# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

# FORM 8-K

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): **October 31, 2018**

# SPHERE 3D CORP.
(Exact name of registrant as specified in its charter)

| **Ontario, Canada** | **001-36532** | **98-1220792** |
|---|---|---|
| (State or other jurisdiction of incorporation) | (Commission File Number) | (IRS Employer Identification No.) |

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

Registrant's telephone number, including area code **(858) 571-5555**

**Not Applicable**
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a -12)

[ ] Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d -2(b))

[ ] Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e -4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b -2 of this chapter).

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. [ ]

**Introductory Note**

On November 13, 2018, Sphere 3D Corp. (the "Company") closed the previously announced transactions contemplated by that certain Share Purchase Agreement (as amended by that certain First Amendment to Share Purchase Agreement dated August 21, 2018, and as further amended by that certain Second Amendment to Share Purchase Agreement dated November 1, 2018, the "Purchase Agreement"), dated February 20, 2018, by and among Company, Overland Storage, Inc., a California corporation and a wholly owned subsidiary of the Company ("Overland"), and Silicon Valley Technology Partners, Inc. (formerly Silicon Valley Technology Partners LLC), a Delaware corporation established by Eric Kelly, the Company's Chief Executive Officer, who currently serves as the chief executive officer and chairman of the board of directors of such corporation (the "Purchaser", and together with the Company and Overland, the "Parties"). Pursuant to the closing of the Purchase Agreement (the "Closing"), the Company sold to Purchaser all of the issued and outstanding shares of capital stock of Overland (the "Share Purchase") in consideration for (i) the issuance to the Company of shares of Series A Preferred Stock of Purchaser (the "SVTP Shares") representing 19.9% of the outstanding shares of capital stock of Purchaser as of the Closing, and (ii) the release of the Company and all of its subsidiaries (other than Overland) from all the obligations and liabilities under the Closing Indebtedness (as defined in the Purchase Agreement) and assumption thereof by Purchaser.

In connection with the Closing and the other transactions described below:

(a) $6.5 million of the outstanding principal amount of that certain 8% Senior Secured Convertible Debenture, dated December 1, 2014, by and between the Company and FBC Holdings S.A.R.L ("FBC"), having an outstanding principal amount of $24.5 million (as amended, the "Debenture") was converted into 6,500,000 non-voting preferred shares of the Company;

(c) the Company and its subsidiaries were released as obligors and guarantors under the Debenture and under the Company's Credit Agreement, dated April 6, 2016, by and among Overland, Tandberg Data GMBH, and Opus Bank, as amended and as assigned to FBC, having an outstanding principal amount of $18.9 million (as amended, the "Existing Credit Agreement"); and

(d) the Subordinated Promissory Note, dated December 11, 2017, by and between Overland and MF Ventures, LLC ("MFV"), having an outstanding principal amount of $2.2 million remained an obligation solely of Overland, and the Company has no obligations pursuant thereto.

The value of the liabilities of the Company that were released upon the Closing exceeded $45.0 million (the amount of the purchase price contemplated by the Purchase Agreement).

In connection with the closing of the Share Purchase, Mr. Kelly has been appointed chief executive officer and chairman of the board of directors of Overland.

The foregoing summary of the Purchase Agreement, as amended, and the transactions contemplated thereby does not purport to be complete and is subject to and qualified in its entirety by the full text of the Purchase Agreement, which is filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed on February 21, 2018, the full text of the First Amendment to Share Purchase Agreement, which is filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed on August 21, 2018, and the full text of the Second Amendment to Share Purchase Agreement, which is filed as Exhibit 2.1 to the Company's Current Report on Form 8-K filed on November 2, 2018, each of which are incorporated herein by reference.

**Item 1.01 Entry into a Material Definitive Agreement.**

The information provided in the Introductory Note of this Current Report on Form 8-K is incorporated into this Item 1.01 by reference.

***Conversion Agreement and Series A Preferred Shares***

On November 13, 2018, in connection with the Closing, the Company filed articles of amendment (the "Articles of Amendment") setting forth the rights, privileges, restrictions and conditions of a new series of non-voting preferred shares of the Company (the "Series A Preferred Shares") and entered into a Conversion Agreement (the "Conversion Agreement"), by and between the Company and FBC, pursuant to which $6.5 million of the Debenture was converted into 6,500,000 Series A Preferred Shares.

The Series A Preferred Shares (i) subject to prior shareholder approval, are convertible into the Company's Common Shares, at a conversion rate equal to $1.00 per share, plus accrued and unpaid dividends, divided by an amount equal to 0.85 multiplied by a 15-day volume weighted average price per Common Share prior to the date the conversion notice is provided (the "Conversion Rate"), subject to a conversion price floor of $0.80, (ii) carry a cumulative preferred dividend at a rate of 8% of the subscription price per Series A Preferred Share, (iii) are subject to mandatory redemption for cash at the option of the holders thereof after a two-year period, and (iv) carry a liquidation preference equal to the subscription price per Series A Preferred Share plus any accrued and unpaid dividends.

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

The foregoing description of Conversion Agreement and the Series A Preferred Shares are qualified in their entirety by reference to the full text of such Conversion Agreement and the Articles of Amendment relating to the Series A Preferred Shares, which are filed as Exhibits 10.1and 3.1 to this report and are incorporated by reference herein.

***Conversion and Royalty Agreement***

On November 13, 2018, in connection with the Closing, the Company entered into a Conversion and Royalty Agreement, by and among the Company, Purchaser, and FBC (the "Conversion and Royalty Agreement"), pursuant to which, among other things, Purchaser assumed the obligations and liabilities of the Company with regard to $18 million of the Debenture, and effective upon the execution of such Conversion and Royalty Agreement, the Company and its subsidiaries were automatically released as obligors and guarantors under the Debenture and any lien or security interest granted by the Company or its subsidiaries with respect to the Debenture was automatically terminated and released.

The foregoing description of the Conversion and Royalty Agreement is qualified in its entirety by reference to the full text of the Conversion and Royalty Agreement, which is filed as Exhibit 10.2 to this Current Report on Form 8-K and is incorporated by reference herein.

***Release from Credit Agreement***

On November 13, 2018, in connection with the assumption of the Closing Indebtedness by Purchaser as contemplated by the Purchase Agreement, Overland, Tandberg Data GMBH, Purchaser, and FBC amended and restated the Existing Credit Agreement (as amended and restated, the "A&R Credit Agreement") pursuant to which the Company is a third party beneficiary of certain provisions therein. The A&R Credit Agreement, provides, among others, that effective upon the consummation of the Share Purchase, the Company and Sphere 3D, Inc. and V3 Systems Holdings, Inc., each a wholly owned subsidiary, were automatically released as guarantors under the Credit Agreement and all liens against the Company and the subsidiaries were granted in favor of the FBC securing obligations arising under or in connection with the Existing Credit Agreement and the other Loan Documents (as defined therein) were automatically terminated and released.

***Exchange and Buy-Out Agreement and Security Agreement***

On November 13, 2018, in connection with the Share Purchase, the Company the entered into an Exchange and Buy-Out Agreement (the "Exchange Agreement"), by and among the Company, FBC, Purchaser, and MF Ventures LLC ("MFV"). Under the terms of the Share Exchange and Buy Out Agreement, (i) the Company granted FBC the right to exchange up to 2,500,000 of Series A Preferred Shares held by FBC for up to all of the SVTP Shares held by the Company (the "Exchange Right"), with such Exchange Right expiring within two years of the Closing, and (ii) MFV and SVTP have the right to purchase up to 2,120,301 of the SVTP Series A Preferred Shares that will be held by FBC plus up to 2,500,000 Series A Preferred Shares held by FBC (or, following exercise of the Exchange Right by FBC, the SVTP shares held by FBC) (the "Buy-out Right"), with such Buy-out Right expiring within one year of the Closing; provided, however, if MFV or SVTP exercise their Buy-out Right prior to FBC's exercise of its Exchange Right, then any Series A Preferred Shares subject to the exercise of the Buy-out Right will automatically be exchanged for the same number of SVTP Shares that would have been issued to FBC had the Exchange Right been exercised prior to the buy-out. In connection with the Exchange Agreement, the Company entered into that certain Security and Pledge Agreement (the "Security Agreement") by and between the Company and FBC, pursuant to which, among other things, the Company granted a security interest to FBC in all the SVTP Shares held by the Company to secure the Company's obligations under the Exchange Agreement.

The foregoing description of the Exchange Agreement and the Security Agreement are qualified in their entirety by reference to the full text of the Exchange Agreement and Security Agreement, which are filed as Exhibits 10.3 and 10.4 to this Current Report on Form 8-K and are incorporated by reference herein.

***Secured Note and Pledge Agreement***

On November 13, 2018, the Company entered into a Secured Promissory Note (the "Secured Note") issued by Overland in favor of the Company and HVE Inc, a wholly-owned subsidiary of the Company, in the principal amount of $500,000. The proceeds from the Secured Note will be used to pay certain expenses on or after the Closing. The Secured Note matures on May 13, 2019 and accrues interest at a rate equal to 8% per annum. In connection with the Secured Note, the Company entered into a Pledge Agreement (the "Pledge Agreement") with Overland pursuant to which, among other things, the Company granted a security interest to Overland in all the SVTP Shares held by the Company to secure the Company's obligations under the Secured Note.

The foregoing description of the Secured Note and the Pledge Agreement are qualified in their entirety by reference to the full text of the Secured Note and the Pledge Agreement, which are filed as Exhibits 10.5 and Exhibits 10.6 to Current Report on Form 8-K and are incorporated by reference herein.

**Item 2.01. Completion of Acquisition or Disposition of Assets.**

The information provided in the Introductory Note and Item 1.01 of this Current Report on Form 8-K are incorporated into this Item 2.01 by reference. On November 13, 2018, the Share Purchase was consummated pursuant to and on the terms set forth in the Purchase Agreement.

As previously disclosed in the Current Report on Form 8-K filed with the SEC by the Company on May 31, 2018, at that certain special meeting of the Company's shareholders held on May 31, 2018 in San Jose, California (the "Special Meeting") the requisite Seller Shareholder Approval (as defined in the Purchase Agreement) was obtained to pass a special resolution approving the Share Purchase, which satisfies one of the closing conditions to the Share Purchase. Further, on November 13, 2018, the transfer by the Company to HVE Inc, a Delaware corporation and wholly owned subsidiary of the Company, of (a) the businesses of (i) Unified ConneXions, Inc. and (ii) 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 was consummated, which satisfies another closing condition to the Share Purchase.

**Item 5.02 Departure of Directors or Principal Officers Election of Directors Appointment of Principal Officers.**

In connection with the consummation of the Share Purchase, Eric Kelly resigned as a director of the Company and as Chairman of the Board of Directors of the Company (the "Board").

*(e) Compensatory Arrangements with Certain Officers.*

The Board previously adopted an amendment to the Sphere 3D Corp. 2015 Performance Incentive Plan (the "2015 Plan"), subject to approval of the amendment by the Company's shareholders, to increase the maximum number of the Company's common shares that may be issued under the 2015 Plan by 382,500 shares. As disclosed in the Company's Form 8-K filed on November 2, 2018, at the Company's special meeting of shareholders held on October 31, 2018, the Company's shareholders approved the 2015 Plan amendment. (Share numbers in this Item 5.02(e) are presented after giving effect to the Company's one-for-eight reverse stock split, effective November 5, 2018.)

The following summary of the 2015 Plan is qualified in its entirety by reference to the text of the 2015 Plan, which was included as Appendix C to the Company's proxy statement for the special meeting filed on September 27, 2018 and incorporated herein by reference.

The Company's Board or one or more committees appointed by the Board administers the 2015 Plan. The Board has delegated general administrative authority for the 2015 Plan to the Compensation Committee of the Board. The administrator of the 2015 Plan has broad authority under the 2015 Plan to, among other things, select participants and determine the type(s) of award(s) that they are to receive, and determine the number of shares that are to be subject to awards and the terms and conditions of awards, including the price (if any) to be paid for the shares or the award.

Persons eligible to receive awards under the 2015 Plan include directors of the Company, officers or employees of the Company or any of its subsidiaries, and certain consultants and advisors to the Company or any of its subsidiaries.

After giving effect to the amendment of the 2015 Plan described above, the maximum number of the Company's common shares that may be issued or transferred pursuant to awards under the 2015 Plan (the "Share Limit") equals: (1) 640,843 shares, plus (2) the number of any shares subject to stock options granted under the Company's Second Amended and Restated Stock Option Plan (the "Prior Plan") and outstanding on June 18, 2015 which expire, or for any reason are cancelled or terminated, after that date without being exercised. No new awards may be granted under the Prior Plan. Shares that are subject to or underlie awards granted under the 2015 Plan which expire or for any reason are cancelled or terminated, are forfeited, fail to vest, or for any other reason are not paid or delivered under the 2015 Plan shall again be available for subsequent awards under the 2015 Plan. Shares that are exchanged by a participant or withheld by the Company as full or partial payment in connection with any award granted under the 2015 Plan, as well as any shares exchanged by a participant or withheld by the Company or one of its subsidiaries to satisfy the tax withholding obligations related to any award granted under the 2015 Plan, shall be available for subsequent awards under the 2015 Plan. To the extent that an award granted under the 2015 Plan is settled in cash or a form other than shares, the shares that would have been delivered had there been no such cash or other settlement shall not be counted against the shares available for issuance under the 2015 Plan.

The types of awards that may be granted under the 2015 Plan include stock options, share appreciation rights, restricted stock, restricted share units, stock bonuses and other forms of awards granted or denominated in the Company's common shares or units of common shares, as well as certain cash bonus awards. As is customary in incentive plans of this nature, each share limit and the number and kind of shares available under the 2015 Plan and any outstanding awards, as well as the exercise or purchase prices of awards, and performance targets under certain types of performance-based awards, are subject to adjustment in the event of certain reorganizations, mergers, combinations, recapitalizations, stock splits, stock dividends, or other similar events that change the number or kind of shares outstanding, and extraordinary dividends or distributions of property to the shareholders.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

The information provided in Item 1.01 of this Current Report on Form 8-K is incorporated into this Item 5.03 by reference. The Company's Board filed articles of amendment to create and designate the terms of the Series A Preferred Shares.

**Item 8.01. Other Events**

On November 14, 2018, the Company issued a press release announcing the consummation of the Share Purchase, which is filed as Exhibit 99.1 hereto and is incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

| Exhibit Number | Description |
| --- | --- |
| 3.1 | Articles of Amendment of the Company dated November 13, 2018 |
| 10.1 | Conversion Agreement, dated November 13, 2018, by and between Sphere 3D Corp. and FBC Holdings S.A.R.L. |
| 10.2 | Conversion and Royalty Agreement, dated November 13, 2018, by and among, Sphere 3D Corp., FBC Holdings S.A.R.L. and Silicon Valley Technology Partners, Inc. |
| 10.3 | Share Exchange and Buy-Out Agreement, dated November 13, 2018, by and among Sphere 3D Corp., FBC Holdings S.A.R.L, MF Ventures LLC. |
| 10.4 | Security and Pledge Agreement, dated November 13, 2018, by and between Sphere 3D Corp. and FBC Holdings S.A.R.L. |
| 10.5 | Secured Promissory Note, dated November 13, by and among Sphere 3D Corp., HVE Inc., and Overland Storage, Inc. |
| 10.6 | Pledge Agreement, dated November 13, by and among Sphere 3D and Overland Storage, Inc. |
| 99.1 | Press Release issued November 14, 2018 |

*Forward Looking Statements*

*This Current Report on Form 8-K contains forward–looking statements, which include, among others, Sphere 3D's expectations, beliefs, plans, objectives, prospects, financial condition, assumptions or future events or performance, that may involve risks, uncertainties, and assumptions concerning the Company's business and products, including our ability to continue operations without the business of our former subsidiary, Overland Storage, Inc., our ability to raise additional capital through equity or debt financings, the market adoption, actual performance and functionality of our products; our inability to comply with the covenants in associated with our preferred shares; any increase in our future cash needs; our ability to maintain compliance with NASDAQ Capital Market listing requirements; unforeseen and proposed changes in the course of Sphere 3D's business or the business of its wholly–owned subsidiaries; the level of success of our collaborations and business partnerships; possible actions by customers, partners, suppliers, competitors or regulatory authorities; and other risks detailed from time to time in our periodic reports contained in our Annual Information Form and other filings with Canadian securities regulators (www.sedar.com) and in periodic reports filed with the United States Securities and Exchange Commission (www.sec.gov). All forward–looking statements speak only as of the date of this written communication. Sphere 3D undertakes no obligation to update any forward–looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise, except as required by law.*

## SIGNATURES

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

Date: November 14, 2018

**SPHERE 3D CORP.**

By: /s/ Peter Tassiopoulos
Peter Tassiopoulos
President

## EXHIBIT INDEX

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| 10.3 | Share Exchange and Buy-Out Agreement, dated November 13, 2018, by and among Sphere 3D Corp., FBC Holdings S.A.R.L, MF Ventures LLC. |
| 10.4 | Security and Pledge Agreement, dated November 13, 2018, by and between Sphere 3D Corp. and FBC Holdings S.A.R.L. |
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Ontario

Ministry of Government and Consumer Services | Ministère des Services gouvernementaux et des Services aux consommateurs

**CERTIFICATE**
This is to certify that these articles are effective on

**CERTIFICAT**
Ceci certifie que les présents statuts entrent en vigueur le

**NOVEMBER 1 3 NOVEMBRE, 2018**

Barbara Plackitt (17)

Director / Directrice
Business Corporations Act / Loi sur les sociétés par actions

Ontario Corporation Number
Numéro de la société en Ontario

1933033

Form 3 *Business Corporations Act*

Formule 3 *Loi sur les sociétés par actions*

## ARTICLES OF AMENDMENT
## STATUTS DE MODIFICATION

1. The name of the corporation is: (Set out in BLOCK CAPITAL LETTERS)
Dénomination sociale actuelle de la société (écrire en LETTRES MAJUSCULES SEULEMENT) :

SPHERE 3D CORP.

2. The name of the corporation is changed to (if applicable ): (Set out in BLOCK CAPITAL LETTERS)
Nouvelle dénomination sociale de la société (s'il y a lieu) (écrire en LETTRES MAJUSCULES SEULEMENT) :

3. Date of incorporation/amalgamation:
Date de la constitution ou de la fusion :

2015-03-24

(Year, Month, Day)
(année, mois, jour)

4. **Complete only if there is a change in the number of directors or the minimum / maximum number of directors.**
**Il faut remplir cette partie seulement si le nombre d'administrateurs ou si le nombre minimal ou maximal d'administrateurs a changé.**

Number of directors is/are: | minimum and maximum number of directors is/are:
Nombre d'administrateurs : | nombres minimum et maximum d'administrateurs :

Number / Nombre ______ or / ou minimum and maximum / minimum et maximum ______ ______

5. The articles of the corporation are amended as follows:
Les statuts de la société sont modifiés de la façon suivante :

See attached pages 1A to 1H.


