binding Term Sheet)**

This AMENDMENT NO. 1 TO MASTER SERVICES AGREEMENT (BINDING TERM SHEET) (this "Amendment") is made and entered into as of December 29, 2021, by and among Sphere 3D Corp., an Ontario corporation ("Customer"), and Gryphon Digital Mining, Inc., a Delaware corporation ("Provider"), and Lender and Borrower, each a "Party" and collectively the "Parties").

RECITALS

A. On August 10, 2021, the Parties entered into a Binding Term Sheet for a Master Services Agreement (the "MSA").

B. On June 3, 2021, the Parties entered into an Agreement and Plan of Merger, as amended as of the date hereof (the "Merger Agreement").

C. The Parties hereto desire to amend the MSA as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants, agreements, representations and warranties contained herein and in the MSA, the Parties, intending to be legally bound, agree to amend and supplement the MSA as follows:

1. Definitions. All capitalized terms used herein without definition shall have the meanings ascribed to them in the MSA unless otherwise defined herein.
 2. Amendments.
 - a. The "Term/Termination" section of the MSA is replaced in its entirety with the following:
 - The initial term of the Agreement shall be four (4) years, which may be extended for additional one (1) year terms with the mutual written consent of the Parties. If Customer has not had 3.5 exahash of crypti mining equipment delivered to it by December 31, 2022, the initial term shall be automatically extended by an additional year, for a total initial term of five (5) years.
 - Subject to written notice from Customer and an opportunity by Provider to cure for a period of up to one hundred eighty (180) day, Customer shall be entitled to terminate the Agreement in the event of: (i) Provider's failure to perform the Services in a professional and workmanlike manner in accordance with generally recognized crypto-mining industry standards for similar services, or (ii) Provider's gross negligence, fraud or willful misconduct in connection with performing the Services.
 - Provider shall be entitled to specific performance or termination for cause in the event of a breach by Customer, subject to written notice and an opportunity to cure for a period of up to one hundred eighty (180) days.
 - b. Under the "Commercial Terms" section of the MSA:
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- (i) The first bullet is replaced in its entirety with the following:

"•Customer shall not in any way, without the prior written consent of Provider, sell, subordinate, encumber or otherwise convey to any third party that is an Affiliate of Customer a security interest in the mining equipment (including but not limited to servers, machines, hashboards, controller boards, case assemblies, fans, and power units) (the "Mining Equipment"); provided, however, that nothing in this provision shall preclude the grant of a security interest in connection with any equipment financing. "Affiliate" shall mean any person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common controller with an issuer, including but not limited to: (1) any beneficial owner or holder of 5% or more of any class of shares of Customer, and (2) any director, officer, employee or independent contractor (or a member of the immediate family of the foregoing) of Customer."

(ii) the following language is added at the end of the fourth bullet: "After payment of all operating costs each month, Provider shall send Customer an invoice of the applicable Management Fee and deduct payment of the invoiced Management Fee from the Digital Wallet."

2. Effect of Amendment. Except as amended by this Amendment, the MSA shall remain in full force and effect. No party shall be deemed to have waived the performance of any covenants in the MSA except as expressly amended by this Amendment. In addition, if there are any inconsistencies between the MSA and this Amendment, the terms of this Amendment shall prevail and control for all purposes.
4. Governing Law. This Amendment shall be construed in accordance with and governed by the Laws of the State of New York without giving effect to the principles of conflict of laws.
5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and the same instrument.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first above written.

SPHERE 3D CORP.

By: /s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

GRYPHON DIGITAL MINING, INC.

By: /s/ Robby Chang

Name: Robby Chang

Title: Chief Executive Officer

**AMENDMENT NO. 1 TO
SUB-LICENSE AND DELEGATION AGREEMENT**

This AMENDMENT NO. 1 TO SUB-LICENSE AND DELEGATION AGREEMENT (this "Amendment") is made and entered into as of December 29, 2021 by and among Sphere 3D Corp., an Ontario corporation ("Sphere"), and Gryphon Digital Mining, Inc., a Delaware corporation ("Gryphon"), and Sphere and Gryphon, each a "Party" and collectively the "Parties").

RECITALS

A. On October 8, 2021, the Parties entered into a Sub-license and Delegation Agreement (the "Sub-License Agreement") relating to that certain Services Agreement, dated as of September 12, 2021, by and between Core Scientific, Inc. and Gryphon, and the Master Services Agreement Order #2 thereunder, pursuant to which Gryphon sub-licensed certain rights and delegated certain obligations under the MSA and Order 2 to Sphere, and Sphere accepted such sub-license of rights and delegation of obligations.

