

**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): **March 23, 2020**

SPHERE 3D CORP.

(Exact name of registrant as specified in its charter)

Ontario, Canada
(State or other jurisdiction
of incorporation)

001-36532
(Commission File Number)

98-1220792
(IRS Employer Identification No.)

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

M3C 1W3
(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))

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Trading Symbol(s)</u>	<u>Name of Each Exchange on Which Registered</u>
Common Shares	ANY	NASDAQ Capital Market

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.

Item 1.01. Entry into a Material Definitive Agreement.

On March 23, 2020, Sphere 3D Corp. (the "**Company**"), entered into subscription agreements (the "**Subscription Agreement**") by and among the Company and the investors party thereto (each, a "**Subscriber**") for the purchase and sale of 725 units (collectively, the "**Units**" and individually, a "**Unit**") for aggregate gross proceeds of up to \$725,000.00 (the "**Offering**"), with each Unit consisting of (a) a 6% convertible debenture (the "**Convertible Debenture**") in the principal amount of \$1,000.00, which is convertible at \$0.6495 per share into 1,540 common shares of the Company, and (b) a warrant to purchase 1,540 common shares of the Company exercisable at any time on or before the 3rd year anniversary date at an exercise price of \$0.60 per share (the "**Warrant**").

Assuming the Offering is fully subscribed for 725 Units, the Company will issue a total of (a) 1,116,500 common shares of the Company in connection with the exercise of the conversion rights pursuant to the Convertible Debentures, and (b) 1,116,500 common shares of the Company in connection with the exercise of the Warrants.

The Warrant includes a provision restricting the warrant holder from exercising it if the aggregate number of common shares held by the warrant holder equals or exceeds 5% of the issued and outstanding shares of the Company, calculated on a partially converted basis (i.e., assuming the conversion of all rights to receive common shares of the Company held by the warrant holder).

The Offering is anticipated to close on or about March 30, 2020 subject to Nasdaq review and customary closing conditions. The Company intends to use the proceeds from the Offering for general corporate and working capital purposes.

The foregoing description of the Units does not purport to be complete and is qualified in its entirety by reference to the form of (a) the Subscription Agreement, (b) the Convertible Debenture and (c) the Warrant which are attached hereto as Exhibits 10.1, 10.2 and 10.3 respectively and incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth under Item 1.01 above with respect to the Units is incorporated herein by reference. All Units were offered and sold by the Company pursuant to an exemption from the registration requirements of the Securities Act 1933, as amended (the "Securities Act"), pursuant to Section 4(a)(2) thereof and Regulation D promulgated thereunder.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
10.1	Form of Subscription Agreement
10.2	Form of Convertible Debenture
10.3	Form of Warrant

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: March 27, 2020

SPHERE 3D CORP.

By: /s/ Peter Tassiopoulos
Peter Tassiopoulos
Chief Executive Officer

EXHIBIT INDEX

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**SPHERE 3D CORP.
SUBSCRIPTION AGREEMENT FOR
CONVERTIBLE DEBENTURES - NON-BROKERED
(CANADIAN AND OTHER NON-US SUBSCRIBERS)**

TO: SPHERE 3D CORP.

The undersigned (the "**Subscriber**") hereby irrevocably subscribes for and offers to purchase from Sphere 3D Corp. (the "**Corporation**") convertible debentures of the Corporation in increments of \$1,000.00 ("**Convertible Debentures**"), Each Convertible Debenture shall be convertible at the Conversion Price (as defined below) into (a) 1,540 Common Shares (as defined below), and (b) 1,540 Warrants (as defined below). The Subscriber agrees to be bound by the terms and conditions set forth in the attached "Terms and Conditions of Subscription for Convertible Debentures" and acknowledges that the Corporation and its counsel, are relying upon the acknowledgements, representations, warranties and covenants of the Subscriber set forth therein and in the schedules and appendices thereto. The purchase and sale of the Convertible Debenture hereunder forms part of a larger offering of Units for gross proceeds of up to \$2,000,000 to close in one or more tranches (the "**Offering**").