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**5. The articles of the Company are amended as follows:**

To amend the authorized share capital of the Company as follows:

1. To increase the authorized capital of the Company by creating the first series of Preferred Shares, being an unlimited number of Series A Preferred Shares;

2. After giving effect to the foregoing, the authorized capital of the Company shall consist of an unlimited number of common shares, an unlimited number of Preferred Shares, issuable in series, and an unlimited number of Series A Preferred Shares; and

3. To provide that the rights, privileges, restrictions and conditions **(the "Preferred Share Provisions")** attaching to the Series A Preferred Shares are as follows:

**SERIES A PREFERRED SHARE TERMS**

1. DEFINITIONS

1.1 In these Preferred Share Provisions, the following words and phrases shall have the following meanings:

(a) "**Accrued and Unpaid Dividends**" means the aggregate (without duplication) of (i) all unpaid dividends on the Preferred Shares for any dividend period; and (ii) the amount calculated as though dividends on each Preferred Share had been accruing on a day to day basis from and including the end of the most recent fiscal quarter of the Corporation up to and including the date to which the computation of accrued dividends is to be made;

(b) "**Act**" means the *Business Corporations Act* (Ontario), as now enacted or as it may from time to time be amended, re-enacted or replaced (and in the case of such amendment, re-enactment or replacement, any references herein to specific provisions thereof shall be read as referring to such amended, re-enacted or replaced provisions);

(c) "**Aggregate Consideration**" has the meaning given thereto in Section 8(b);

(d) "**As Adjusted**" with respect to any share or per share amount, means subject to appropriate adjustment in the event of any stock dividend, stock split, consolidation, combination or other similar recapitalization with respect to the applicable shares;

(e) "**Business Day**" means a day other than a Saturday, Sunday or any other statutory holiday in the City of New York, New York or in the City of Toronto, Ontario;

(f) "**Common Shares**" means the common shares of the Corporation;

(g) "**Conversion Rate**" at any time means the number of Common Shares into which one Preferred Share may be converted as adjusted from time to time pursuant to these Preferred Share Provisions;

(h) "**Contemplated Transaction**" has the meaning given thereto in Section 8(b);

(i) "**Corporation**" means Sphere 3D Corp.;

(j) "**Deemed Liquidation**" has the meaning given thereto in Section 8;

(k) "**Holder**" in respect of any Preferred Share, means the registered holder thereof;

(l) "**Initial Issue Date**" means the date of initial issuance of Preferred Shares;

(m) "**Maturity Date**" means 2 years from the Initial Issue Date;

(n) "**Preferred Holder Approval**" means the approval of the Holders of the Preferred Shares given in writing by the Holders of a majority of the outstanding Preferred Shares (or such greater percentage as may be required by applicable law) or by a resolution passed by a majority of the votes cast by the Holders of Preferred Shares who voted in respect of that resolution (or such greater percentage as may be required by applicable law);

(o) "**Preferred Shares**" means the Series A Preferred Shares of the Corporation;

(p) "**Redemption Amount per Preferred Share**" in respect of a Preferred Share, means **US$1**, As Adjusted, together with all Accrued and Unpaid Dividends on such share;

(q) "**Stock Option Plan**" means (i) any performance incentive plan, stock option plan or stock purchase plan of the Corporation that either (x) has been approved by the board of directors and the shareholders of the Corporation prior to the Initial Issue Date of first issuance of a Preferred Share or (y) is approved by the board of directors and the Holders by way of Preferred Holder Approval and, in either of (x) or (y) above, as such plan or plans may be amended, replaced or substituted from time to time with approval of the board of directors and the Holders by way of Preferred Holder Approval; and (ii) the Company's 2015 performance incentive plan, as it may be amended as described in the definitive proxy statement and information circular filed with the Securities Exchange Commission on September 27, 2018;

(r) "**Subscription Price**" of each Preferred Share means **US$1**, As Adjusted.

2. DIVIDENDS

The Holders of the Preferred Shares shall be entitled to receive and the Corporation shall pay thereon, as and when declared by the directors of the Corporation out of

moneys of the Corporation properly applicable to the payment of dividends, which, subject to applicable law, shall be declared by the directors if the Corporation receives any cash dividends on its equity investment in Silicon Valley Technology Partners, Inc. in an amount equal to such cash dividend received, cumulative cash dividends at a rate of 8% of the Subscription Price per Preferred Share per annum. Dividends on each Preferred Share shall accrue on a daily basis from and including the date of issue thereof and shall be paid on such date or dates as and when decided by the board of directors out of moneys properly applicable to the payment of such dividends. No dividends shall be paid or set apart for payment upon the Common Shares or any other shares ranking junior to the Preferred Shares with respect to the payment of dividends unless all cumulative dividends on the Preferred Shares up to and including the dividend accrued as of the end of the most recent fiscal quarter of the Corporation on the Preferred Shares then issued and outstanding shall have been declared and paid or set apart for payment. All dividends which the board of directors may declare on the Preferred Shares shall be declared and paid in equal amounts per share on all Preferred Shares at the time outstanding. The Holders of the Preferred Shares shall not be entitled to any dividend other than or in excess of the cumulative cash dividends herein provided for. Cheques payable in lawful money of the United States at par at any branch in Canada or the United States of any one of the Corporation's banks for the time being shall be issued in respect of the said dividends (less any tax required to be deducted or withheld therefrom) to the Holders of the Preferred Shares entitled thereto and such cheques shall satisfy and discharge all liability for such dividends unless such cheques are not paid on due presentation.

3. REDEMPTION BY THE CORPORATION

Subject to the provisions of subsection 32(2) of the Act and subject to applicable law, the Corporation (a) shall, on the Maturity Date, or (b) may (at the option of the Company), at any time prior to the Maturity Date, redeem the whole of the then outstanding Preferred Shares on payment for each Preferred Share to be redeemed of the Redemption Amount per Preferred Share.

The Corporation shall, at least 20 days before the date specified for redemption of Preferred Shares pursuant to the provisions of Section 3, provide notice in writing to each person who at the date of mailing is a registered Holder of shares to be redeemed of the obligation of the Corporation to redeem such Preferred Shares on the Maturity Date. Such notice shall be sent to each such Holder in accordance with the provisions of Section 11.1; provided, however, that accidental failure to give any such notice to one or more of such shareholders shall not affect the validity of such redemption. Such notice shall set out the Redemption Amount per Preferred Share and the date on which redemption is to take place.

On the date specified for redemption of Preferred Shares pursuant to Section 3, the Corporation shall pay or cause to be paid to or to the order of the registered Holders of the Preferred Shares to be redeemed their respective Redemption Amount per Preferred Share on presentation and surrender of the certificates representing the Preferred Shares called for redemption at the registered office of the Corporation or

any other place or places designated in the notice of redemption. Subject to the provisions of Section 3, on and after the date specified for redemption in any such notice the Preferred Shares called for redemption shall cease to be entitled to dividends and the Holders thereof shall not be entitled to exercise any of the rights of shareholders in respect thereof unless payment of the Redemption Amount per Preferred Share shall not be made upon presentation of certificates in accordance with the foregoing provisions, in which case the rights of the shareholders shall remain unaffected.

The Corporation shall after the mailing of notice of its intention to redeem any Preferred Shares in accordance with Section 3 deposit the Redemption Amount per Preferred Share so called for redemption or of such of the said Preferred Shares represented by certificates as have not at the date of such deposit been surrendered by the Holders thereof in connection with such redemption to a special account in a specified chartered bank or a specified trust company in Canada or the United States, named in such notice of redemption, to be paid without interest to or to the order of the respective Holders of such shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing the same. Upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Preferred Shares in respect whereof such deposit shall have been made shall be deemed to be redeemed and all rights of the Holders thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving without interest their proportionate part of the total Redemption Amount per Preferred Share so deposited, against presentation and surrender of the said certificates held by them respectively. Any interest allowed on any such deposit shall belong to the Corporation. Redemption moneys that are represented by a cheque which has not been presented to the Corporation's bank for payment or that otherwise remain unclaimed (including moneys held on deposit to a special account as provided for above) for a period of one year from the date specified for redemption shall be forfeited to the Corporation.

4. EXCHANGE AGREEMENT

The Preferred Shares shall be subject to that certain Share Exchange and Buy-Out Agreement entered into as of November 13, 2018 by and among the Corporation, FBC Holdings Sàrl, MF Ventures, LLC, and Silicon Valley Technology Partners, Inc., as it may be amended from time to time, and the acquisition by the Corporation of any of the Preferred Shares pursuant thereto shall be deemed to be effected in accordance with the articles of the Corporation.

5. CANCELLATION OF SHARES

Preferred Shares that are redeemed by the Corporation pursuant to any of the provisions hereof shall be cancelled on and as of the date of such redemption.

6. VOTING RIGHTS

The Holders of the Preferred Shares shall be entitled to receive notice of, to attend (in a non-voting capacity) all meetings of the shareholders of the Corporation, other than at meetings of the Holders of any other class of shares meeting separately as a class. Other than with respect to the matters contained herein which specifically provide the Holders with certain limited voting rights, no Holder shall have any right to any vote with respect to the Preferred Shares.

7. CONVERSION

7.1 CONVERSIONS AND ADJUSTMENTS

Upon and subject to the terms and conditions set out in this Section 7.1, FBC Holdings Sárl or any affiliate thereof shall have the right, provided (and only if and to the extent) that prior shareholder approval of the issuance of all Common Shares issuable upon conversion of the Preferred Shares has been obtained in accordance with the rules of the Nasdaq Stock Market and/or any other exchange on which the Common Shares are then traded, to convert all or any part of its Preferred Shares into the number of fully paid and non-assessable Common Shares that is equal to the number of Preferred Shares to be converted multiplied by the Conversion Rate in effect on the date of conversion.

The Corporation shall not seek the shareholder approval described in the preceding paragraph unless such approval would occur after the six-month anniversary of the Initial Issue Date.

In the event that the shareholder approval described above has not been obtained, then, after the three-month anniversary of the shareholder vote disapproving of conversion by FBC Holdings Sárl, a third party transferee unaffiliated with FBC Holdings Sárl or any of its affiliates may convert all or any part of the Preferred Shares held by such third party transferee into the number of fully paid and non-assessable Common Shares that is equal to the number of Preferred Shares to be converted multiplied by the Conversion Rate in effect on the date of conversion; provided that, (x) after such conversion, the Common Shares issuable upon such conversion, together with all Common Shares held by such third party transferee that are or would be deemed to be aggregate under the rules of the Nasdaq Stock Market, in the aggregate would not exceed 19.9% of the total number of Common Shares of the corporation then outstanding and (y) such conversion and issuance would not otherwise violate or cause the Corporation to violate the Corporation's obligations under the rules or regulations of the Nasdaq Capital Market. Unless and until adjusted in accordance with these Preferred Share Provisions, the Conversion Rate shall be equal to (a) the Subscription Price, plus any Accrued and Unpaid Dividends, divided by (b) an amount equal to the greater of (i) (x) 0.85 multiplied by (y) the average of daily volume weighted average prices of Common Shares during the 15 trading day period ending on the trading day immediately preceding notice of conversion by the Holder to the Corporation, As Adjusted, and (ii) the lower of (x)

US$0.80, As Adjusted and (y) the par value of the Common Shares at such time, subject to any stock exchange or regulatory limitations on such Conversion Rate.

7.2 AVOIDANCE OF FRACTIONAL SHARES

In any case where a fraction of a Common Share would otherwise be issuable on conversion of one or more Preferred Shares, the Corporation shall adjust such fractional interest by the payment to the Holder of an amount in cash equal to the then current market value of such fractional interest, as determined by the board of directors.

7.3 RESERVATION OF COMMON SHARES

So long as any of the Preferred Shares are outstanding and entitled to the right of conversion herein provided, the Corporation shall at all times reserve a sufficient number of unissued Common Shares to enable all of the Preferred Shares outstanding to be converted upon the basis and upon the terms and conditions herein provided in this Section 7.

8. LIQUIDATION, DISSOLUTION OR WINDING-UP

(a) In the event of the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of the assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the Preferred Shares shall entitle each of the Holders thereof to receive an amount equal to the Subscription Price per Preferred Share plus the amount of the Accrued and Unpaid Dividends, the whole to be paid before any amount is paid or any assets of the Corporation are distributed to the holders of Common Shares or any other shares ranking junior to the Preferred Shares on any such liquidation, dissolution, winding-up or distribution. Upon payment of the amounts so payable to them, the Holders of Preferred Shares shall not be entitled to share in any further distribution of assets of the Corporation.

(b) For the purposes of Section 8(a) above, a liquidation, dissolution, or winding up of the Corporation shall be deemed to occur (each a "**Deemed Liquidation**") upon: (i) a sale, conveyance, exclusive license or other disposition of all or substantially all of the undertaking, property or assets (including, without limitation, the material intellectual property) of the Corporation, where the shareholders of the Corporation immediately prior to the transaction do not collectively own, directly or indirectly, a majority interest in any purchasing or acquiring entity following the transaction; provided however that the transactions contemplated by that certain Share Purchase Agreement by and among Silicon Valley Technology Partners, Inc. (formerly, Silicon Valley Technology Partners LLC), Overland Storage and the Corporation dated as of February 20, 2018 (as it may be amended from time to time) (the "**Contemplated Transaction**") shall not be deemed to constitute a "Deemed Liquidation") and the assets disposed of, transferred or

exclusively licensed in the Contemplated Transaction shall be disregarded for purposes of determining whether a separate sale, conveyance, exclusive license or other disposition of assets constitutes a "Deemed Liquidation"; (ii) a merger or amalgamation of the Corporation with or into, or consolidation of the Corporation with, any other corporation in which the shareholders of the Corporation immediately prior to the transaction do not collectively own, directly or indirectly, a majority of the voting power of the surviving corporation following the transaction; or (iii) the sale, exchange or other disposition of the outstanding Common Shares of the Corporation or any reorganization or other transaction in which the shareholders of the Corporation immediately prior to the transaction do not own, directly or indirectly, a majority of the voting power of the surviving corporation following the transaction. In the event of a Deemed Liquidation where the nature of the transaction is such that the consideration (whether in the form of cash, securities or other property) in connection with such Deemed Liquidation would be receivable by the shareholders of the Corporation, then the Holders of the Preferred Shares shall be entitled to receive at the closing of such Deemed Liquidation such portion of the aggregate consideration (whether in the form of cash, securities or other property) receivable by the shareholders of the Corporation in connection with such Deemed Liquidation (the "**Aggregate Consideration**") as is required by applying Section 8(a) to the distribution and payment of the Aggregate Consideration in the same manner as the assets of the Corporation are required to be distributed among its shareholders in the event of a liquidation, dissolution or winding up in accordance with such section.

The Corporation shall provide the Holders with at least ten (10) Business Days' prior written notice of the consummation of any Deemed Liquidation.

9. ADDITIONAL RESTRICTIONS

The Common Shares shall rank junior to the Preferred Shares and shall be subject in all respects to the rights, privileges, restrictions and conditions attaching to the Preferred Shares.

So long as any of the Preferred Shares are outstanding, except as specifically contemplated in the Preferred Share Provisions, the Corporation shall not, without the approval of a majority of the Holders (with each such share having one vote):

(a) redeem or call for redemption, purchase or otherwise pay off, retire or make any return of capital in respect of any shares of the Corporation ranking as to capital junior to the Preferred Shares (other than with respect to Common Shares issued pursuant to a Stock Option Plan in connection with the cessation of service of the holder of such shares);

(b) redeem or call for redemption, purchase or otherwise pay off, retire or make any return of capital in respect of any shares, ranking as to the payment of dividends or return of capital on a parity with the Preferred Shares; or

(c) issue any additional Preferred Shares in excess of the number of Preferred Shares authorized for issuance as of the Initial Issue Date, or securities convertible or exchangeable for Preferred Shares, or any shares or securities convertible or exchangeable therefor ranking as to the payment of dividends or the return of capital prior to or on a parity with the Preferred Shares.

## 10. MODIFICATION

Subject to the provisions of the Act, the rights, privileges, restrictions and conditions attaching to the Preferred Shares may be deleted, varied, modified, amended or amplified with prior Preferred Holder Approval.

## 11. MISCELLANEOUS

### 11.1 NOTICES

Any notice required or permitted to be given to any Holder shall be delivered by courier to such Holder at its address as it appears on the records of the Corporation or in the event of the address of any such Holder not so appearing, then to the last address of such Holder known to the Corporation.

### 11.2 GENDER, ETC.

Words importing only the singular number include the plural and vice versa and words importing any gender include all genders.

### 11.3 CURRENCY

All monetary amounts referred to herein shall be in lawful money of the United States unless otherwise indicated.

### 11.4 HEADINGS

The division of these Preferred Share Provisions into sections, paragraphs or other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

### 11.5 BUSINESS DAY

In the event that any date upon which any dividends on the Preferred Shares are payable by the Corporation, or upon or by which any other action is required to be taken by the Corporation or any Holder hereunder, is not on a Business Day or during a Business Day, then such dividend shall be payable or such other action shall be required to be taken on or by the next succeeding day which is a Business Day.

6. The amendment has been duly authorized as required by sections 168 and 170 (as applicable) of the *Business Corporations Act*.
La modification a été dûment autorisée conformément aux articles 168 et 170 (selon le cas) de la *Loi sur les sociétés par actions*.

7. The resolution authorizing the amendment was approved by the shareholders/directors (as applicable) of the corporation on
Les actionnaires ou les administrateurs (selon le cas) de la société ont approuvé la résolution autorisant la modification le

2018-11-09
(Year, Month, Day)
(année, mois, jour)

These articles are signed in duplicate.
Les présents statuts sont signés en double exemplaire.

SPHERE 3D CORP.

(Print name of corporation from Article 1 on page 1)
(Veuillez écrir le nom de la société de l'article un à la page une).

By/
Par :

(Signature)
(Signature)

Kurt L. Kalbfleisch

SVP and CFO
(Description of Office)
(Fonction)

## CONVERSION AGREEMENT

**THIS CONVERSION AGREEMENT** ("***Agreement***") is entered into as of November 13, 2018, by and between **SPHERE 3D CORP.,** a corporation incorporated under the laws of the Province of Ontario ("***Sphere***"), and **FBC HOLDINGS S.A R.L.** a *société à responsabilité limitée* incorporated under the laws of Luxembourg with R.C.S. number B.142.133 ("***FBC***"). Capitalized terms used but not defined herein have the meanings given to them in the Debenture (as defined below).

## RECITALS

A. Sphere entered into a Senior Secured Convertible Debenture dated as of December 1, 2014, and amended from time to time (the "***Debenture***"), with FBC with an aggregate principal and interest balance equal to $24,500,000.

B. Sphere and FBC have agreed to convert $6,500,000 of the Debenture (the "***Sphere Converted Debt***") into 6,500,000 Preferred Shares of Sphere (the "***Sphere Conversion***").