B. The parties hereto desire to amend the Sub-License Agreement as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants, agreements, representations and warranties contained herein and in the Sub-License Agreement, the Parties, intending to be legally bound, agree to amend and supplement the Sub-License Agreement as follows:

1. Definitions. All capitalized terms used herein without definition shall have the meanings ascribed to them in the Sub-License Agreement unless otherwise defined herein.
2. Amendments.
 - a. Section 1 shall be amended by adding the following sentence at the end: "Sphere shall advance funds for all pre-payments that are Sphere's responsibilities under this Agreement to Gryphon fifteen (15) days before such pre-payments are due to Core under Order 2, which payments may be offset by any payments then payable by Gryphon pursuant to this Agreement. Gryphon shall provide Sphere copies of all invoices issued to Gryphon relating to the MSA and/or Order 2 within forty-eight (48) business hours of receipt from Core."
 - b. Section 3 shall be deleted and replaced in its entirety with the following:

"3. Termination.

 - (a) This Agreement shall automatically terminate upon the termination of the MSA and/or Order 2 in accordance with their respective terms.
 - (b) In addition, upon any termination of the Merger Agreement pursuant to Section 8.01 thereof, this Agreement shall continue in full force and effect; provided, however, that upon such termination:
 - (i) Up to one-half of Sphere's rights under this Agreement to access and use the assumed power consumption of the Company Facility pursuant to Order 2 (the "Potential Reversion Right Percentage") shall revert to Gryphon pursuant to the procedures set forth in Section 3(b)(ii) below;

(ii) Sphere shall continue to make all payments due to Core pursuant to Order 2 for 90 days following the termination of the Merger Agreement (the "Transition Period"). During the Transition Period, Gryphon shall make payments to Core for any utilization of Core power capacity by Gryphon's minors. On or before the 90th day following such termination, Gryphon shall notify Sphere in writing of the percentage of the Potential Reversion Right Percentage that it elects to have under Order 2, up to a maximum of fifty percent (50%) of Sphere's rights under this Agreement (the "Actual Reversion Percentage");

(iii) After the Transition Period, all outstanding payments to Core pursuant to Order 2 shall be paid: (A) one hundred percent (100%) minus the Actual Reversion Percentage by Sphere to Core and (B) the Actual Reversion Percentage to Gryphon by Core; and

iv) Gryphon shall repay Sphere an amount equal to the Actual Reversion Percentage of all pre-payments made to Core before the end of the Transition Period by Sphere pursuant to Order 2 and this Agreement. Such repayment shall be payable by Gryphon to Sphere within thirty (30) days of Core's credit for applicable hosting services to Gryphon under Order 2 tied to an applicable pre-payment of hosting services."

(c) Following Section 5, the following Section 6 shall be added to this Agreement:

"The Agreement shall be governed and construed in accordance with the laws of the State of Delaware, without regard to conflicts of law principles. All disputes, suits, actions or proceedings relating to this Agreement ("Claims") shall be brought solely in the state or federal courts located in the State of Delaware. Each party hereby consents to the exclusive jurisdiction and venue of the State of Delaware in connection with any such dispute, suit, action or proceeding, and waives any defense of *forum non conveniens* in connection therewith. EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY OR AGAINST EITHER PARTY IN CONNECTION WITH THIS AGREEMENT.

If any Claim is brought by any party to enforce its rights under this Agreement against any other party, all fees, costs and expenses, including, without limitation, reasonable attorney's fees and court costs, incurred by the prevailing party regarding such Claim shall be reimbursed by the losing party; provided, that if a party to such Claim prevails in part, and loses in part, the court or other adjudicator presiding over such Claim shall award a reimbursement of the fees, costs and expenses incurred by such Party on an equitable basis."

3. Effect of Amendment. Except as amended by this Amendment, the Sub-License Agreement shall remain in full force and effect. No party shall be deemed to have waived the performance of any covenants in the Sub-License Agreement except as expressly amended by this Amendment. In addition, if there are any inconsistencies between the Sub-License Agreement and this Amendment, the terms of this Amendment shall prevail and control for all purposes.
4. Governing Law. This Amendment shall be construed in accordance with and governed by the Laws of the State of Delaware without giving effect to the principles of conflict of laws.
5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first above written.

SPHERE 3D CORP.

By: /s/ Peter Tassiopoulos

Name: Peter Tassiopoulos

Title: Chief Executive Officer

GRYPHON DIGITAL MINING, INC.

By: /s/ Robby Chang

Name: Robby Chang

Title: Chief Executive Officer