SUBSCRIPTION AND SUBSCRIBER INFORMATION

Please print ALL information (other than signatures), as applicable, in the space provided below

(Name of Subscriber): _____
Account Reference (if applicable): _____
By: _____
Authorized Signature
(Official Capacity or Title – Director
(Name of individual whose signature appears above if different than the name of the subscriber printed above.)
(Subscriber's Address, including Municipality and Province)

Number of Convertible Debentures (in increments of \$1,000): _____
Convertible Debentures: _____
(the "Subscription Price")
If the Subscriber is signing as agent for a principal and is not deemed to be purchasing as principal under NI 45-106 (as defined herein), by virtue of being either (i) a trust company or trust corporation acting on behalf of a fully managed account managed by the trust company or trust corporation; or (ii) a person acting on behalf of a fully managed account managed by it, and in each such case satisfying the criteria set forth in NI 45-106, complete the following and ensure that Schedule A is completed in respect of such principal ("Disclosed Beneficial Purchaser"):
(Name of Disclosed Beneficial Purchaser) _____
(Disclosed Beneficial Purchaser's Address) _____
(Disclosed Beneficial Purchaser's Telephone Number and E-mail Address) _____

Registration Instructions:
(Account Reference, if applicable)

Delivery Instructions as set forth below:

Number and kind of securities of the Corporation held, directly or indirectly, if any (excluding the securities subscribed for hereunder):

INTERPRETATION

Definitions

Whenever used in this Subscription Agreement, unless there is something in the subject matter or context inconsistent therewith, the following words and phrases shall have the respective meanings ascribed to them as follows:

"**Business Day**" means a day other than a Saturday, Sunday or any other day on which the principal chartered banks located in Toronto are not open for business.

"**Closing**" shall have the meaning ascribed to such term in Section Closing. "**Closing Date**" shall have the meaning ascribed to such term in Section Closing. "**Closing Time**" shall have the meaning ascribed to such term in Section Closing. "**Conversion Price**" means \$0.6495 per share.

"**Convertible Debentures**" means the 6% convertible debentures in the aggregate principal amount of up to \$2,000,000, issuable in increments of \$1,000.00, due on the third (3rd) year anniversary of the Closing Date and convertible at the Conversion Price.

"**Common Shares**" means common shares in the capital of the Corporation.

"**Control Person**" means a person, company or combination of persons or companies described in clause (c) of the definition of "distribution" in subsection 1(1) of the *Securities Act* (Ontario).

"**Corporation**" means Sphere 3D Corp. and includes any successor corporation to or of the Corporation.

"**Force Majeure Event**" means any event, action, state, condition or major financial occurrence (including any general moratorium on commercial banking activities in Canada declared by the relevant central banking authority or disruption in commercial banking or security settlement or clearance services in Canada), catastrophe, war or act of terrorism of national or international consequence or any law or regulation which seriously adversely affects or involves, or will seriously adversely affect or involve, the financial markets.

"**Offering**" means the non-brokered offering of Convertible Debenture for proceeds of up to \$2,000,000.

"**Person**" means any individual (whether acting as an executor, trustee administrator, legal representative or otherwise), corporation, firm, partnership, sole proprietorship, syndicate, joint venture, trustee, trust, unincorporated organization or association, and pronouns have a similar extended meaning.

"**Securities Laws**" means, in respect of the Offering, the securities laws, regulations and exchange rules having application thereto and the rules, policies, notices and orders issued by the Securities Regulators having application thereto.

"**Securities Regulators**" means the securities commissions or other securities regulatory authorities of all the Selling Jurisdictions or the relevant Selling Jurisdiction as the context requires.

"**Selling Jurisdictions**" means the provinces of Canada and those jurisdictions outside of Canada in which the Corporation or Subscribers are resident.

"**Subscriber**" means the subscriber for Convertible Debentures as set out on the face page of this Subscription Agreement.

"**Subscribed Convertible Debentures**" means the number of Convertible Debentures set out on the face page of this Subscription Agreement.

"**Subscription Agreement**" means this subscription agreement (including any schedules hereto) and any instrument amending this Subscription Agreement; "**hereof**", "**hereto**", "**hereunder**", "**herein**" and similar expressions mean and refer to this Subscription Agreement and not to a particular Article or Section; and the expression "**Article**" or "**Section**" followed by a number means and refers to the specified Article or Section of this Subscription Agreement.

"**Subscription Price**" shall have the meaning ascribed to such term on the face page of this Subscription Agreement. "**Tax Act**" means the *Income Tax Act* (Canada), as amended, re-enacted or replaced from time to time.