## AGREEMENT

**N**OW **THEREFORE**, Sphere and FBC, intending to be legally bound, and for mutual and valid consideration, agree as follows:

### 1. CONVERSION OF DEBT

1.1 Effective upon receipt by FBC of the following documents, each in form and substance satisfactory to FBC (the date of such receipt being the "***Effective Time***"):

(a) a certified copy of a resolution of the board of directors authorizing the number of Preferred Shares and the rights, privileges, restrictions and conditions attaching to the Preferred Shares;

(b) a certified copy of the amended Articles of Amalgamation of Sphere creating "blank cheque" preferred shares and authorizing the terms of the Preferred Shares which have been filed with the Ontario Ministry of Government Services;

(c) a certified copy of a resolution of the board of directors approving the issuance of 6,500,000 Preferred Shares to FBC and the form of share certificate for the Preferred Shares; and

(d) a duly issued share certificate in respect of 6,500,000 Preferred Shares of Sphere, the Sphere Converted Debt will convert into 6,500,000 Preferred Shares of Sphere.

**1.2** Effective upon the Effective Time, the Sphere Converted Debt shall, without any further action by Sphere, be canceled and neither Sphere, nor any subsidiary of it will have any obligation with respect to the Sphere Converted Debt.

**1.3** Notwithstanding any provision in this Agreement to the contrary, nothing in this Agreement shall waive or be construed to waive any claim or potential claim which FBC may have against Sphere, Sphere 3D, Inc. and V3 Systems Holdings, Inc. (collectively, the "***Sphere Parties***") in respect of any fraudulent acts or willful breach in connection with Sphere and/or certain former affiliates of Sphere granting certain security in favor of Opus Bank in November 2017.

**1.4** Immediately following the Sphere Conversion, the Sphere Parties are hereby automatically released as obligors and guarantors under the Debenture and the Collateral Documents (as defined in the Debenture) and any liens or security interests granted by the Sphere Parties with respect to the Sphere Converted Debt shall automatically terminate and be released. Sphere and its designees shall be authorized, at the sole expense of Sphere, to file releases and termination statements of all personal property financing statements and other security interest recordations filed in favor of FBC with respect to the Sphere Converted Debt. Upon Sphere's reasonable request from time to time, FBC shall execute and deliver such additional lien releases as may be necessary to effectively terminate any and all liens on and security interests in any collateral that was pledged by Sphere or any of its subsidiaries to secure the Sphere Converted Debt; provided, however, that any and all such additional lien releases shall be prepared by Sphere, reviewed and approved by FBC (such approval not to be unreasonably withheld, delayed or conditioned), and recorded by Sphere, all at Sphere's sole cost and expense.

**2. MISCELLANEOUS PROVISIONS**

**2.1** **Governing Law.** This Agreement will be construed in accordance with, and governed in all respects by, the laws of the Province of Ontario (without giving effect to principles of conflicts of law).

**2.2** **Notices.** All notices and other communications under this Agreement will be in writing and will be deemed to have been duly given and duly delivered when received by the intended recipient at the applicable address or e-mail address on file with Sphere.

**2.3** **Severability.** In the event that any provision of this Agreement, or the application of such provision to any person or set of circumstances, will be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, will not be affected and will continue to be valid and enforceable to the fullest extent permitted by law.

**2.4** **Entire Agreement.** This Agreement, the Debenture, and the documents contemplated thereby set forth the entire understanding of Sphere and FBC and supersedes all other agreements and understandings between Sphere and FBC relating to the subject matter of this Agreement.

**2.5 Amendments.** This Agreement may not be amended, modified, altered or supplemented except by means of a written instrument executed on behalf of (i) Sphere and (ii) FBC.

**2.6 Counterparts; Facsimile.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which together will constitute one and the same document. This Agreement may be executed by facsimile, PDF or other electronic signatures.

**[SIGNATURE PAGES FOLLOW]**

The undersigned have executed this **CONVERSION AGREEMENT** as of the date first above written.

**SPHERE 3D CORPORATION**

By: /s/ Peter Tassiopoulous

Name: Peter Tassiopoulos
Title: President

Signature Page to Sphere Conversion Agreement

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The undersigned have executed this **CONVERSION AND AGREEMENT** as of the date first above written.

**FBC HOLDINGS S.Á R.L.**

By: /s/ Trustmoore Luxembourg S.A.
Name: Trustmoore Luxembourg S.A.
Title: Manager A

By: /s/ Cyrus Capital Partners, LP
Name: Cyrus Capital Partners, LP
Title: Manager B

Signature Page to Sphere Conversion Agreement

## CONVERSION AND ROYALTY AGREEMENT

**THIS CONVERSION AND ROYALTY AGREEMENT** ("***Agreement***") is entered into as of November 13, 2018 by and between **SILICON VALLEY TECHNOLOGY PARTNERS, INC.**, a Delaware corporation (the "***Company***"), the investor set forth on the signature pages below (the "***A-1 Investor***") and, for the purposes of sections 1 and 4 only, **SPHERE 3D CORP.** a corporation incorporated under the laws of the Province of Ontario ("***Sphere***"). Capitalized terms used but not defined herein have the meanings given to them in the Debenture (as defined below).

### RECITALS

**A.** Sphere entered into a Senior Secured Convertible Debenture dated as of December 1, 2014 (as amended from time to time prior to the date hereof, the "***Debenture***") with the A-1 Investor with an aggregate principal and interest balance equal to $24,500,000.

**B.** The Company is assuming the obligations and liabilities of Sphere with regard to $18,000,000 of the Debenture (the "***Assumption***" and the "***Assumed Debt***")).

**C.** The Company and the A-1 Investor, in consideration for the Assumption, have agreed to (i) convert $13,500,000 of the Debenture (the "***Newco Converted A-1 Debt***") into 135 shares of Series A-1 Preferred Stock, (ii) convert $1,500,000 of the Debenture into 2,120,331 shares of Series A Preferred Stock (together with the Newco Converted A-1 Debt, the "***Newco Converted Debt***", and such conversion the "***Newco Conversion***") and (iii) notwithstanding any terms of the Debenture to the contrary, the remaining $3,000,000 of the Debenture outstanding following the Newco Conversion (the "***Remaining Debenture Principal***") will be repaid by the Company paying the A-1 Investor up to $3,000,000 based on the sale of products and services in accordance with the terms of Section 3 below.

### AGREEMENT

**NOW THEREFORE**, in consideration of the foregoing and for mutual and valid consideration the receipt and sufficiency of which are hereby acknowledged, the Company, the A-1 Investor and, in respect of Sections 1 and 4 only, Sphere, intending to be legally bound, agree as follows:

### 1. ASSUMPTION

**1.1** Effective upon the execution of this Agreement and for an agreed consideration, the Company hereby assumes from Sphere Sphere's interest in, and contractual rights and obligations under, the Debenture in its capacity as the Corporation to the extent related to the amount of $18,000,000 arising under the Debenture.

**1.2** Effective upon the execution of this Agreement, Sphere, Sphere 3D, Inc., and V3 Systems Holdings, Inc. (collectively, the "***Sphere Parties***") are hereby automatically released as obligors and guarantors under the Debenture and the Collateral Documents (as defined in the Debenture) and any liens or security interests granted by the Sphere Parties with respect to the Debenture shall automatically terminate and be released. Sphere and its designees shall be authorized, at the sole expense of Sphere, to file releases and termination statements of all personal property financing statements and other security interest recordations filed in favor of FBC with respect to the Debenture. Upon Sphere's reasonable request from time to time, FBC shall execute and deliver such additional lien releases as may be necessary to effectively terminate any and all liens on and security interests in any collateral that was pledged by Sphere or any of its subsidiaries to secure the Assumed Debt; provided, however, that any and all such additional lien releases shall be prepared by Sphere, reviewed and approved by FBC (such approval not to be unreasonably withheld, delayed or conditioned), and recorded by Sphere, all at Sphere's sole cost and expense.

**1.3** The Company does not assume any liability or potential liability which Sphere may have in respect of any fraudulent acts or willful breach in connection with Sphere and/or certain former affiliates of Sphere granting certain security in favor of Opus Bank in November 2017.

**2. CONVERSION OF DEBT**

**2.1** Effective upon the execution of this Agreement the Newco Converted Debt will automatically convert into (a) 135 shares of Series A-1 Preferred Stock of the Company and (b) 2,120,331 shares of Series A Preferred Stock of the Company.

**2.2** Immediately following the Newco Conversion, the A-1 Investor agrees and acknowledges that all outstanding indebtedness (including, without limitation, for principal, interest and fees or any prepayment penalty payments due in connection with the Newco Conversion) and other obligations of the Company under or relating to the Debenture, other than in respect of the Remaining Debenture Principal, automatically shall be deemed paid and satisfied in full and all obligations and liabilities of the Guarantors (as defined in the Debenture) under the Debenture shall be irrevocably discharged, terminated and released.

**2.3** Notwithstanding any provision in this Agreement to the contrary, nothing in this Agreement shall waive or be construed to waive any claim or potential claim which the A-1 Investor may have against the Guarantors (as defined in the Debenture) (which, for the avoidance of doubt, shall not include Sphere, Sphere 3D, Inc., or V3 Systems Holdings, Inc., all of whom have been released from their contractual obligations under the Debenture) in respect of any fraudulent acts or willful breach in connection with Sphere and/or certain former affiliates of Sphere granting certain security in favor of Opus Bank in November 2017.

**2.4** Immediately following the Newco Conversion any liens or security interest granted with respect to the Assumed Debt, shall automatically terminate and be released. The A-1 Investor agrees and acknowledges that the Remaining Debenture Principal shall remain outstanding on an unsecured basis. The Company and its designees shall be authorized, at the sole expense of the Company, to file releases and termination statements of all personal property financing statements filed in favor of the A-1 Investor with respect to the Assumed Debt. Upon the Company's reasonable request from time to time, the A-1 Investor shall execute and deliver such additional lien releases as may be necessary to effectively terminate any and all liens on and security interests in any collateral that was pledged by any Guarantor (as defined in the Debenture) to secure the Assumed Debt; provided, however, that any and all such additional lien releases shall be prepared by the Company, reviewed and approved by the A-1 Investor, and recorded by the Company, all at the Company's sole cost and expense.

**3. ROYALTY**

**3.1** Notwithstanding any provision in the Debenture to the contrary, the Company will repay the Remaining Debenture Principal based on the sale, lease, license, loan, rental, test or evaluation of RDX Products calculated in accordance with the formula of Exhibit A (the amount of each such payment being a "***Royalty Repayment***"). All Royalty Repayments arising pursuant to this Section 3.1 will be paid within thirty (30) days of the end of each calendar month for which such Royalty Repayments have accrued and shall be applied by the A-1 Investor to repay the Remaining Debenture Principal. The Company agrees to keep accurate books and records regarding its sale of RDX Products and its calculation of Royalty Repayments due hereunder. No more than once per calendar year, the A-1 Investor or its designee may audit such books and records at the Company's premises during normal business hours. If any such audit reveals an under-payment by the Company, the Company will promptly remit to the A-1 Investor the amount of such shortfall and reimburse the A-1 Investor for the actual out of pocket cost of the audit. Upon the Company's remittance to the A-1 Investor of Royalty Repayments totaling $3,000,000, the Company will have no additional obligation to pay any Royalty Repayments pursuant to this Section 3.1 and the A-1 Investor agrees and acknowledges that (i) all outstanding indebtedness and other obligations of the Company under or relating to the Debenture automatically shall be deemed paid and satisfied in full and, in accordance with Section 9.4 (*Discharge*) of the Debenture, all obligations and liabilities of the Company under the Debenture shall be irrevocably discharged. As used herein, "***RDX Products***" means RDX® media cartridges, which are durable, portable and removable storage devices.

**3.2** The A-1 Investor agrees and acknowledges that from the date of this Agreement all of the representations, undertakings and events of default set out in the Debenture shall have no further force or effect.

## 4. MISCELLANEOUS PROVISIONS

**4.1 Waiver.** Upon effectiveness of the Conversion, no party will have, and the A-1 Investor and the Company each hereby waive, any claims, demands, debts, accounts, liabilities, contentions or causes of action of any kind, nature, character and description whatsoever, fixed or contingent or otherwise, to monies or rights of any kind whatsoever against the other party in respect of the rights or obligations set forth in the Debenture, including, but not limited to, payments of principal, interest or any other payment of any kind, options to acquire shares of the Company or to convert any part of the Debenture or any other amount into shares of the Company and/or any other rights as the parties had, have, or may have under the Debenture resulting from any matter, event, default, breach, state of facts, claim, contention or cause whatsoever, occurring or existing from the beginning of time to the effectiveness of the Conversion, in connection with or relating to the Debenture.

**4.2 Governing Law.** THIS AGREEMENT WILL BE CONSTRUED IN ACCORDANCE WITH, AND GOVERNED IN ALL RESPECTS BY, THE LAWS OF THE STATE OF DELAWARE (WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW).

**4.3 Notices.** All notices and other communications under this Agreement will be in writing and will be deemed to have been duly given and duly delivered when received by the intended recipient at the applicable address or e-mail address on file with the Company.

**4.4 Severability.** In the event that any provision of this Agreement, or the application of such provision to any person or set of circumstances, will be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, will not be affected and will continue to be valid and enforceable to the fullest extent permitted by law.

**4.5 Entire Agreement.** This Agreement, the Debenture, and the documents contemplated thereby set forth the entire understanding of the Company and the A-1 Investor and supersedes all other agreements and understandings between the Company and the A-1 Investor relating to the subject matter of this Agreement.

**4.6 Amendments.** This Agreement may not be amended, modified, altered or supplemented except by means of a written instrument executed on behalf of both (i) the Company, (ii) the A-1 Investor and (iii) with respect to Sections 1 and 4 only, Sphere.

**4.7 Counterparts; Facsimile.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which together will constitute one and the same document. This Agreement may be executed by facsimile, PDF or other electronic signatures.

**[SIGNATURE PAGES FOLLOW]**

The undersigned have executed this **CONVERSION AND ROYALTY AGREEMENT** as of the date first above written.

**SILICON VALLEY TECHNOLOGY PARTNERS, INC.**

By: ______________________________

Eric Kelly

Chief Executive Officer

The undersigned have executed this **CONVERSION AND ROYALTY AGREEMENT** as of the date first above written.

**A-1 INVESTOR:**

**FBC HOLDINGS S.Á R.L.**

By: /s/ Trustmoore Luxembourg S.A.

Name: Trustmoore Luxembourg S.A.

Title: Manager A

By: /s/ Cyrus Capital Partners, LP.

Name: Cyrus Capital Partners, LP

Title: Manager B

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The undersigned have executed this **CONVERSION AND ROYALTY AGREEMENT** as of the date first above written.

**SPHERE 3D CORP.**

By: /s/ Peter Tassiopoulous

Name: Peter Tassiopoulos
Title: President

**Exhibit A**

RDX

| Capacity | | Royalty |
| --- | --- | --- |
| 0 to 1TB | $ | 1.00 |
| 2TB | $ | 1.50 |
| 3TB | $ | 2.00 |
| 4TB | $ | 2.50 |
| 5TB | $ | 3.00 |
| 6TB | $ | 3.50 |
| Max | $ | 4.00 |

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Execution Version

# SHARE EXCHANGE AND BUY OUT AGREEMENT

This **SHARE EXCHANGE AGREEMENT** (this "**Agreement**") is made and entered into as of November 13, 2018 by and among **SPHERE 3D CORP.**, a corporation incorporated under the laws of the province of Ontario ("**Sphere**"), **FBC HOLDINGS SARL**, a *société à responsabilité limitée* incorporated under the laws of Luxembourg with R.C.S. number B.142.133 ("**FBC**" or a "**Stockholder**"), **MF VENTURES, LLC,** a limited liability company incorporated under the laws of Delaware ("**MF**"), Silicon Valley Technology Partners, Inc., a Delaware corporation ("**SVTP**") and Overland Storage, Inc.. a California corporation ("**Overland**").

RECITALS

**WHEREAS**, Sphere holds 1,879,699 shares of Series A Preferred Stock, par value $0.0001 (the "**SVTP Series A Preferred Stock**") of SVTP and FBC holds 2,120,301 shares of SVTP Series A Preferred Stock;

**WHEREAS**, the Stockholder is the beneficial owner of 6,500,000 Preferred Shares, no par value, of Sphere (the "**Sphere Preferred Shares**");

**WHEREAS**, Sphere has agreed to transfer to the Stockholder such number of shares of SVTP Series A Preferred Stock as set out opposite the Stockholder's name on Schedule A in consideration for the Stockholder surrendering such number of Sphere Preferred Shares as set out opposite the Stockholder's name on Schedule A to Sphere in accordance with the terms of this Agreement;

**WHEREAS**, the terms and conditions of the Sphere Preferred Shares provide for the exercise of the rights contemplated by this Agreement in accordance with the terms thereof; and

**WHEREAS**, FBC has agreed to grant SVTP and MF the right to buy-out 2,500,000 of the Sphere Preferred Shares and 2,120,301 of the SVTP Series A Preferred Stock held by FBC in accordance with the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and adequacy of which the parties acknowledge, the parties hereby agree as follows:

## 1. CERTAIN DEFINITIONS.

In this Agreement:

"**Business Day**" means a day other than a Saturday, Sunday or any other statutory holiday in the City of New York, New York.

"**Buy Out Notice**" means a written notice from SVTP or MF in accordance with Section 4.3 to FBC stating its exercise of the Buy-Out Right.

"**Buy Out Period**" means the period beginning on the date of this Agreement and ending on the date which is one year after the date of this Agreement.

"**Buy Out Price**" means, per Buy-Out Share, an amount equal to 105% of the Original Issue Price for such share plus all unpaid dividends accrued through the Buy-Out Closing Date.

"**Buy-Out Shares**" means up to (a) 2,120,301 shares of SVTP Series A Preferred Stock held by FBC on or about the date of this Agreement plus (b) either (i) 2,500,000 Sphere Preferred Shares held by FBC or (ii) if FBC has exercised its Exchange Right prior to the Buy-Out Closing Date, the SVTP Shares that have been exchanged for such Sphere Preferred Shares by FBC pursuant to the Exchange.

"**Exchange Period**" means the period beginning on the date of this Agreement and ending on the date which is two years after the date of this Agreement.

"**Exercise Notice**" means a written notice from the Stockholder in accordance with Section 2.3 to Sphere stating its exercise of the Exchange Right.

"**Original Issue Price**" means (i) with respect to the SVTP Series A Preferred Stock, $1.00 per share and (ii) with respect to the Sphere Preferred Shares, $1 per share, in each case as adjusted for stock splits, combinations, recapitalizations, and the like.

"**Overland Pledge**" means that certain second-priority pledge over 1,879,699 shares of Series A Preferred Stock of SVTP held by Sphere dated on or around the date of this Agreement.

"**Party**" means a party to this Agreement.

"**Share Transfer**" means any transfer of SVTP Series A Preferred Stock pursuant to the terms of this Agreement.

"**Sphere Shares**" means such number of Sphere Preferred Shares as set out opposite the Stockholder's name on Schedule A.

"**SVTP Shares**" means the number of SVTP Series A Preferred Stock set out in the column titled "Entitlement to SVTP Shares" opposite the Stockholder's name on Schedule A.

2. AGREEMENT TO EXCHANGE SHARES.

2.1. Agreement to Exchange. Sphere hereby grants the Stockholder the right (the "**Exchange Right**") to require Sphere to transfer, convey and assign all or any portion of Sphere's right, title and interest in and to the SVTP Shares to the Stockholder free and clear of any security interests, pledges, liens, restrictions, claims or encumbrances of any kind (collectively, "**Claims**"), in consideration for the Stockholder surrendering, transferring, conveying and assigning to Sphere all, or a ratable portion, of the Stockholder's right, title and interest in and to the Sphere Shares held by the Stockholder free and clear of Claims in accordance with the terms of this Agreement (the "**Exchange**"). The Exchange may be exercised by the Stockholder in respect of some or all of the Sphere Shares held by the Stockholder. If the exchange is partial, the entitlement to SVTP Shares shall be proportionate to the full entitlement to SVTP Shares set out in Schedule A.

2.2. Exchange Period. The Exchange may only be exercised by the Stockholder within the Exchange Period. The Exchange shall automatically lapse at 6pm EST on the last day of the Exchange Period.

2.3. Closing Date. The Exchange shall be exercised by the Stockholder delivering an Exercise Notice to Sphere. The Exercise Notice shall include a date (the "**Closing Date**") on which the closing for such Exchange shall take place, which shall be no less than one (1) Business Day and no more than ten (10) Business Days from the date of the applicable Exercise Notice.

3. CLOSING OF EXCHANGE.

3.1. Transfer of SVTP Shares. On the applicable Closing Date, Sphere shall execute and deliver to the Stockholder such instruments of transfer or other documents as are necessary and sufficient to sell, assign and transfer all of its right, title and interest in and to the SVTP Shares subject to the Exchange to the Stockholder, free and clear of all Claims.

3.2. Transfer of Sphere Shares. On the applicable Closing Date, the Stockholder shall execute and deliver to Sphere such instruments of surrender, transfer or other documents as are necessary and sufficient to surrender, sell, assign and transfer all of its right, title and interest in and to the Sphere Shares subject to the Exchange to Sphere, free and clear of all Claims.

3.3. Effect of Exchange. Effective immediately upon the consummation of an Exchange: (a) any and all rights, preferences privileges or obligations of or to the Stockholder (including any redemption rights) set forth in the terms of the Articles of Amendment of Sphere with respect to all Sphere Shares subject to such Exchange shall automatically terminate and be of no further force or effect; (b) any and all rights, preferences privileges or obligations of or to Sphere set forth in the Amended and Restated Certificate of Incorporation of SVTP with respect to the SVTP Shares subject to such Exchange shall automatically terminate and be of no further force or effect and (c) any liens or security interests granted by Sphere in favour of Overland pursuant to the Overland Pledge with respect to SVTP Shares subject to the Exchange shall automatically terminate and be released.

4. BUY OUT RIGHT.

4.1. Agreement to Transfer. FBC hereby grants MF and SVTP the right (the "**Buy-Out Right**") to require FBC to sell all, or any portion, of FBC's right, title and interest in and to the Buy-Out Shares held by FBC at such time to MF or SVTP, as applicable, at the Buy-Out Price (the "**Buy-Out**"). If the Buy-Out Shares subject to a Buy-Out comprise of both SVTP Series A Preferred Shares and Sphere Preferred Shares, the Buy-Out shall be pro rata across both share classes.

4.2. Buy-Out Period. The Buy-Out Right may be exercised only during the Buy-Out Period. The Buy-Out Right shall automatically lapse at 6pm EST on the last day of the Buy-Out Period.

4.3. Buy-Out Closing Date. The Buy-Out Right shall be exercised by either SVTP or MF delivering a Buy-Out Right Notice to FBC. The Buy-Out Right Notice shall include a date (the "**Buy-Out Closing Date**") on which the closing for the Buy-Out Right shall take place, which shall be no less than one (1) Business Day and no more than ten (10) Business Days from the date of the applicable Buy-Out Right Notice. If both SVTP and MF serve a Buy-Out Notice at the same time for a total number of shares greater than the Buy-Out Shares, then FBC shall have the right to determine which Buy-Out Notice to comply with, and to what extent, with respect to the number of Buy-Out Shares.

4.4. Buy-Out Closing. On the Buy-Out Closing Date, Newco or MF, as applicable, shall pay the Buy-Out Price to FBC by wire transfer in immediately available funds and FBC shall deliver to Newco or MF as applicable, any certificate or certificates representing the Buy-Out Shares to be sold (if any), accompanied by stock powers and any other document reasonably necessary to give effect to the Buy-Out Right.

4.5. Post-Buy-Out Exchange Right. If the Buy-Out Closing Date occurs prior to FBC's exercise of its Exchange Right, then the Buy Out Shares that constitute Sphere Preferred Shares shall, automatically at the Buy-Out Closing and without any further action of the parties hereunder, be exchanged for the same number of SVTP Shares that would have been issued to FBC had the Exchange occurred prior to the Buy-Out with respect to the number of Sphere Preferred Shares subject to the Buy-Out. Accordingly, immediately upon the Buy-Out Closing, such Sphere Preferred Shares will be automatically returned to Sphere for cancellation, and the SVTP Shares issued in exchange therefor shall be transferred to SVTP or MF, as applicable (and, if transferred to SVTP, shall be immediately cancelled).

5. REPRESENTATIONS AND WARRANTIES.

5.1. Representations and Warranties of the Parties. Each Party hereby represents and warrants to the other Parties as follows, on the date hereof and as of the applicable Closing Date and Buy-Out Closing Date, on behalf of itself:

(a) Organization, Good Standing and Qualification. Each party is duly incorporated or duly organized and is a validly existing entity in good standing under the laws of the jurisdiction of its incorporation or organization with the corporate power and authority to execute, deliver and perform the terms of this Agreement and to consummate the Exchange and/or the Buy-Out, as applicable.

(b) Binding Effect. This Agreement is the valid and binding obligation of each Party, enforceable against such Party in accordance with its terms. Each Party has the full legal right to execute, deliver and perform this Agreement and the execution, delivery and performance of this Agreement by such Party is not subject to the consent or approval of any other person or entity.

(c) Ownership of Exchange Shares. The Stockholder is the sole record, legal and beneficial owner of title to the Sphere Shares, free and clear of any Claims. Sphere is the sole record, legal and beneficial owner of title to the SVTP Shares, free and clear of any Claims other than (i) the Claims arising under this Agreement, (ii) the pledge of the SVTP shares in favor of FBC to secure the obligations of Sphere under this Agreement and (iii) the Overland Pledge. On the applicable Closing Date, the Stockholder will sell, transfer and convey to Sphere good and marketable title to the Sphere Shares that are subject to the applicable Exchange, and Sphere will sell, transfer and convey to the Stockholder good and marketable title to the SVTP Shares that are subject to the applicable Exchange, in each case free and clear of any Claims. On the Buy-Out Closing Date, the Stockholder will sell, transfer and convey to MF or SVTP (as applicable) good and marketable title to the Buy-Out Shares, and, if the Buy-Out occurs prior to the Exchange, (i) Sphere will transfer and convey to SVTP or MF (as applicable) good and marketable title to the SVTP Shares described in Section 4.5 and (ii) SVTP or MF (as applicable) will transfer and convey to Sphere good and marketable title to the Sphere Shares constituting a portion of the Buy-Out Shares, in each case free and clear of any Claims. No Party is bound by any options, calls, contracts, or commitments of any character relating to the Sphere Shares or the SVTP Shares, as applicable, except as set forth in this Agreement.

(d) Effect of Exchange. The execution, delivery, and performance of this Agreement by each Party does not and will not violate any instrument, agreement, judgment, decree, order, statute, rule, or governmental regulation applicable to such Party or to which such Party it is a party or by which such Party or any of its properties or other assets is bound or is subject.

5.2. Representations and Warranties of the Stockholder. The Stockholder represents and warrants to SVTP and Sphere as follows:

(a) Stockholder hereby confirms, that the SVTP Preferred Stock to be acquired by the Stockholder pursuant to the Exchange will be acquired for investment for the Stockholder’s own account, not as a nominee or agent, and, except as contemplated by this Agreement, not with a view to the resale or distribution of any part thereof, and the Stockholder has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Stockholder further represents that the Stockholder does not presently have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person or to any third person, with respect to any of the Sphere Shares and the SVTP Preferred Stock. The Stockholder has not been formed for the specific purpose of acquiring the SVTP Preferred Stock pursuant to the Exchange.

(b) The Stockholder has had an opportunity to discuss Sphere's and SVTP's business, management, financial affairs and the terms and conditions of the Exchange with the applicable members of management and has had an opportunity to review the applicable company's facilities.

(c) The Stockholder hereby represents that it has satisfied itself as to the full observance of the laws of its jurisdiction in connection with any invitation to exercise the Exchange or any use of this Agreement, including (i) the legal requirements within its jurisdiction for the Exchange, (ii) any foreign exchange restrictions applicable to such Exchange, (iii) any governmental or other consents that may need to be obtained, and (iv) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale, or transfer of the SVTP Shares. The Stockholder's rights under the Exchange and beneficial ownership of the SVTP Shares will not violate any applicable securities or other laws of the Stockholder's jurisdiction.

5.3. Applicable Securities Law. Subject to the accuracy of representations and warranties made by the Stockholder herein, and in reliance upon such representations and warranties, Sphere represents to the Stockholder on the date of this Agreement and on each Closing Date that exercising the Exchange will not contravene any applicable state, federal or provincial securities laws in the United States or Canada.

5.4. No Transfer Restrictions. SVTP represents to Sphere and the Stockholder that there are no transfer restrictions applicable to the SVTP Shares which would prevent Sphere from complying with its obligations under this Agreement that have not been waived by SVTP.

5.5. Information. Each of Sphere, MF, SVTP and the Stockholder represents and warrants, as of the date hereof and as of the applicable Closing Date and/or Buy-Out Closing Date, that such Party (a) has adequate information concerning the business and financial condition of SVTP and Sphere to make an informed decision regarding the entry into this Agreement, the Exchange and the Buy-Out, (b) has independently and without reliance upon any other Party, made its own analysis and decision to enter into this Agreement, (c) the other Party currently may have, and later may come into possession of, information with respect to Sphere or SVTP that is not known to such Party and that may be material to a decision to enter into this Agreement, to effect the Exchange or the Buy-Out ("**Excluded Information**"), and that (d) no other Party shall have any liability to such Party, and such Party to the fullest extent of the law waives and releases any claims, whether known or unknown, that it might have against any other Party (or its affiliates or agents), whether under applicable securities laws or otherwise, with respect to the nondisclosure of the Excluded Information in connection with the entry into this Agreement, the Exchange and the Buy-Out.

6. Conditions to Closing. The respective obligations of the Parties to consummate the transactions contemplated by this Agreement, to effect the Exchange and/or the Buy-Out, as applicable, are subject to the satisfaction at or prior to the applicable Closing Date and/or Buy-Out Closing Date to the following conditions:

6.1. Representation and Warranties. The representations and warranties of the applicable Parties set forth in this Agreement are true and correct in all material respects, other than for such failures to be true and correct, that individually and in the aggregate, would not reasonably be expected to have a material adverse effect on such Party's ability to perform its obligations under this Agreement.

6.2. Performance of Agreements. The applicable Parties shall have performed and complied in all material respects with each agreement and obligation required by this Agreement to be performed or complied with by such Parties on or prior to the applicable Closing Date and/or Buy-Out Closing Date.

6.3. No Order. No temporary restraining order, preliminary or permanent injunction or other judgment issued by any court of competent jurisdiction shall be in effect enjoining or otherwise prohibiting the consummation of the Exchange and/or the Buy-Out.

7. GENERAL PROVISIONS.

7.1 . SVTP Acknowledgement of Share Transfers. SVTP hereby waives any and all rights to prior notice with respect to, and hereby consents to and approves, the Share Transfers for any and all purposes.

7.2. Notice. Notice, requests, demands, and other communications relating to this Agreement and the transactions contemplated herein shall be in writing and shall be deemed to have been duly given if and when: (a) delivered personally, on the date of such delivery; (b) delivered by electronic transmission, on the date of such delivery; or (c) mailed by registered or certified mail, postage prepaid, return receipt requested, on the third day after the posting thereof, to the address set forth in the signature pages to this Agreement (as such address may be updated by written notices to the other Parties to this Agreement) .

7.3. Successors and Assigns. Except as otherwise provided in this Agreement, this Agreement, and the rights and obligations of the Parties hereunder, will be binding upon and inure to the benefit of their respective successors, assigns, heirs, executors, administrators and legal representatives; provided that such party consents in writing to be bound by the terms, conditions and obligations under this Agreement.

7.4. Assignment. Neither Sphere, SVTP or MF may assign its rights or obligations under this Agreement without the prior written consent of each of the other parties hereto. Neither the Sphere Shares nor the SVTP Shares may be sold, transferred, conveyed, assigned or otherwise disposed of by FBC (an "**FBC Transfer**") unless both (i) such FBC Transfer is effected with respect to a number of Sphere Shares and SVTP Shares that is proportionate to the total number of Sphere Shares and SVTP Shares held by FBC at such time and (ii) the transferee or assignee of such Sphere Shares and SVTP Shares agrees in writing, in form and substance reasonably acceptable to each of the parties hereto, to be bound by the terms of this Agreement with respect to all of the Sphere Shares and SVTP Shares subject to the FBC Transfer, as if such transferee or assignee were FBC hereunder (and, for the avoidance of doubt, FBC shall remain a party to this Agreement with respect to any Sphere Shares and SVTP Shares that are not a part of the FBC Transfer).

7.5. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware, without reference to without reference to principles of conflict of laws or choice of laws.

7.6. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement. Delivery of copies of original signed counterparts by facsimile or electronic transmission (including e-mail) shall be deemed as valid as physical delivery of original signed counterparts.

7.7. Titles and Headings. The titles, captions and headings of this Agreement are included for ease of reference only and will be disregarded in interpreting or construing this Agreement. Unless otherwise specifically stated, all references herein to "Sections", "schedules" and "exhibits" will mean "sections", "schedules" and "exhibits" to this Agreement.

7.8. Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of all parties.

7.9. Severability. If any provision of this Agreement is determined by any court or arbitrator of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such provision will be enforced to the maximum extent possible given the intent of the parties hereto. If such clause or provision cannot be so enforced, such provision shall be stricken from this Agreement and the remainder of this Agreement shall be enforced as if such invalid, illegal or unenforceable clause or provision had (to the extent not enforceable) never been contained in this Agreement.

7.10. Entire Agreement. This Agreement and the documents referred to herein, together with all the Schedules and Exhibits hereto, constitute the entire agreement and understanding of the parties with respect to the subject matter of this Agreement, and supersede any and all prior understandings and agreements, whether oral or written, between or among the parties hereto with respect to the specific subject matter hereof.

7.11. Third Parties. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

7.12. Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to seek specific performance of the terms hereof, this being in addition to any other remedies to which they are entitled at law or equity.

*****

*[Signatures on following pages]*

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

**SPHERE 3D CORP.**

By: /s/ Peter Tassiopoulos
Name: Peter Tassiopoulos
Title: President

Address:

Email:

Attn: Peter Tassiopoulos

**[SIGNATURE PAGE TO SHARE EXCHANGE AND BUY-OUT AGREEMENT]**

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**STOCKHOLDER:**

**FBC HOLDINGS SARL**

By: /s/ Trustmoore Luxembourg S.A.
Name: Trustmoore Luxembourg S.A.
Title: Manager A

By: /s/ Cyrus Capital Partners, LP
Name: Cyrus Capital Partners, LP
Title: Manager B

c/o Cyrus Capital Partners, LP
65 East 55th Street
New York
NY 10022
United States
Email: dbordessa@cyruscapital.com and
ops@cyruscapital.com

With a copy (which shall not constitute notice)
To

Morgan, Lewis & Bockius UK LLP
Condor House, 5-10 St. Paul's Churchyard
London EC4M 8AL
United Kingdom
Attention: Georgia Quenby/Victoria Thompson

Email: Georgia.quenby@morganlewis.com and
Victoria.thompson@morganlewis.com

**[SIGNATURE PAGE TO SHARE EXCHANGE AND BUY-OUT AGREEMENT]**

**MF VENTURES LLC**

By: /s/ Victor MacFarlane
Name: Victor MacFarlane
Title: Manager

Address:

Email:

Attn: Victor MacFarlane

**[SIGNATURE PAGE TO SHARE EXCHANGE AND BUY-OUT AGREEMENT]**

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**SVTP:**

**SILICON VALLEY TECHNOLOGY PARTNERS, INC**

By: /s/ Eric Kelly
Name: Eric Kelly
Title: Chief Executive Officer

Address:

Email:

Attn: Eric Kelly

**[SIGNATURE PAGE TO SHARE EXCHANGE AND BUY-OUT AGREEMENT]**

**OVERLAND:**

By: /s/ Eric Kelly
Name: Eric Kelly
Title: Chief Executive Officer

Address:

Email:

Attn: Eric Kelly

**[SIGNATURE PAGE TO SHARE EXCHANGE AND BUY-OUT AGREEMENT]**

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## SCHEDULE A

## LIST OF STOCKHOLDERS AND ENTITLEMENTS

| STOCKHOLDER | SPHERE SHARES | ENTITLEMENT TO SVTP SHARES |
|---|---|---|
| FBC Holdings S.a r.l. | 2,500,000 shares of Preferred Shares of Sphere | 1,879,699 shares of Series A Preferred Stock of SVTP |

**EXECUTION VERSION**

SECURITY AND PLEDGE AGREEMENT
(Stock, Membership Interests, Partnership Interests)

Dated as of November 13, 2018

From

**SPHERE 3D CORP.,**
as Debtor

To

**FBC HOLDINGS S.À R.L.,**
as Pledgee

**SECURITY AND PLEDGE AGREEMENT**
**(Stock, Membership Interests, Partnership Interests)**

THIS SECURITY AND PLEDGE AGREEMENT (Stock, Membership Interests, Partnership Interests) (this "*Pledge Agreement*"), is made as of November 13, 2018 by and among **SPHERE 3D CORP.**, a corporation organized under the laws of Ontario, Canada (the "*Debtor*"), and **FBC HOLDINGS S.À R.L.**, a *société à responsabilité limitée* incorporated under the laws of Luxembourg with R.C.S. number B.142.133 (the "*Pledgee*").

**RECITALS**

A. The Debtor and the Pledgee are (among others) party to an exchange and buy-out agreement dated on or around the date of this Pledge Agreement (the "*Exchange Agreement*").

B. In consideration for the Pledgee entering into the Exchange Agreement, the Debtor, as owner of the assets encumbered hereby, desires to enter into this Pledge Agreement to secure its obligations to the Pledgee under the Exchange Agreement.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. DEFINITIONS. For purposes of this Pledge Agreement, the following terms shall have the meanings specified below.

1.1 Bankruptcy Code. The term "*Bankruptcy Code*" shall mean the Bankruptcy Reform Act of 1978 (11 U.S.C. §101-1130) as amended and as hereafter modified.

1.2 Business Day. "*Business Day*" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banks in Delaware, Luxembourg or New York are generally authorized or obligated, by law or executive order, to close.