"**Underlying Securities**" means the Common Shares and Warrants issued upon exercise of the conversion right set out in the Convertible Debentures.

"**United States**" means the United States of America, its territories and possessions, any State of the United States and the District of Columbia.

"**U.S. Person**" shall have the meaning ascribed to such term in Rule 902(k) of Regulation S under the U.S. Securities Act.

"**U.S. Securities Act**" means the United States Securities Act of 1933, as amended.

"**Warrants**" means the common share purchase warrants issued upon exercise of the conversion right under the Convertible Debentures, with each whole warrant entitling the holder thereof to acquire one Common Share at any time on or before the three-year anniversary of the Closing Date at an exercise price of \$0.60 per share.

Gender and Number

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine gender and words importing persons shall include firms and corporations and vice versa.

Currency

Unless otherwise specified, all dollar amounts in this Subscription Agreement, including the symbol "\$", are expressed in United States dollars.

Subdivisions, Headings and Table of Contents

The division of this Subscription Agreement into Articles, Sections, Schedules and other subdivisions, the inclusion of headings and the provision of a table of contents are for convenience of reference only and shall not affect the construction or interpretation of this Subscription Agreement. The headings in this Subscription Agreement are not intended to be full or precise descriptions of the text to which they refer. Unless something in the subject matter or context is inconsistent therewith, references herein to an Article, Section, Subsection, paragraph, clause or Schedule are to the applicable article, section, subsection, paragraph, clause or schedule of this Subscription Agreement.

SCHEDULES

Description of Schedules

The following are the Schedules attached to and incorporated in this Subscription Agreement by reference and deemed to be a part hereof:

Schedule "A" - Certificate of Accredited Investor

Subscription for Convertible Debentures

The Subscriber hereby confirms its irrevocable subscription for and offer to purchase the Subscribed Convertible Debentures from the Corporation, and hereby tenders the Subscription Price, which, upon acceptance by the Corporation of this Subscription Agreement, will constitute a binding agreement of the Subscriber with the Corporation to purchase from the Corporation, and, on the part of the Corporation, to sell to the Subscriber, the Subscribed Convertible Debentures, on and subject to the terms and conditions set out in this Subscription Agreement, for the Subscription Price which is payable as described in Article 4 hereto.

Acceptance and Rejection of Subscription by the Corporation

The Subscriber acknowledges and agrees that notwithstanding Section 3.1 above, the Corporation reserves the right, in its absolute discretion, to reject this subscription for Convertible Debentures, in whole or in part, at any time prior to the Closing Time. If this subscription is rejected in whole, any cheques or other forms of payment delivered to the Corporation on account of the Subscription Price will be promptly returned to the Subscriber without interest or deduction. If this subscription is accepted only in part, a cheque representing any refund of the Subscription Price for that portion of the subscription for Convertible Debentures which is not accepted will be promptly delivered to the Subscriber without interest or deduction. The Subscriber acknowledges and agrees that the acceptance of this Subscription Agreement will be conditional upon the sale of the Convertible Debentures to the Subscriber being exempt from any prospectus and registration requirements of applicable Securities Laws. The Corporation will be deemed to have accepted this Subscription Agreement upon the delivery at Closing of the certificates representing the Convertible Debentures in accordance with the provisions hereof.

Offering

The Subscriber acknowledges that the Convertible Debentures, the Underlying Securities and the Common Shares underlying the Warrants have not been and will not be registered under the U.S. Securities Act or applicable state securities laws and such securities may not be offered or sold, directly or indirectly, in the United States, except pursuant to applicable exemptions from the registration requirements of applicable laws. Each Offered Unit is comprised of one Convertible Debenture, issued in the principal amount at increments of \$1000.00, and one Warrant with each Warrant entitling the holder thereof to acquire one Common Share at any time on or before the third (3rd) year anniversary of the Closing Date at an exercise price of \$0.60

CLOSING

Closing

Delivery and sale of the Subscribed Convertible Debentures and payment of the Subscription Price will be completed (the "**Closing**") at the offices of the Corporation's counsel, at 11:00 a.m. (Toronto time) (the "**Closing Time**") on one or more closings, the first of which to occur on or about [•], or such other place or dates or times as the Corporation may determine (each a "**Closing Date**").