1.3 Collateral. "*Collateral*" shall mean, collectively:

(a) All securities, warrants, assets, security entitlements, investment property, promissory notes, and other equivalents described in Exhibit A (collectively, the "*Pledged Securities*");

(b) All proceeds, and revenues of or from the Pledged Securities whether now owned (and as described in *Exhibit A* attached hereto) or hereafter acquired, all substitutions for such Pledged Securities, and all additions thereto (collectively, the "*Collateral Revenues*"), including (i) stock rights, rights to subscribe, liquidating dividends, stock dividends, cash dividends, interest, stock splits, warrants, options, conversion rights, puts, calls, new securities and other property to which the Debtor is or may hereafter become entitled to receive on account of such personal property; and (ii) all Proceeds of such personal property which consist of accounts, contract rights, instruments, documents, chattel paper, inventory, goods, merchandise, equipment, and general intangibles as these terms are defined in the UCC; and

(c) All Collateral Records.

1.4 Collateral Records. The term "*Collateral Records*" shall mean all of the Debtor's existing and hereafter acquired books, records, data and other documents relating to the assets referred to in Section 1.3(a) and (b).

1.5 Debtor. The term "*Debtor*" shall have the meaning given to such term in the preamble to this Pledge Agreement.

1.6 Debtor Relief Laws. The term "*Debtor Relief Laws*" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States of America or other applicable jurisdictions from time to time in effect affecting the rights of creditors generally.

1.7 Default. "*Default*" means any event that has occurred and is in a cure period and which if not cured or waived on or before the end of such cure period will be an Event of Default.

1.8 Event of Default. "*Event of Default*" means any event of default set forth in Section 6 of this Pledge Agreement.

1.9 Liabilities. The term "*Liabilities*" means the obligations and liabilities of the Debtor to the Pledgee under the Exchange Agreement including but not limited to all debts, liabilities, obligations, covenants and duties of the Debtor, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest that accrues after the commencement of any proceeding under any Debtor Relief Laws by or against the Debtor.

1.10 Lien. The term "*Lien*" means any mortgage, pledge, hypothecation, assignment, deposit arrangement (including in the nature of, cash collateral accounts or security interests), encumbrance, lien (statutory or other), fixed or floating charge, or other security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable Laws of any jurisdiction), including the interest of a purchaser of accounts receivable.

1.11 Pledge Agreement. The term "*Pledge Agreement*" shall mean this Pledge Agreement, any concurrent or subsequent rider to this Pledge Agreement and any extensions, supplements, amendments or modifications to this Pledge Agreement and/or to any such rider.

1.12 Pledgee. The term "Pledgee" shall have the meaning given to such term in the preamble to this Pledge Agreement.

1.13 Pledgee Expenses. The term "Pledgee Expenses" means all reasonable costs and expenses incurred by Pledgee in connection with this Pledge Agreement or the Exchange Agreement.

1.14 Proceeds. The term "*Proceeds*" shall have the meaning provided in the UCC and shall include without limitation whatever is received upon the sale, lease, exchange, collection or other disposition of Collateral or proceeds, including, without limitation, proceeds of insurance covering Collateral, tax refunds, and any and all accounts, notes, instruments, chattel paper, equipment, money, deposit accounts, goods, or other tangible and intangible property of the Debtor resulting from the sale or other disposition of the Collateral, and the proceeds thereof.

1.15 Second-Ranking Pledge. The term "*Second-Ranking Pledge*" means the second-ranking pledge agreement dated on or around the date of this Pledge Agreement granted by the Debtor in favour of Overland Storage, Inc.

1.16 UCC. The term "*UCC*" means the Uniform Commercial Code as in effect from time to time in the State of Delaware; provided, in the event that, by reason of mandatory provisions of law, any or all of the perfection or priority of, or remedies with respect to, any Collateral is governed by the Uniform Commercial Code as enacted and in effect in a jurisdiction other than the State of Delaware, the term "UCC" means the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such perfection, priority or remedies.

1.17 Other Terms. All terms with an initial capital letter that are used but not defined in this Pledge Agreement shall have the respective meanings given to such terms in the UCC.

2. GRANT OF SECURITY INTEREST IN COLLATERAL. As security for the prompt and complete payment and performance of all the Liabilities, the Debtor hereby grants to Pledgee, a first priority security interest in all of the Debtor's right, title and interest in, to and under the Collateral.

3. DELIVERY OF COLLATERAL AND VOTING.

3.1 Collateral Delivery.

(a) Initial Delivery of Collateral. Within 10 days after the Debtor's execution of this Pledge Agreement and delivery of this Pledge Agreement to the Pledgee (or such later date as Pledgee may agree), as secured party, the Debtor shall deliver physical possession to the Pledgee of every stock certificate, document, instrument and chattel paper which constitutes Collateral and obtain the fully executed Consent in the form attached hereto as Exhibit B. Any such items of Collateral that are certificated securities shall be duly endorsed in blank without restriction or with a duly executed assignment separate from certificate (stock power) duly endorsed in blank without restriction and with all necessary transfer tax stamps affixed.

(b) Future Delivery of Collateral. If at any time after the date of this Pledge Agreement, the Debtor obtains possession of any certificate or instrument constituting or representing any item of Collateral, (i) the Debtor shall promptly (and in any event within ten (10) days or such later date as Pledgee may agree in writing in its sole discretion) deliver or arrange for the prompt delivery of such certificate or instrument to Pledgee; (ii) to the extent such item represents a certificated security, the Debtor shall duly endorse such certificate in blank without restriction or deliver a duly executed assignment separate from certificate (stock power) duly endorsed in blank without restriction and with all necessary transfer tax stamps affixed; and (iii) the Debtor shall hold such Collateral separate and apart from the Debtor's other funds and property in trust for the benefit of the Pledgee until paid or delivered to the Pledgee.

(c) Uncertificated Securities. If any item of Collateral is an uncertificated "security" (as such term is defined in Article 8 of the UCC), the Debtor shall either (i) procure the issuance of a security certificate to represent such Collateral and endorse and deliver such certificate as required by Section 3.1 above; or (ii) cause the issuer thereof to register the Pledgee as the registered owner of such uncertificated security; or (iii) cause the issuer thereof to enter into an agreement, in form and substance reasonably satisfactory to the Pledgee, among the Pledgee, the registered owner of such security, and the issuer to the effect that the issuer will comply with instructions originated by the Pledgee without further consent by the registered owner; or (iv) cause the security to be credited to a securities account and execute an agreement in form reasonably acceptable to Pledgee to permit Pledgee to gain control of such asset.

3.2 Control. If any Collateral is not capable of being delivered, the Debtor shall deliver to Pledgee such financing statements or other instruments as are deemed necessary by Pledgee to enable it to perfect its security interest in such Collateral and obtain "control" or "possession" of such Collateral under applicable law.

3.3 Voting. Provided that no Event of Default has occurred and is continuing, the Debtor shall have the right to exercise all voting rights and other consensual rights and powers with respect to the Collateral for any purpose not inconsistent with the terms of this Pledge Agreement; provided, however, that (a) the Debtor shall not exercise any such right or power if, in Pledgee's reasonable discretion, such action would, in the opinion of the Pledgee, have a material adverse effect on the value of the Collateral or impair or otherwise adversely affect the security interest or other rights of the Pledgee under this Pledge Agreement; and (b) the Debtor shall not be permitted to trade, invest, or sell the Financial Assets (as such term is defined in Article 8 of the UCC) without the prior written consent of the Pledgee, except pursuant to the Exchange Agreement.

4. DISPOSITION OF COLLATERAL REVENUES.

4.1 Delivery to Debtor; No Event of Default. Provided that no Event of Default has occurred and is continuing, the Collateral Revenues shall be retained by Debtor to the extent provided in Section 4.3 below.

4.2 Occurrence of Event of Default. If an Event of Default has occurred and is continuing, the Pledgee shall have the right to hold and apply the Collateral Revenues as provided below.

4.3 Payment of Cash Dividends and Interest. Provided that no Default or Event of Default shall have occurred and be continuing, the Debtor shall be entitled to receive all cash dividends and interest payable in connection with the Collateral, and all Collateral Revenues, including without limitation the following, which are referred to as "Liquidation Dividends," (a) cash dividends paid or payable in respect of any Collateral in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus, or paid-in capital of the issuer of such Collateral; and (b) cash paid, payable, or otherwise distributed in respect of principal of, or in redemption of, or in exchange for, any Collateral. If at any time and for any reason the Debtor receives any Collateral Revenues other than those that the Debtor is entitled to receive under this Section 4.3, the Debtor (i) shall immediately deliver such Collateral Revenues to the Pledgee in the original form received by the Debtor; (ii) shall execute and deliver to the Pledgee such documents of transfer respecting such Collateral Revenues as the Pledgee may require, including an endorsement in blank of any certificate evidencing such Collateral Revenues; (iii) shall not commingle such Collateral Revenues with any of the Debtor's other funds or property; and (iv) shall hold such Collateral Revenues separate and apart from the Debtor's other funds and property in trust for Pledgee until paid or delivered to the Pledgee.

5. COVENANTS, REPRESENTATIONS AND WARRANTIES.

5.1 Debtor's Covenants. The Debtor hereby covenants and agrees that during the term hereof and until all Liabilities (other than contingent indemnification obligations) are fully paid and performed:

(a) Article 8 Opt In. The Debtor shall not take any action to cause any membership interest, partnership interest, or other equity interest issued by it or any of its Subsidiaries to be or become a "security" within the meaning of, or to be governed by Article 8 of the UCC as in effect under the laws of any state having jurisdiction and shall not itself, and shall not cause or permit any of its Subsidiaries to, "opt in" or to take any other action seeking to establish any such membership interest, partnership interest or other equity interest as a "security" or to become certificated unless certificates evidencing such membership interest, partnership interest or other equity interest are pledged and delivered to the Pledgee, together with all assignments separate from certificate and other documents as the Pledgee shall reasonably request.

(b) Further Assurances. The Debtor shall deliver to Pledgee promptly or ensure that Pledgee promptly receives (i) all Collateral that the Debtor is obligated to deliver to the Pledgee under Section 3.1 above; (ii) all financing statements and all other documents that Pledgee deems necessary or desirable to evidence the transfer and pledge of the Collateral to Pledgee as provided in this Pledge Agreement; (iii) such specific acknowledgments, assignments, stock or bond powers, Regulation U Statement of Purpose forms, and other documents as the Pledgee may request relating to the Collateral; and (iv) copies of records and other reports relating to the Collateral in such form and detail and at such times as the Pledgee may from time to time reasonably require.

(c) Changes in Collateral. The Debtor shall give prompt notice to Pledgee of any threatened or asserted dispute or claim with respect to the Collateral, which could reasonably be expected, in the opinion of the Pledgee, to have a material adverse effect on the Collateral.

(d) Dealings. The Debtor may not (i) sell, assign (by operation of law or otherwise), otherwise dispose of, grant any option with respect to, or otherwise deal with, any of the Collateral, except pursuant to the Exchange Agreement or (ii) create or permit to exist any Lien upon or with respect to any of the Collateral, except for (A) the security interest in favor of Pledgee under this Pledge Agreement and (B) the Second-Ranking Pledge.

(e) Perfection. From time to time upon Pledgee's request, the Debtor (i) shall execute and deliver to Pledgee, and give, file or record, at the Debtor's expense, all notices and other documents that Pledgee deems reasonably necessary or appropriate in order for the Pledgee to maintain a first priority perfected security interest in the Collateral; and (ii) shall perform such other acts, and execute and deliver to Pledgee such additional assignments, agreements, instruments and other documents, as Pledgee may reasonably request in connection with the administration and enforcement of this Pledge Agreement or the Pledgee's exercise of any or all of its rights, powers and remedies under this Pledge Agreement.

(f) Litigation Cooperation. The Debtor, at its expense, shall appear in and use commercially reasonable efforts to defend any action or proceeding which may materially and adversely affect the Debtor's title to all or part of the Collateral or Pledgee's security interest in the Collateral.

(g) Changes. Without prior written notice to Pledgee, the Debtor will not change its name, mailing address, or its state of incorporation.

(h) Pledge Amendment. The Debtor will, upon obtaining ownership of any additional Equity Security or promissory notes or instruments constituting Collateral or Equity Security or promissory notes or instruments otherwise required to be pledged to Pledgee, which Equity Securities, notes or instruments are not already pledged under this Pledge Agreement, promptly (and in any event within five (5) Business Days or such later date as Pledgee may agree in writing in its sole discretion) deliver to Pledgee a Pledge Amendment, duly executed by the Debtor, in substantially the form of Schedule I hereto (a "**Pledge Amendment**") in respect of any such additional Equity Security, notes or instruments, pursuant to which the Debtor shall pledge to Pledgee all of such additional Equity Security, notes and instruments. The Debtor hereby authorizes Pledgee to attach each Pledge Amendment to this Pledge Agreement and agrees that all Collateral listed on any Pledge Amendment delivered to Pledgee shall for all purposes hereunder be considered Collateral.

5.2 Debtor's Representations. The Debtor represents and warrants to Pledgee as follows:

(a) Ownership of Collateral. The Debtor is the sole legal and beneficial owner of the Collateral, free and clear of all Liens, except (i) for the security interest in favor of Pledgee under this Pledge Agreement (ii) as provided in the Exchange Agreement and (iii) the Second-Ranking Pledge.

(b) Status of Collateral. All of the Collateral consisting of securities has been duly and validly issued and is fully paid for and non-assessable. Except for Collateral that the Debtor has previously disclosed to Pledgee as "restricted securities" or securities held by an "affiliate" (as such terms are defined in Rule 144 under the Securities Act of 1933, as amended), including Collateral consisting of the stock of any subsidiary of the Debtor, or as may be specifically stated to the Pledgee in writing prior to the date of this Pledge Agreement, all of the Collateral is transferable without prior notice to, or approval or consent from, any person or governmental or regulatory authority, and there exists no condition or restriction or restrictive legend to or affecting the transfer of the Collateral.

(c) Authority to Pledge. The Debtor has full rights and authority to pledge the Collateral in the manner hereby specified; and (except for approvals which have already been obtained) no consent of any governmental body or regulatory authority is necessary for the rights created hereunder to be valid.

(d) Continuing Warranties. The Debtor's warranties and representations set forth in this Section 5 and in any exhibit hereto shall be true and correct at the time of execution of this Pledge Agreement by the Debtor and on a continuing basis until the Liabilities have been satisfied.

(e) Warranties and Representations Cumulative. The warranties, representations and agreements set forth herein shall be cumulative and in addition to any and all other warranties, representations and agreements which the Debtor shall give, or cause to be given, to Pledgee, either now or hereafter, in connection with the Exchange Agreement.

6. EVENTS OF DEFAULT. The occurrence of any of the following shall constitute an Event of Default under this Pledge Agreement, at the option of the Pledgee.

6.1 Breach of Pledge Agreement. (i) Any representation or warranty hereunder proves to have been incorrect in any material respect when made or deemed made, (ii) the Debtor breaches any provision of this Pledge Agreement which cannot be cured or (iii) the breach by the Debtor of any other provision of this Pledge Agreement that remains uncured for a period of thirty (30) days after the earlier of (a) the Debtor's actual knowledge of such Event of Default or failure and (b) the Debtor's receipt of Pledgee's written notice hereof.

6.2 Breach of Other Agreements. The occurrence and continuance of a breach by the Debtor of its obligations under the Exchange Agreement.

6.3 Lien Priority. Pledgee shall cease to have a valid and perfected first priority Lien upon any material item of the Collateral purported to be covered by such security interest.

6.4 Seizure of Assets. If all or any material item(s) of the Collateral is attached, seized, subjected to a writ or distress warrant, or is levied upon and such action could reasonably be expected, in the opinion of the Pledgee, to cause a material adverse effect on the Collateral.

7. PLEDGEE'S RIGHTS AND REMEDIES ON DEFAULT. The exercise of remedies hereunder shall be made by Pledgee upon the terms and conditions contained herein. If an Event of Default shall have occurred and be continuing and has not been cured or waived in writing by the Pledgee, Pledgee shall have the following rights and powers and may, at Pledgee's option, without notice of its election and without demand, do any one or more of the following, all of which are hereby authorized by the Debtor:

7.1 UCC Rights. The Pledgee shall have all of the rights and remedies of a secured party under the UCC and under all other applicable laws.

7.2 Assembly of Collateral. The Pledgee may require the Debtor to assemble the Collateral and make it available to the Pledgee at a place designated by the Pledgee.

7.3 Possession of Collateral. Pledgee, without a breach of the peace, may enter any of the premises of the Debtor and search for, take possession of, remove, keep or store any or all of the Collateral. If the Pledgee seeks to take possession of any or all of the Collateral by court process, the Debtor irrevocably and unconditionally agrees that a receiver may be appointed by a court for such purpose without regard to the adequacy of the security for the Liabilities.

7.4 Foreclose on Collateral. Pledgee shall have the right to sell and dispose of the Collateral, or any part thereof, at public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery, and at such price or prices as the Pledgee may deem satisfactory. Pledgee may be the purchaser of any or all of the Collateral so sold at any public sale (or, if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, at any private sale) and thereafter hold the same, absolutely free from any right or claim of whatsoever kind. Pledgee is authorized, at any such sale, if it deems it advisable so to do, to restrict the prospective bidders or purchasers of any of the Collateral to persons who will represent and agree that they are purchasing for their own account for investment, and not with a view to the distribution or sale of any of the Collateral. Upon any such sale the Pledgee shall have the right to deliver, assign, and transfer to the purchaser thereof the Collateral so sold. Each purchaser at any such sale shall hold the Collateral so sold free from any claim or right of whatsoever kind of the Debtor or any other Person, including any equity or right of redemption of the Debtor, who, to the extent permitted by law, specifically waives any now existing or hereafter acquired rights of redemption, stay or appraisal. Pledgee shall give Debtor: (i) ten (10) days written notice of its intention to make any such public or private sale; or (ii) two (2) days' notice of any sale at a broker's board or on a securities exchange. Such notice, in case of a public sale, shall state the time and place fixed for such sale, and, in case of sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Collateral, or the portion thereof being so sold, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as the Pledgee may fix in the notice of such sale. At any such sale the Collateral may be sold in one lot as an entirety or in separate parcels, as the Pledgee may determine. Pledgee shall not be obligated to make any such sale pursuant to any such notice. Pledgee may, without notice or publication, postpone any public or private sale or cause the same to be postponed from time to time by announcement at the time and place fixed for the sale, and such sale may be made at any time or place to which the same may be so postponed. In case of any sale of all or any part of the Collateral on credit or for future delivery, the Collateral so sold may be retained by the Pledgee until the selling price is paid by the purchaser thereof, but the Pledgee shall not incur any liability in case of the failure of such purchaser to take up and pay for the Collateral so sold and, in case of any such failure, such Collateral may again be sold upon like notice.

7.5 Judicial Action. Pledgee, in its discretion, may proceed by a suit or suits at law or in equity to foreclose its security interests in the Collateral under a judgment or decree of a court or courts of competent jurisdiction. The Debtor agrees that any disposition of Collateral by way of a private placement or other method which, in the opinion of the Pledgee, is required or advisable under federal and state securities laws is commercially reasonable.

7.6 Collateral Revenues. The Debtor’s rights, if any, to receive any Collateral Revenues shall automatically cease, and all Collateral Revenues shall be paid to the Pledgee. Any and all Collateral Revenues received by the Pledgee may be retained by the Pledgee as additional Collateral or, in the Pledgee’s discretion, may be applied toward the satisfaction of the Liabilities. In such event the Pledgee shall have the right and power to receive, endorse and collect all checks and other orders for payment of money made payable to the Debtor representing any dividend or other distribution payable or distributable in respect of any Collateral.

7.7 Information. Without limiting the generality of this Section 7, it shall conclusively be deemed to be commercially reasonable for the Pledgee to direct any prospective purchaser of any or all of the Collateral to the Debtor to ascertain all information concerning the status of the Collateral.

7.8 Commercially Reasonable Actions by Pledgee. The Debtor acknowledges that it may be impracticable or extremely difficult to effect a public sale of all or part of the Collateral by reason of certain restrictions contained in state and federal securities laws, as now or hereafter in effect. Because of such restrictions, and without limiting the generality of this Section 7, it shall conclusively be deemed to be commercially reasonable for the Pledgee to do any or all of the following:

(a) To resort to one or more private sales to a single purchaser or a restricted group of purchasers who may be obligated to agree, among other things, to acquire the Collateral for their own account, for investment and not with a view to the distribution or resale thereof; and

(b) To impose restrictions and conditions with respect to (i) the ability of a purchaser or bidder to bear the economic risk of an investment in the Collateral; (ii) the knowledge and experience of business and financial matters of a purchaser or bidder; (iii) the access of a purchaser or bidder to information regarding the Collateral; and (iv) such other matters as the Pledgee determines to be necessary or advisable to comply with any state or federal securities laws.

7.9 No Registration Required. The Debtor acknowledges that some or all of the conditions and restrictions which may be imposed by the Pledgee pursuant to Section 7.8 above may result in reduced proceeds being received upon the sale of the Collateral than would otherwise have been obtained. Pledgee shall have no obligation to delay the sale of any or all of the Collateral for the period of time necessary to permit registration by the issuer of any securities comprising the Collateral, even if such registration would be possible under applicable state and federal securities law.

7.10 Other Procedures. Pledgee's disposition of any or all of the Collateral shall not be deemed to be commercially unreasonable solely because the manner of disposition differs from the procedures specified in this Section 7.

7.11 Foreclosure. If the Pledgee has reduced its claims for breach of any of the obligations to judgment, the lien of any levy which may be made on any or all of the Collateral by virtue of any execution based upon such judgment shall relate back to the date of the Pledgee's perfection of its security interest in such Collateral. A judicial sale pursuant to such execution shall constitute a foreclosure of the Pledgee's security interest by judicial procedure, and the Pledgee may purchase at such sale and thereafter hold the Collateral free of all rights of the Debtor therein.

7.12 Discharge Claims. Pledgee may discharge claims, demands, liens, security interests, encumbrances and taxes affecting any or all of the Collateral and take such other actions as the Pledgee determines to be necessary or appropriate to protect the Collateral and the Pledgee's security interest therein. Pledgee, without releasing the Debtor or any other Person from any of the Liabilities, may perform any of the Liabilities in such manner and to such extent as the Pledgee determines to be necessary or appropriate to protect the Collateral and the Pledgee's security interest therein.

7.13 Proceeds of Sale. The proceeds of any sale or disposition of the Collateral by the Pledgee shall be applied in the following order of priority:

(a) *First*, to all liabilities, obligations, costs, and expenses, including reasonable attorneys' fees and costs, incurred by the Pledgee in exercising any of its rights or remedies under this Pledge Agreement, including the costs and expenses of retaking, holding, and selling any or all of the Collateral;

(b) *Second*, to the payment of the Liabilities in such order and amounts as the Pledgee may determine in its discretion;

(c) *Third*, to the satisfaction of indebtedness secured by any subordinate security interest in the Collateral if written demand therefor is received by the Pledgee before distribution of any such proceeds. If requested by the Pledgee, the holder of a subordinate security interest in the Collateral shall furnish the Pledgee with proof of its interest in the Collateral acceptable to the Pledgee, and unless such holder does so, the Pledgee shall have no obligation to comply with such holder's demand; and

(d) *Fourth*, the surplus, if any, shall be paid to Debtor.

7.14 Voting Rights. Following not less than one (1) Business Day's advance written notice to the Debtor, Pledgee may exercise any or all warrants, options, conversion rights, puts, calls, voting rights, and other rights with respect to any or all of the Collateral (collectively the "*Voting and Stock Rights*") in such manner and to such extent as the Pledgee in its reasonable discretion determines to be necessary or appropriate, and the Debtor's rights and authority to exercise the Voting and Stock Rights shall automatically terminate upon the delivery of such notice. Notwithstanding anything to the contrary contained in this Pledge Agreement, the Pledgee shall have no obligation to exercise any or all Voting and Stock Rights, and the Pledgee shall have no liability or responsibility of any kind to the Debtor or any other party for the Pledgee's exercise or delay or failure to exercise any or all of the Voting and Stock Rights. In connection with the Pledgee's exercise of any or all of the Voting and Stock Rights, the Pledgee shall have the right (a) to deposit or surrender control of any or all of the Collateral to any third Person; (b) to accept other property in exchange for the Collateral; and (c) to take such other actions as the Pledgee in its discretion determines to be necessary or appropriate.

8. LIABILITY FOR DEFICIENCY. The Debtor shall at all times remain liable for any deficiency remaining on the Liabilities, and is liable after any disposition of any or all of the Collateral and after the Pledgee's application of any proceeds to the Liabilities.

9. POWER OF ATTORNEY. The Debtor irrevocably (until the Liabilities are paid in full and the Revolving Commitments have been terminated) appoints the Pledgee, with full power of substitution, as the Debtor's attorney-in-fact, coupled with an interest, with full power, in the Pledgee's own name or in the name of the Debtor:

9.1 At any time after the occurrence and during the continuation of an Event of Default, to do any or all of the following:

(a) Endorse any checks, drafts, money orders, notes, and other instruments or documents representing or evidencing the Collateral;

(b) Pay or discharge claims, demands, liens, security interests, encumbrances, or taxes affecting or threatening the Collateral;

(c) Receive payment of all Collateral Revenues;

(d) Commence, prosecute or defend any suit, action or proceeding relating to any or all of the Collateral;

(e) Instruct any accountant or other third Person having custody or control of any Collateral Records to deliver such records to the Pledgee;

(f) Sell, transfer, pledge, make any agreement with respect to, or otherwise deal with the Collateral as though the Pledgee were the owner thereof for all purposes; and

(g) To execute any security agreement, assignment, notice, and all other documents which the Pledgee, in its discretion, determines to be necessary or appropriate in order to (a) perfect or maintain the Pledgee's security interest in the Collateral; (b) exercise any or all of the Pledgee's rights under this Pledge Agreement; or (c) to consummate or effectuate any of the transactions contemplated by this Pledge Agreement.

10. WAIVERS. Except as expressly provided hereunder, the Debtor hereby waives presentment, demand for payment, protest, notice of demand, dishonor, protest and nonpayment, and all other notices and demands in connection with the delivery, acceptance, performance, default under, and enforcement of the Liabilities. The Debtor waives the right to assert any statute of limitations as a defense to the enforcement of any of the Liabilities to the fullest extent permitted by law. The Debtor hereby irrevocably waives, to the fullest extent permitted by law, all defenses in the nature of suretyship that at any time may be available in respect of the Debtor's obligations hereunder by virtue of any statute of limitations, valuation, stay, moratorium law or other similar law now or hereafter in effect.

11. CUMULATIVE REMEDIES. The Pledgee's rights and remedies under this Pledge Agreement are cumulative with and in addition to all other rights and remedies which the Pledgee may have. The Pledgee may exercise any one or more of its rights and remedies under this Pledge Agreement at the Pledgee's option and in such order as the Pledgee may determine in its discretion. The Pledgee may exercise its rights under this Pledge Agreement from time to time and at such times as the Pledgee may determine.

12. ACTIONS. The Pledgee shall have the right, but not the obligation, to commence, appear in, or defend any action or proceeding which affects or which the Pledgee determines may affect (a) the Collateral; or (b) the Debtor's or the Pledgee's rights under this Pledge Agreement.

13. INDEMNITY. The Debtor agrees to defend, indemnify and hold harmless Pledgee, and its respective officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party related to or in connection with the transactions contemplated by this Pledge Agreement or the Collateral, and (b) all losses or expenses in any way suffered, incurred, or paid by Pledgee as a result of or in any way arising out of, following or consequential to the transactions between Pledgee and the Debtor under this Pledge Agreement or the Collateral (including without limitation, reasonable attorneys fees and reasonable expenses), except for losses arising from or out of Pledgee's gross negligence or willful misconduct.

14. GENERAL.

14.1 Taxes and Other Expenses Regarding the Collateral. If the Debtor fails to pay promptly when due to any person or entity monies which the Debtor is required to pay by reason of any provision in this Pledge Agreement, Pledgee may, but need not, pay the same and charge the Debtor's account therefor, and the Debtor shall promptly reimburse Pledgee therefor. Any payments made by Pledgee shall not constitute: (a) an agreement by Pledgee to make similar payments in the future, or (b) a waiver by Pledgee of any default under this Pledge Agreement. Pledgee need not inquire as to, or contest the validity of, any such expense, tax, security interest, encumbrance or lien and the receipt of the usual official notice for the payment thereof shall be conclusive evidence that the same was validly due and owing.

(a) 14.2 Notices. Any notice made or required to be given pursuant to this Pledge Agreement shall be in writing and shall be transmitted to the relevant address set forth below, may be delivered by the following modes of delivery, and shall be effective as follows:

| **Mode of Delivery** | **Effective on earlier of actual receipt and:** |
|---|---|
| Courier: | Scheduled delivery date |
| Electronic Mail | When receipt of the transmission has been confirmed by the recipient (including upon receipt of a "read receipt" from the recipient) |
| Mail: | Fourth Business Day after deposit in U.S. mail first class postage pre-paid |
| Personal delivery: | When received |

(a) if to the Debtor, at

Address: Sphere 3D Corp.
9112 Spectrum Center Blvd.
San Diego, CA 92123
Attn: Kurt Kalbfleisch, CFO
E-mail: kkalbfleisch@sphere3d.com

with a copy (which shall not constitute notice) to:
O’Melveny & Myers LLP
Two Embarcadero Center, 28th Floor
San Francisco, CA 94111
Attn: Jennifer Taylor and Paul Sieben
Email: jtaylor@omm.com and psieben@omm.com

or at such other address for notice as the Debtor shall last have furnished in writing to the Pledgee; and

(b) if to the Pledgee, at

FBC Holdings S.à r.l.
c/o Cyrus Capital Partners, L.P.
65 East 55th Street,
New York, NY 10022
Attention: Daniel Bordessa
Email: dbordessa@cyruscapital.com and ops@cyruscapital.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius UK LLP
Condor House, 5-10 St. Paul's Churchyard
London EC4M 8AL United Kingdom
Attn: Georgia Quenby and Victoria Thompson
Email: georgia.quenby@morganlewis.com and victoria.thompson@morganlewis.com

or at such other address for notice as the Pledgee shall last have furnished in writing to the Debtor.

14.3 Termination. At such time as the Debtor shall completely satisfy all of the Liabilities (other than contingent indemnification obligations) secured hereunder, this Pledge Agreement shall terminate and Pledgee shall promptly, but in no event more than five (5) Business Days after such satisfaction, execute and deliver to the Debtor all instruments as may be necessary or proper to reinvest in the Debtor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Pledgee pursuant hereto.

14.4 Course of Dealing. No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

14.5 Amendment. This Pledge Agreement may be modified only by a written agreement signed by the Debtor and the Pledgee.

14.6 Agreement Binding; Assignment. This Pledge Agreement shall be binding and deemed effective when executed by the Debtor and Pledgee. This Pledge Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; *provided*, *however*, that the Debtor may not assign this Pledge Agreement, or any rights hereunder without Pledgee's prior written consent and any prohibited assignment shall be absolutely void. No consent to an assignment by Pledgee shall release the Debtor from its obligations to Pledgee.

14.7 Time of Essence. Time is of the essence of each provision of this Pledge Agreement.

14.8 Article and Section Headings. Article and section headings and article and section numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each article and section applies equally to this entire Pledge Agreement.

14.9 Construction. Neither this Pledge Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Pledgee or the Debtor, whether under any rule of construction or otherwise. On the contrary, this Pledge Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties hereto.

14.10 Performance of Covenants. The Debtor shall perform all of its covenants under this Pledge Agreement at its sole cost and expense.

14.11 Term. This Pledge Agreement shall continue in full force and effect as long as any of the Liabilities are outstanding or until terminated by written agreement of the Pledgee.

14.12 Severability. Each provision of this Pledge Agreement shall be severable from every other provision of this Pledge Agreement for the purpose of determining the legal enforceability of a specific provision. Without limiting the generality of the preceding sentence, if the Pledgee's security interest in any part of the Collateral is held to be unlawful, void, voidable or unenforceable for any reason, such defect shall in no way affect the validity or enforceability of the remaining terms and conditions of this Pledge Agreement.

14.13 No Third Party Beneficiaries. This Pledge Agreement is entered into for the sole protection and benefit of Pledgee and the Debtor, as applicable, and their respective permitted successors and assigns. No other Person shall have any rights or causes of action under this Agreement.

14.14 Counterparts. This Pledge Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which together shall constitute the same instrument.

14.15 No Waiver By Pledgee. No waiver by the Pledgee or any of its rights or remedies in connection with the Liabilities or any of the terms and conditions of this Pledge Agreement shall be effective unless such waiver is in writing and signed by the Pledgee.

14.16 Choice of Law. The validity of this Pledge Agreement, its construction, interpretation and enforcement, and the rights of the parties hereunder and concerning the Collateral, shall be determined under, governed by and construed in accordance with the laws of the State of Delaware. The parties agree that all actions or proceedings arising in connection with this Pledge Agreement shall be tried and litigated only in the courts of the State of Delaware.

**[Signature page follows]**

All terms and conditions set forth in the Exhibits and any Addendum(s) attached to this Pledge Agreement are incorporated by this reference.

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

By: /s/ Peter Tassiopoulos
Name: Peter Tassiopoulos
Its: President

[Signature page to Sphere Security and Pledge Agreement]

PLEDGE AGREEMENT

**FBC HOLDINGS S.À R.L.**, a *société à responsabilité limitée* incorporated under the laws of Luxembourg, as Pledgee

By: /s/ Trustmoore Luxembourg S.A.
Name: Trustmoore Luxembourg S.A.
Title: Manager A

By: /s/ Cyrus Capital Partners, L.P.
Name: Cyrus Capital Partners, L.P.
Title: Manager B

[Signature page to Sphere Security and Pledge Agreement]

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## Exhibit A

This Exhibit is attached to and made a part of the Security and Pledge Agreement (Stock, Membership Interests, Partnership Interests) dated as of November 13, 2018.

| Debtor | Number of Shares or Description of Other Assets Pledged as Collateral | Issuer's Name | Issuer's Jurisdiction of Formation | Number of Issued and Outstanding shares of the Issuer | Par Value | Identification No.* |
|---|---|---|---|---|---|---|
| Sphere 3D Corp. | 1,879,669 Series A Preferred Stock | Silicon Valley Technology Partners, Inc | Delaware | 8,444,444 Series A Preferred Stock | $0.0001 | PS A-1 |

* Certificate Number or CUSIP Number

**EXHIBIT B**

**CONSENT OF COMPANY**

[NAME OF COMPANY], a _________________________(“*Company*”), hereby consents to the collateral assignment by [__________], a [_________] (“*Debtor*”), of all of its right, title and interest in [ ]% of all [shares][limited liability company interests] in Company to FBC HOLDINGS S.À R.L., as Pledgee (“*Pledgee*”) subject to the terms and conditions of that certain Security and Pledge Agreement granted by the Debtor in favour of the Pledgee dated November , 2018 (as amended, supplemented, restated or modified from time to time, “*Pledge Agreement*”) and agrees to be bound by the terms of the Pledge Agreement to which this consent is attached.

COMPANY:

[NAME OF COMPANY]

By: ______________________________
Name: ______________________________
Title: ______________________________

SCHEDULE I

PLEDGE AMENDMENT

This Pledge Amendment, dated _______________, 20__ is delivered pursuant to Section 5.1(h) of the Pledge Agreement referred to below. All defined terms herein shall have the meanings ascribed thereto or incorporated by reference in the Pledge Agreement. The undersigned hereby certifies that the representations and warranties in Section 5.2 of the Pledge Agreement are and continue to be true and correct, both as to the promissory notes, instruments and Equity Securities pledged prior to this Pledge Amendment and as to the promissory notes, instruments and Equity Securities pledged pursuant to this Pledge Amendment. The undersigned further agrees that this Pledge Amendment may be attached to that certain Security and Pledge Agreement, dated November [ ] , 2018 between the undersigned, as Debtor and FBC Holdings S.à r.l., a *société à responsabilité limitée* incorporated under the laws of Luxembourg with R.C.S. number B.142.133, as Pledgee (as amended, supplemented, restated or modified from time to time, the "**Pledge Agreement**"; capitalized terms used herein shall have the same meanings as in the Pledge Agreement) and that the Collateral listed on this Pledge Amendment shall be and become a part of the Collateral referred to in said Pledge Agreement and shall secure all Liabilities referred to in said Pledge Agreement.

SPHERE 3D CORP.

By: ______________________________
Name: ______________________________
Title: ______________________________

Additional Collateral:

[TBD]

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***ACT***"), OR UNDER THE SECURITIES LAWS OF ANY STATES IN THE UNITED STATES. THIS NOTE IS SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. THE ISSUER OF THIS NOTE MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT AND ANY APPLICABLE STATE SECURITIES LAWS.

**SECURED PROMISSORY NOTE**

| | |
|---|---|
| Date of Note: | November 13, 2018 |
| Principal Amount of Note: | $500,000 |

For value received, SPHERE 3D CORP., a corporation organized under the laws of Ontario, Canada (the "***Canadian Borrower***") and HVE Inc., a Delaware corporation (together with the Canadian Borrower, the "***Borrowers***" and each a "***Borrower***"), jointly and severally, promise to pay to the undersigned holder or such party's assigns (the "***Holder***") the principal amount set forth above with interest on the outstanding principal amount at a rate equal to 8% per annum. Interest shall commence with the date hereof and shall continue on the outstanding principal amount until paid in full. Interest shall be computed on the basis of a year of 365 days for the actual number of days elapsed and shall compound annually. All interest and principal, unless previously paid in accordance with the terms hereof, shall be due and payable on the six (6) month anniversary of the date of this Note.

**1. BASIC TERMS**.

**(a) Payments**. All payments of interest and principal on this Note shall be in lawful money of the United States of America and shall be made to the Holder or, if applicable, to the Holder's permitted assigns. All payments shall be applied first to accrued interest, and thereafter to principal.

**(b) Payment Dates**. Borrowers shall pay the interest accrued on the unpaid principal amount of this Note in arrears on first day of each calendar month from the date of this Note until paid in full (whether by acceleration or otherwise).

**(c) Voluntary Prepayment**. The Borrowers may prepay this Note in whole or in part at any time without the consent of the Holder, together with all accrued but unpaid interest and the other amounts due hereunder in respect of the amount prepaid.

**(d) Mandatory Prepayment**. The Borrowers shall immediately prepay this Note in full, together with all accrued but unpaid interest and other amounts due hereunder, upon receipt of aggregate proceeds of $5,000,000 or more from equity, debt or any combination thereof.

**(e) Late Payments**. In addition to interest as set forth herein, the Borrowers shall pay to Holder a late charge equal to five percent (5%) of any amounts due under hereunder in the event any such amount is not paid within three (3) days after the date when due.

## 2. REPRESENTATIONS AND WARRANTIES.

(a) **Representations and Warranties of the Borrowers**. Each Borrower hereby represents and warrants to the Holder as of the date this Note was issued as follows:

(i) **Organization, Good Standing and Qualification**. Such Borrower is a corporation duly organized, validly existing and in good standing under the laws of Ontario or the State of Delaware. Such Borrower has the requisite corporate power to own and operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted. Such Borrower is duly qualified and is authorized to do business and is in good standing as a foreign corporation in all jurisdictions in which the nature of its activities and of its properties (both owned and leased) makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on such Borrower or its business (a "***Material Adverse Effect***").

(ii) **Corporate Power**. Such Borrower has all requisite corporate power to issue this Note and to carry out and perform its obligations under this Note. Such Borrower's board of directors has approved the issuance of this Note based upon a reasonable belief that the issuance of this Note is appropriate for such Borrower after reasonable inquiry concerning such Borrower's financing objectives and financial situation.

(iii) **Authorization**. All corporate action on the part of such Borrower necessary for the issuance and delivery of this Note has been taken. This Note constitutes a valid and binding obligation of such Borrower enforceable in accordance with its terms, subject to laws of general application relating to bankruptcy, insolvency, the relief of debtors and, with respect to rights to indemnity, subject to federal and state securities laws.

(iv) **Governmental Consents**. All consents, approvals, orders or authorizations of, or registrations, qualifications, designations, declarations or filings with, any governmental authority required on the part of such Borrower in connection with issuance of this Note has been obtained.

(v) **Compliance with Laws**. To its knowledge, such Borrower is not in violation of any applicable statute, rule, regulation, order or restriction of any domestic or foreign government or any instrumentality or agency thereof in respect of the conduct of its business or the ownership of its properties, which violation of which would have a Material Adverse Effect.

(vi) **Compliance with Other Instruments**. Such Borrower is not in violation or default of any term of its certificate of incorporation or bylaws, or of any provision of any mortgage, indenture or contract to which it is a party and by which it is bound or of any judgment, decree, order or writ, other than such violation(s) that would not have a Material Adverse Effect. The execution, delivery and performance of this Note will not result in any such violation or be in conflict with, or constitute, with or without the passage of time and giving of notice, either a default under any such provision, instrument, judgment, decree, order or writ or an event that results in the creation of any lien, charge or encumbrance upon any assets of such Borrower or the suspension, revocation, impairment, forfeiture or nonrenewal of any material permit, license, authorization or approval applicable to such Borrower, its business or operations or any of its assets or properties.

(vii) **No "Bad Actor" Disqualification**. Such Borrower has exercised reasonable care to determine whether any Borrower Covered Person (as defined below) is subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) through (viii), as modified by Rules 506(d)(2) and (d)(3), under the Act ("***Disqualification Events***"). To such Borrower's knowledge, no Borrower Covered Person is subject to a Disqualification Event. Such Borrower has complied, to the extent required, with any disclosure obligations under Rule 506(e) under the Act. For purposes of this Note, "***Borrower Covered Persons***" are those persons specified in Rule 506(d)(1) under the Act; provided, however, that Borrower Covered Persons do not include (a) the Holder, or (b) any person or entity that is deemed to be an affiliated issuer of either Borrower solely as a result of the relationship between the Borrowers and the Holder.

**(viii) Offering**. Assuming the accuracy of the representations and warranties of the Holder contained in subsection (b) below, the offer, issue and sale of this Note are and will be exempt from the registration and prospectus delivery requirements of the Act, and have been registered or qualified (or are exempt from registration and qualification) under the registration, permit or qualification requirements of all applicable state securities laws.

**(ix) Use of Proceeds**. The Borrower shall use the proceeds of this Note solely for the operations of its business, and not for any personal, family or household purpose.

(b) **Representations and Warranties of the Holder.** The Holder hereby represents and warrants to the Borrower as of the date hereof as follows:

**(i) Purchase for Own Account**. The Holder is acquiring this Note solely for the Holder's own account and beneficial interest for investment and not for sale or with a view to distribution of this Note or any part thereof, has no present intention of selling (in connection with a distribution or otherwise), granting any participation in, or otherwise distributing the same, and does not presently have reason to anticipate a change in such intention.

**(ii) Information and Sophistication**. Without lessening or obviating the representations and warranties of the Borrowers set forth in subsection (a) above, the Holder hereby: (A) acknowledges that the Holder has received all the information the Holder has requested from the Borrowers and the Holder considers necessary or appropriate for deciding whether to acquire this Note, (B) represents that the Holder has had an opportunity to ask questions and receive answers from the Borrowers regarding the terms and conditions of the offering of this Note and to obtain any additional information necessary to verify the accuracy of the information given the Holder and (C) further represents that the Holder has such knowledge and experience in financial and business matters that the Holder is capable of evaluating the merits and risk of this investment.

**(iii) Ability to Bear Economic Risk**. The Holder acknowledges that investment in this Note involves a high degree of risk, and represents that the Holder is able, without materially impairing the Holder's financial condition, to hold this Note for an indefinite period of time and to suffer a complete loss of the Holder's investment.

**(iv) Further Limitations on Disposition**. Without in any way limiting the representations set forth above, the Holder further agrees not to make any disposition of all or any portion of this Note unless and until:

**(1)** there is then in effect a registration statement under the Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or

**(2)** the Holder shall have notified the Borrowers of the proposed disposition and furnished the Borrowers with a detailed statement of the circumstances surrounding the proposed disposition, and if reasonably requested by the Borrowers, the Holder shall have furnished the Borrowers with an opinion of counsel, reasonably satisfactory to the Borrowers, that such disposition will not require registration under the Act or any applicable state securities laws; provided that no such opinion shall be required for dispositions in compliance with Rule 144 under the Act, except in unusual circumstances.

Notwithstanding the provisions of paragraphs (1) and (2) above, no such registration statement or opinion of counsel shall be necessary for a transfer by the Holder to any other entity who, directly or indirectly, controls, is controlled by, or is under common control with the Holder, if all transferees agree in writing to be subject to the terms hereof to the same extent as if they were the Holders hereunder.

**(v) Accredited Investor Status**. The Holder is an "accredited investor" as such term is defined in Rule 501 under the Act.

**(vi) No "Bad Actor" Disqualification**. The Holder represents and warrants that neither (A) the Holder nor (B) any entity that controls the Holder or is under the control of, or under common control with, the Holder, is subject to any Disqualification Event, except for Disqualification Events covered by Rule 506(d)(2)(ii) or (iii) or (d)(3) under the Act and disclosed in writing in reasonable detail to the Borrowers. The Holder represents that the Holder has exercised reasonable care to determine the accuracy of the representation made by the Holder in this paragraph, and agrees to notify the Borrowers if the Holder becomes aware of any fact that makes the representation given by the Holder hereunder inaccurate.

**(vii) Foreign Investors**. If the Holder is not a United States person (as defined by Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended (the "***Code***")), the Holder hereby represents that he, she or it has satisfied itself as to the full observance of the laws of the Holder's jurisdiction in connection with any invitation to subscribe for this Note or any use of this Note, including (A) the legal requirements within the Holder's jurisdiction for the purchase of this Note, (B) any foreign exchange restrictions applicable to such purchase, (C) any governmental or other consents that may need to be obtained, and (D) the income tax and other tax consequences, if any, that may be relevant to the purchase, holding, redemption, sale or transfer of this Note. The Holder's subscription, payment for and continued beneficial ownership of this Note will not violate any applicable securities or other laws of the Holder's jurisdiction.

**(viii) Forward-Looking Statements**. With respect to any forecasts, projections of results and other forward-looking statements and information provided to the Holder, the Holder acknowledges that such statements were prepared based upon assumptions deemed reasonable by the Borrowers at the time of preparation. There is no assurance that such statements will prove accurate, and the Borrowers have no obligation to update such statements.

**3. EVENTS OF DEFAULT.**

If there shall be any Event of Default (as defined below) hereunder, at the option and upon the declaration of the Holder and upon written notice to each Borrower (which election and notice shall not be required in the case of an Event of Default under subsection (ii) or (iii) below), this Note shall accelerate and all principal and unpaid accrued interest shall become immediately due and payable and the interest rate shall increase to 13% per annum. The occurrence of any one or more of the following shall constitute an "***Event of Default***":

**(i)** the Borrowers fail to pay timely any of the principal amount due under this Note on the date the same becomes due and payable or any unpaid accrued interest or other amounts due under this Note on the date the same becomes due and payable;

**(ii)** either Borrower files any petition or action for relief under any bankruptcy, reorganization, insolvency or moratorium law or any other law for the relief of, or relating to, debtors, now or hereafter in effect, or makes any assignment for the benefit of creditors or takes any corporate action in furtherance of any of the foregoing;

**(iii)** an involuntary petition is filed against either Borrower (unless such petition is dismissed or discharged within 60 days under any bankruptcy statute now or hereafter in effect, or a custodian, receiver, trustee or assignee for the benefit of creditors (or other similar official) is appointed to take possession, custody or control of any property of the Borrower); or

**(iv)** the occurrence of a transaction in which any "person" or "group" (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934) becomes the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of a sufficient number of shares of all classes of stock then outstanding of either Borrower ordinarily entitled to vote in the election of directors, empowering such "person" or "group" to elect a majority of the board of managers such Borrower, who did not have such power before such transaction.

**4. MISCELLANEOUS PROVISIONS.**

**(a) Waivers.** The Borrowers hereby waive demand, notice, presentment, protest and notice of dishonor.

**(b) Further Assurances**. The Holder agrees and covenants that at any time and from time to time the Holder will promptly execute and deliver to the Borrowers such further instruments and documents and take such further action as the Borrowers may reasonably require in order to carry out the full intent and purpose of this Note and to comply with state or federal securities laws or other regulatory approvals.

**(c) Transfers of Notes**. This Note may be transferred only upon its surrender to the Borrowers for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form reasonably satisfactory to the Borrowers. Thereupon, this Note shall be reissued to, and registered in the name of, the transferee, or a new Note for like principal amount and interest shall be issued to, and registered in the name of, the transferee. Interest and principal as well as any fees provided herein shall be paid solely to the registered holder of this Note. Such payment shall constitute full discharge of the Borrowers' obligation to pay such interest and principal. Notwithstanding the foregoing, the Holder may not assign this Note, whether by operation of law or otherwise, or any rights or duties hereunder without the prior written consent of the Borrowers', and any prohibited assignment will be void and of no force or effect; provided that the Holder may assign its right, title and interest in this Note to any person that is controlled by, controls or is under common control with the Holder.

**(d) Amendment and Waiver**. Any term of this Note may be amended or waived with the written consent of the Borrowers' and the Holder. Upon the effectuation of such waiver or amendment with the consent of the Holder in conformance with this paragraph, such amendment or waiver shall be effective as to, and binding against any future holder of this Note.

**(e) Governing Law**. This Note shall be governed by, and construed in accordance with, the laws of the State of Delaware. In any action among or between any of the parties arising out of or relating to this Note, including any action seeking equitable relief, each of the parties irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the state and federal courts located in Delaware. Each party hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Note, the transactions contemplated hereby and thereby or the actions of such parties in the negotiation, administration, performance and enforcement hereof and thereof. The Canadian Borrower hereby irrevocably appoints HVE Inc., a Delaware corporation (the "Process Agent"), with an office at HVE Inc., 100 Executive Ct., Suite 2, Waxahachie, TX 75165 as its agent to receive on behalf of the Canadian Borrower and its property service of copies of the summons and complaints and any other process which may be served in any such action or proceeding.

**(f) Binding Agreement**. The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Note, expressed or implied, is intended to confer upon any third party any rights, remedies, obligations or liabilities under or by reason of this Note, except as expressly provided in this Note.

**(g) Counterparts; Manner of Delivery**. This Note may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**(h) Titles and Subtitles**. The titles and subtitles used in this Note are used for convenience only and are not to be considered in construing or interpreting this Note.

**(i) Notices**. All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient, if not, then on the next business day, (iii) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one day after deposit with a nationally recognized overnight courier (or two days after deposit with a recognized international overnight courier with respect to international delivery), specifying next day delivery, with written verification of receipt. All communications to a party shall be sent to the party's address set forth on the signature page hereto or at such other address(es) as such party may designate by 10 days' advance written notice to the other party hereto.

**(j) Expenses**. The Borrowers and the Holder shall each bear their respective expenses and legal fees incurred with respect to the negotiation, execution and delivery of this Note and the transactions contemplated herein.

**(k) Delays or Omissions**. It is agreed that no delay or omission to exercise any right, power or remedy accruing to the Holder, upon any breach or default of either Borrower under this Note shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach or default, or any acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. It is further agreed that any waiver, permit, consent or approval of any kind or character by the Holder of any breach or default under this Note, or any waiver by the Holder of any provisions or conditions of this Note, must be in writing and shall be effective only to the extent specifically set forth in writing and that all remedies, either under this Note, or by law or otherwise afforded to the Holder, shall be cumulative and not alternative. This Note shall be void and of no force or effect in the event that the Holder fails to remit the full principal amount to the Borrowers within five calendar days of the date of this Note.

**(l) Borrower Liability**. Each Borrower hereby appoints the other as agent for the other for all purposes hereunder. Each Borrower hereunder shall be jointly and severally obligated to repay this Note, regardless of which Borrower actually receives the proceeds of this Note, as if each Borrower hereunder directly received all of the proceeds of this Note. Each Borrower waives (a) any suretyship defenses available to it under any applicable law, and (b) any right to require the Holder to: (i) proceed against any Borrower or any other person; (ii) proceed against or exhaust any security; or (iii) pursue any other remedy. The Holder may exercise or not exercise any right or remedy it has against any Borrower or any security it holds (including the right to foreclose by judicial or non-judicial sale) without affecting any Borrower's liability. Notwithstanding any other provision of this Note or other related document, each Borrower irrevocably waives all rights that it may have at law or in equity (including, without limitation, any law subrogating Borrower to the rights of the Holder under this Note) to seek contribution, indemnification or any other form of reimbursement from any other Borrower, or any other person now or hereafter primarily or secondarily liable for any of the obligations hereunder, for any payment made by a Borrower with respect to the obligations hereunder in connection with this Note or otherwise and all rights that it might have to benefit from, or to participate in, any security for the obligations hereunder as a result of any payment made by a Borrower with respect to the obligations hereunder in connection with this Note or otherwise. Any agreement providing for indemnification, reimbursement or any other arrangement prohibited under this Section shall be null and void. If any payment is made to a Borrower in contravention of this Section, such Borrower shall hold such payment in trust for the Holder and such payment shall be promptly delivered to the Holder for application to the obligations hereunder, whether matured or unmatured.

**(m)** **Security Interest**. The full amount of this Note is secured by the collateral identified and described as security therefor in that certain Pledge Agreement dated as of even date herewith and executed by the Canadian Borrower in favor of the Holder (as the same may from time to time be amended, modified or supplemented or restated, the "***Pledge Agreement***"). Additional rights and obligations of the Holder are set forth in the Pledge Agreement.

**(n)** **Entire Agreement**. This Note constitutes the full and entire understanding and agreement between the parties with regard to the subjects hereof, and no party shall be liable or bound to any other party in any manner by any representations, warranties, covenants and agreements except as specifically set forth herein.

**[*Signature pages follow*]**

The parties have executed this **SECURED PROMISSORY NOTE** as of the date first noted above.

**BORROWERS:**

**SPHERE 3D CORP.**

By: /s/ Peter Tassipoulos

Name: Peter Tassiopoulos
Title: President

E-mail: ______________________

Address:

**HVE INC.**

By: /s/ Peter Tassipoulos

Name: Peter Tassiopoulos
Title: President

E-mail: ______________________

Address:

[*Signature Page – OSI / Sphere Note*]

The parties have executed this **SECURED PROMISSORY NOTE** as of the date first noted above.

**HOLDER:**

**OVERLAND STORAGE, INC.**

By: /s/ Eric Kelly

Name: Eric Kelly
Title: Chief Executive Officer

E-mail: ______

Address: ______

[*Signature Page – OSI / Sphere Note*]

This **PLEDGE AGREEMENT** (this "Agreement"), dated as of November 13, 2018, is made by and among SPHERE 3D CORP., a corporation organized under the laws of Ontario, Canada ("Pledgor"), and Overland Storage, Inc., a California corporation (the "Holder").

**RECITALS**

WHEREAS, Pledgor has issued a Secured Promissory Note, dated as of the date hereof (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its provisions, the "Note") to Holder.

WHEREAS, it is a condition precedent to the making of the Note that Pledgor shall have executed and delivered this Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Holder to make the loan evidenced by the Note, Pledgor hereby agrees as follows:

**1. Definitions**. Except as specifically defined herein, (a) capitalized terms used herein that are defined in the Note shall have their respective meanings ascribed to them in the Note, and (b) unless otherwise defined in the Note, terms that are defined in the U.C.C. are used herein as so defined. As used in this Agreement, the following terms shall have the following meanings:

"Collateral" means, collectively, (a) the Pledged Securities and each addition, if any, thereto and each substitution, if any, therefor, in whole or in part, (b) the certificates representing the Pledged Securities, and (c) the dividends, cash, instruments and other property distributed in respect of and other proceeds of any of the foregoing.

"Event of Default" means an event or condition that constitutes an Event of Default as defined in Section 5.1 hereof.

"Exchange Agreement" means that certain Share Exchange and Buy Out Agreement dated on or about the date hereof by and among Pledgor, FBC Holdings S.à r.l., MF Ventures, LLC, and Silicon Valley Technology Partners, Inc.

"Obligations" means, collectively, all Indebtedness and other obligations now owing or hereafter incurred by the Pledgor to the Holder pursuant to the Note and this Agreement.

"Pledged Securities" means all of the shares of capital stock or other equity interest of Silicon Valley Technology Partners, Inc., a Delaware corporation ("SVTP"), whether now owned or hereafter acquired or created, and all proceeds thereof. As of the date hereof, the existing Pledged Securities are listed on the attached Exhibit A.

"Senior Pledge Agreement" means that certain Security and Pledge Agreement dated on or about the date hereof by and between Pledgor and FBC Holdings S.à r.l.

2. **Grant of Security Interest**. In consideration of and as security for the full and complete payment of all of the Obligations, Pledgor hereby agrees that the Holder shall at all times have, and hereby grants to the Holder, a security interest in all of the Collateral. For the better protection of the Holder hereunder, Pledgor has executed a transfer power, in the form of the attached Exhibit B, with respect to the Pledged Securities and, concurrently herewith, is depositing the Pledged Securities and the aforesaid transfer power with the Holder. Pledgor authorizes the Holder at any time after the occurrence and during the continuance of an Event of Default, to transfer the Pledged Securities into the name of the Holder or the Holder's nominee. Notwithstanding any provision or inference herein or elsewhere to the contrary, the Holder shall have no right to vote the Pledged Securities at any time unless and until an Event of Default shall have occurred and be continuing.

3. **Representations and Warranties**. Pledgor hereby represents and warrants to the Holder as follows:

3.1. Pledgor is the legal record and beneficial owner of, and has good and marketable title to, the Pledged Securities, and the Pledged Securities are not subject to any pledge, lien, mortgage, hypothecation, security interest, charge, option, warrant or other encumbrance whatsoever, nor to any agreement purporting to grant to any third party a security interest in the property or assets of Pledgor that would include such Pledged Securities, except (i) the security interest created by this Agreement or otherwise securing only the Holder, (ii) the Exchange Agreement, and (iii) the Senior Pledge Agreement.

3.2. All of the Pledged Securities have been duly authorized and validly issued, and are fully paid and non-assessable.

3.3. Pledgor has full power, authority and legal right to pledge all of the Pledged Securities pursuant to the terms of this Agreement.

3.4. No consent, license, permit, approval or authorization, filing or declaration with any Governmental Authority, and no consent of any other Person, is required to be obtained by Pledgor in connection with the pledge of the Pledged Securities hereunder, that has not been obtained or made, and is not in full force and effect.

3.5. The pledge, assignment and delivery of the Pledged Securities hereunder creates a valid second priority lien on, and a second priority perfected security interest in, the Pledged Securities and the proceeds thereof. Other than pursuant to this Agreement and the Senior Pledge Agreement, Pledgor has not granted any other liens on, or security interests in, the Pledged Securities.

3.6. The Pledged Securities constitute one hundred percent (100%) of the outstanding capital stock or other equity interest of SVTP owned by Pledgor.

3.7. Pledgor fully anticipates that the Obligations will be repaid without the necessity of selling the Pledged Securities.

3.8. Pledgor has received consideration that is the reasonably equivalent value of the obligations and liabilities that Pledgor has incurred to the Holder. Pledgor is not insolvent, as defined in any applicable state or federal statute, nor will Pledgor be rendered insolvent by the execution and delivery of this Agreement to the Holder or any other documents executed and delivered to the Holder in connection herewith. Pledgor is not engaged or about to engage in any business or transaction for which the assets retained by Pledgor are or will be an unreasonably small amount of capital, taking into consideration the obligations to the Holder incurred hereunder. Pledgor does not intend to, nor does it believe that it will, incur debts beyond Pledgor’s ability to pay such debts as they mature.

3.9. If the Pledged Securities are “restricted securities” within the meaning of Rule 144, or any amendment thereof, promulgated under the Securities Act of 1933, as amended (the “Securities Act”), as determined by counsel for Pledgor, Pledgor further represents and warrants that Pledgor does not have a short position in or any put or other option to dispose of any securities of the same class as the Pledged Securities or any other securities convertible into securities of such class.

4. **Additional Covenants of Pledgor**.

4.1. Pledgor covenants and agrees to defend the right, title and security interest of the Holder in and to the Pledged Securities and the proceeds thereof, and to maintain and preserve the lien and security interest provided for by this Agreement against the claim and demands of all Persons, so long as this Agreement shall remain in effect.

4.2. Pledgor covenants and agrees not to sell, assign, transfer, exchange or otherwise dispose of, or grant any option with respect to, or create, incur or permit to exist any pledge, lien, mortgage, hypothecation, security interest, charge, option or any other encumbrance with respect to any of the Pledged Securities, or any interest therein, or any proceeds thereof, except for (i) the lien and security interest provided for by this Agreement and any security agreement securing only the Holder, (ii) the Exchange Agreement, and (iii) the Senior Pledge Agreement.

4.3. Pledgor covenants and agrees (a) to cooperate, in good faith, with the Holder and to do or cause to be done all such other acts as may be necessary to enforce the rights of the Holder under this Agreement, (b) not to take any action, or to fail to take any action that would be adverse to the interest of the Holder in the Collateral and hereunder, and (c) to make any sale or sales of any portion or all of the Pledged Securities valid and binding and in compliance with any and all applicable laws, regulations, orders, writs, injunctions, decrees or awards of any and all courts, arbitrators or governmental instrumentalities, domestic or foreign, having jurisdiction over any such sale or sales at Pledgor's expense.

5. **Events of Default and Remedies**.

5.1. The occurrence of an Event of Default, as defined in the Note, shall constitute an Event of Default.

5.2. The Holder shall at all times have the rights and remedies of a secured party under the U.C.C. and the Consolidated Laws of New York as in effect from time to time, in addition to the rights and remedies of a secured party provided elsewhere within this Agreement or the Note, or otherwise provided in law or equity.

5.3. Upon the occurrence and during the continuance of an Event of Default hereunder, the Holder, in its discretion, may sell, assign, transfer and deliver any of the Collateral, at any time, or from time to time. No prior notice need be given to Pledgor or to any other Person in the case of any sale of Collateral that the Holder determines to be declining speedily in value or that is customarily sold in any securities exchange, over-the-counter market or other recognized market, but in any other case the Holder shall give Pledgor no fewer than ten days prior notice of either the time and place of any public sale of the Collateral or of the time after which any private sale or other intended disposition thereof is to be made. Pledgor waives advertisement of any such sale and (except to the extent specifically required by the preceding sentence) waives notice of any kind in respect of any such sale. At any such public sale, the Holder may purchase the Collateral, or any part thereof, free from any right of redemption, all of which rights Pledgor hereby waives and releases. After deducting all expenses, and after paying all claims, if any, secured by liens having precedence over this Agreement, the Holder may apply the net proceeds of each such sale to or toward the payment of the Obligations, whether or not then due, in such order and by such division as the Holder in its sole discretion may deem advisable. Any excess, to the extent permitted by law, shall be paid to Pledgor, and the obligors on the Obligations shall remain liable for any deficiency. In addition, the Holder shall at all times have the right to obtain new appraisals of Pledgor or the Collateral, the cost of which shall be paid by Pledgor.

6. **Power of Attorney**. Pledgor hereby authorizes and empowers the Holder to make, constitute and appoint any officer or agent of the Holder as the Holder may select, in its exclusive discretion, as Pledgor's true and lawful attorney-in-fact, with the power to endorse Pledgor's name on all applications, documents, papers and instruments necessary for the Holder to take actions with respect to the Collateral after the occurrence and during the continuance of an Event of Default, including, without limitation, actions necessary for the Holder to assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to any Person or Persons. Pledgor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

7. **Costs and Expenses**. If Pledgor fails to comply with any of its obligations hereunder, the Holder may do so in the name of Pledgor or in the name of the Holder but at Pledgor's expense, and Pledgor hereby agrees to reimburse the Holder in full for all expenses, including reasonable attorneys' fees, incurred by the Holder in enforcing its security interest in the Collateral.

8. **Maximum Liability of Pledgor and Rights of Contribution**. It is the desire and intent of Pledgor and the Holder that this Agreement shall be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. If and to the extent that the obligations of Pledgor under this Agreement would, in the absence of this sentence, be adjudicated to be invalid or unenforceable because of any applicable state or federal law relating to fraudulent conveyances or transfers, then anything in this Agreement or the Note to the contrary notwithstanding, in no event shall the amount of the Obligations secured by this Agreement by Pledgor exceed the maximum amount that (after giving effect to the incurring of the obligations hereunder) would not render the rights to payment of the Holder hereunder void, voidable or avoidable under any applicable fraudulent transfer law. Pledgor hereby agrees that, in connection with the payments made hereunder, Pledgor shall have a right of contribution from the other Borrower, in accordance with applicable law. Such contribution rights shall be waived until such time as the Obligations have been irrevocably paid in full, and Pledgor shall not exercise any such contribution rights until the Obligations have been irrevocably paid in full.

9. **Notice**. All notices, requests, demands and other communications provided for hereunder shall be in writing and mailed or delivered to the addresses set out on the signature pages of the Note. All notices, statements, requests, demands and other communications provided for hereunder shall be deemed to be given or made when delivered (if received during a Business Date, such Business Day, otherwise the following Business Day), or two Business Days after being deposited in the mails with postage prepaid by registered or certified mail, addressed as aforesaid, or sent by facsimile or electronic communication, in each case with telephonic confirmation of receipt. All notices hereunder shall not be effective until received.

10. **No Waiver or Course of Dealing**. No course of dealing between Pledgor and the Holder, nor any failure to exercise, nor any delay in exercising, on the part of the Holder, any right, power or privilege hereunder or under the Note shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. **Remedies Cumulative**. Each right, power or privilege specified or referred to in this Agreement is in addition to any other rights, powers and privileges that the Holder may have or acquire by operation of law, by other contract or otherwise. Each right, power or privilege may be exercised by the Holder either independently or concurrently with other rights, powers and privileges and as often and in such order as the Holder may deem expedient. All of the rights and remedies of the Holder with respect to the Collateral, whether established hereby or by the Note, or by any other agreements or by law shall be cumulative and may be executed singularly or concurrently.

12. **Severability**. The provisions of this Agreement are severable, and, if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

13. **Modifications**. This Agreement may be amended or modified only by a writing signed by Pledgor and the Holder. No waiver or consent granted by the Holder in respect of this Agreement shall be binding upon the Holder unless specifically granted in writing, which writing shall be strictly construed.

14. **Assignment and Successors**. This Agreement shall not be assigned by Pledgor without the prior written consent of the Holder. This Agreement shall be binding upon Pledgor and the successors and permitted assigns of Pledgor, and shall inure to the benefit of and be enforceable and exercisable by the Holder and its respective successors and assigns. Any attempted assignment or transfer without the prior written consent of the Holder shall be null and void.

15. **Termination**. At such time as the Obligations (other than inchoate indemnity obligations) shall have been unconditionally paid in full and the Note terminated and not replaced by any other credit facility with the Holder, this Agreement shall automatically terminate. Upon written request of Pledgor, the Holder shall promptly execute and deliver to Pledgor appropriate releases with respect to the Collateral and return all of the Pledged Securities to Pledgor and shall authorize Pledgor and its designees to file such terminations as Pledgor may reasonably request. Pledgor will indemnify the Holder in all respects for all costs incurred by the Holder in connection with such termination.

16. **Entire Agreement**. This Agreement integrates all of the terms and conditions with respect to the Collateral and supersedes all oral representations and negotiations and prior writings, if any, with respect to the subject matter hereof. If any conflict or inconsistency exists between this Agreement and the Note, the Note shall govern.

17. **Headings; Execution**. The headings and subheadings used herein are for convenience of reference only and shall be ignored in interpreting the provisions of this Agreement. This Agreement may be executed by facsimile signature, which, when so executed and delivered, shall be deemed to be an original.

18. **Subordination**. Notwithstanding anything to the contrary herein, Holder subordinates to FBC HOLDINGS S.À R.L., *a société à responsabilité limitée* incorporated under the laws of Luxembourg with R.C.S. number B.142.133, its successors and assigns ("**Bank**"), any security interest or lien that Holder may have in the Collateral. Notwithstanding the respective dates of attachment or perfection of the security interests of Holder and the security interests of Bank, all now existing and hereafter arising security interests of Bank in the Collateral shall at all times be senior to the security interests of Holder in the Collateral. Holder hereby acknowledges, agrees and covenants that Holder shall not contest, challenge or dispute the validity, attachment, perfection, priority or enforceability of Bank's security interest in the Collateral and (b) acknowledges and agrees that the provisions of this Agreement will apply fully and unconditionally even in the event that Bank's security interest in the Collateral (or any portion thereof) shall be unperfected. Notwithstanding anything herein to the contrary, prior to the termination of the Exchange Agreement and the Senior Pledge Agreement, the requirements of this Agreement to deliver Collateral and any certificates, instruments or documents in relation thereto to Holder shall be deemed satisfied by delivery of such Collateral and such certificates, instruments or documents in relation thereto to Bank.

19. **Governing Law; Submission to Jurisdiction**. **THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF DELAWARE**. The Pledgor hereby irrevocably and unconditionally (i) submits to the exclusive jurisdiction and venue of the state and federal courts located in Delaware, and any appellate court from any thereof in any action or proceeding arising out of or relating to this Agreement and (ii) waive to the fullest extent permitted by applicable law the defense of an inconvenient forum in connection therewith. Pledgor hereby irrevocably appoints HVE Inc., a Delaware corporation (the "Process Agent"), with an office at HVE Inc., 100 Executive Ct., Suite 2, Waxahachie, TX 75165 as its agent to receive on behalf of the Pledgor and its property service of copies of the summons and complaints and any other process which may be served in any such action or proceeding. The Pledgor agrees that the Holder may disclose to any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations of all or part of the Obligations any and all information in the Holder's possession concerning the Pledgor and this Agreement. All notices and other communications to the Pledgor under this Agreement shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail to the Pledgor at the address specified herein or at such other address(es) in the United States as may be specified by the Pledgor in a written notice delivered to the Holder at such office as the Holder may designate for such purpose from time to time in a written notice to the Pledgor.

20**.** **WAIVER OF JURY TRIAL; FINAL AGREEMENT.** EACH OF THE PLEDGOR AND THE HOLDER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OBLIGATIONS (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE NOTE BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES HERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES HERETO.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, the undersigned has caused this Agreement to be executed by its duly authorized representatives as of the date first written above.

**SPHERE 3D CORP.** as Pledgor

By: **/s/ Peter Tassiopoulos**______________________
Name: Peter Tassiopoulos
Title: President

Acknowledged and agreed:

**OVERLAND STORAGE, INC.** as Holder

By: **/s/ Eric Kelly**__________________________
Name: Eric Kelly
Title: Chief Executive Officer

[Signature Page to Pledge Agreement]

# EXHIBIT A

PLEDGED SECURITIES

| Entity | Jurisdiction of Subsidiary | Number of Shares | Certificate Number |
|---|---|---|---|
| Silicon Valley Technology Partners, Inc. | Delaware | 1,879,669 shares of Series A Preferred Stock of SVTP | PS A-1 |

**EXHIBIT B**

FORM OF STOCK TRANSFER POWER

FOR VALUE RECEIVED, SPHERE 3D CORP., a corporation organized under the laws of Ontario, Canada, hereby sells, assigns and transfers unto _______________________ (1,879,669) Shares of the Series A Preferred Stock of SILICON VALLEY TECHNOLOGY PARTNERS, INC., a Delaware corporation, standing in its name on the books of said corporation and represented by Certificate No. PS A-1, herewith and does hereby irrevocably constitute and appoint _________________ attorney to transfer the said stock on the books of the within named corporation with full power of substitution in the premises.

**SPHERE 3D CORP.**

**Date:** ______________

By: _______________________
Name:
Title:

**Sphere 3D Corp. Completes Divesture of Overland Storage**

SAN JOSE, Calif., November 14, 2018 — Sphere 3D Corp. (NASDAQ: ANY) ("Sphere 3D" or the "Company") announced today that it has closed the previously announced transactions contemplated by that certain Share Purchase Agreement dated February 20, 2018 (the "Share Purchase Agreement"), as amended, by and among the Company, Overland Storage, Inc., a wholly owned subsidiary of the Company ("Overland"), and Silicon Valley Technology Partners, Inc., a corporation established by Eric Kelly, the Company's Chief Executive Officer, who currently serves as the chief executive officer and chairman of the board of directors of such corporation ("Purchaser").

Pursuant to the closing of the transactions contemplated under the Share Purchase Agreement (the "Closing"), as described in the press release issued by the Company on November 1, 2018, the Company sold to Purchaser all of the issued and outstanding shares of capital stock of Overland in consideration for the issuance to the Company of shares of preferred stock of Purchaser (the "SVTP Shares") representing 19.9% of the outstanding shares of capital stock of Purchaser as of the Closing, and the release of the Company and all of its subsidiaries (other than Overland) from all the obligations and liabilities under the Company's principal existing indebtedness and assumption thereof by Purchaser. Among other things, in connection with the Closing:

- $6.5 million of the outstanding principal amount of that certain 8% Senior Secured Convertible Debenture, dated December 1, 2014, by and between the Company and FBC Holdings S.A.R.L ("FBC"), having an outstanding principal amount of $24.5 million (as amended, the "Debenture") was converted into 6,500,000 non-voting preferred shares of the Company;

- the Company and its subsidiaries were released as obligors and guarantors under the Debenture and under the Company's Credit Agreement, dated April 6, 2016, as amended and as assigned to FBC, having an outstanding principal amount of $18.9 million; and

- the Subordinated Promissory Note, dated December 11, 2017, by and between Overland and MF Ventures, LLC, having an outstanding principal amount of $2.2 million remained an obligation solely of Overland, and the Company has no obligations pursuant thereto.

The value of the liabilities of the Company that were released upon the Closing exceeded $45.0 million (the amount of the purchase price contemplated by the Purchase Agreement).

In connection with the consummation of the Share Purchase, Eric Kelly resigned as a director of the Company and as Chairman of the Board of Directors of the Company and has been appointed chief executive officer and chairman of the board of directors of Overland.

In addition, the Company entered into a Secured Promissory Note (the “Secured Note”) issued by Overland in favor of the Company and HVE Inc, a wholly-owned subsidiary of the Company, in the principal amount of $500,000. The proceeds from the Secured Note will be used to pay certain expenses on or after the Closing. The Secured Note matures on May 13, 2019 and accrues interest at a rate equal to 8% per annum. The Company granted a security interest to Overland in all the SVTP Shares held by the Company to secure the Company’s obligations under the Secured Note.

For additional information regarding the Closing and the transactions completed in connection therewith, reference is made to the Company’s Current Report on Form 8-K dated the date hereof and filed on EDGAR at www.sec.gov and on SEDAR at www.sedar.com.

**About Sphere 3D**

Sphere 3D Corp. (NASDAQ: ANY) delivers containerization, virtualization, and data management solutions via hybrid cloud, cloud and on-premise implementations through its global reseller network and professional services organization. Sphere 3D, along with its wholly owned subsidiaries, has a strong portfolio of brands, including HVE ConneXions, dedicated to helping customers achieve their IT goals.

For more information, visit www.sphere3d.com. Follow us on Twitter @Sphere3D, @HVEconneXions.

**Safe Harbor Statement**

*This press release contains forward–looking statements, which include, among others, Sphere 3D’s expectations, beliefs, plans, objectives, prospects, financial condition, assumptions or future events or performance, that may involve risks, uncertainties, and assumptions concerning the Company’s business and products, including our ability to continue operations without the business of our former subsidiary, Overland Storage, Inc., our ability to raise additional capital through equity or debt financings, the market adoption, actual performance and functionality of our products; our inability to comply with the covenants in associated with our preferred shares; any increase in our future cash needs; our ability to maintain compliance with NASDAQ Capital Market listing requirements; unforeseen and proposed changes in the course of Sphere 3D’s business or the business of its wholly–owned subsidiaries; the level of success of our collaborations and business partnerships; possible actions by customers, partners, suppliers, competitors or regulatory authorities; and other risks detailed from time to time in our periodic reports contained in our Annual Information Form and other filings with Canadian securities regulators (www.sedar.com) and in periodic reports filed with the United States Securities and Exchange Commission (www.sec.gov). All forward–looking statements speak only as of the date of this written communication. Sphere 3D undertakes no obligation to update any forward–looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise, except as required by law.*

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