Conditions of Closing

The Subscriber acknowledges and agrees that as the sale of the Convertible Debentures will not be qualified by a prospectus, such sale and issuance is subject to the condition that the Subscriber (or, if applicable, any others for whom it is contracting hereunder) return to the Corporation all documentation required by the Securities Laws. The Subscriber acknowledges and agrees that the Corporation may provide the Securities Regulators with a list setting forth the identities of the Disclosed Beneficial Purchasers of the Convertible Debentures. Notwithstanding that the Subscriber may be purchasing Convertible Debentures as agent on behalf of an undisclosed principal, the Subscriber agrees to provide, on request, particulars as to the identity of each such undisclosed principal as may be required by the Corporation in order to comply with the foregoing.

The Subscriber acknowledges and agrees that the obligations of the Corporation hereunder are conditional on the accuracy of the representations and warranties of the Subscriber contained in this Subscription Agreement as of the date of this Subscription Agreement, and as of the Closing Time as if made at and as of the Closing Time, and the fulfillment of the following additional conditions as soon as possible and in any event not later than the Closing Time:

unless other arrangements acceptable to the Corporation have been made, payment by the Subscriber of the Subscription Price by certified cheque or bank draft in United States dollars payable to "Sphere 3D Corp.";

the Subscriber having properly completed, signed and delivered this Subscription Agreement to:

Sphere 3D Corp.
895 Don Mills Road, Building 2
Toronto, ON M3C 1W3
Attention: Peter Tassiopoulos, Chief Executive Officer
Fax: (858) 495-4267
Email: Peter.Tassiopoulos@sphere3d.com

the Subscriber having properly completed, signed and delivered **Schedule "A" - Accredited Investor Certificate** - and **Exhibit "1"** thereto, and if an individual "accredited investor" as described in paragraphs (j), (k) or (l) of Exhibit "1" attached to Schedule "A" complete and sign the Individual Accredited Investor Risk Acknowledgement Form - **Exhibit "2"** to Schedule "A" thereto.

such other documents as may be required pursuant to the terms of this Subscription Agreement.

ACKNOWLEDGEMENTS, COVENANTS, REPRESENTATIONS AND WARRANTIES OF THE SUBSCRIBER

Representations, Warranties and Covenants of the Subscriber

The Subscriber, on its own behalf and, if applicable, on behalf of each Disclosed Beneficial Purchaser for whom it is acting, hereby represents and warrants to, and covenants with, the Corporation as follows as at the date hereof and as at the Closing Time and acknowledges that the Corporation and its counsel, are relying on such representations and warranties in connection with the transactions contemplated herein:

The Subscriber and (if applicable) each Disclosed Beneficial Purchaser for whom it is acting is resident or, if not an individual, has its head office, in the jurisdiction set out on the face page of this Subscription Agreement. The address set forth on the face page of this Subscription Agreement is the residence or place of business of the Subscriber, or the residence or place of business of any Disclosed Beneficial Purchaser for whom the Subscriber is acting, and such address was not obtained or used solely for the purpose of acquiring Convertible Debentures and the Subscriber and any Disclosed Beneficial Purchaser was solicited to purchase Convertible Debentures solely in such jurisdiction.

The Subscriber and each Disclosed Beneficial Purchaser for whom it is acting is not a U.S. Person and is not acting for the account of benefit of a person in the United States.

The Subscriber is aware that the Offered Shares, Underlying Securities and the Common Shares underlying the Warrants have not been and will not be registered under the U.S. Securities Act or the securities legislation of any State and that such securities may not be offered or sold directly or indirectly in the United States without registration under the U.S. Securities Act and applicable state securities laws or compliance with requirements of an exemption from registration therefrom and it acknowledges that the Corporation has no present intention of filing a registration statement under the U.S. Securities Act or applicable state securities laws in respect of such securities.

The Convertible Debentures have not been offered to the Subscriber in the United States, and the individuals making the order to purchase the Convertible Debentures and executing and delivering this Subscription Agreement on behalf of the Subscriber were not in the United States when the order was placed or when this Subscription Agreement was executed and delivered.

The Subscriber undertakes and agrees that it will not offer or sell the Convertible Debentures or any of the Underlying Securities or the Common Shares underlying the Warrants in the United States unless such securities are registered under the U.S. Securities Act and the securities laws of all applicable States of the United States, or an exemption from such registration requirements is available.

The Subscriber, on its own behalf and (if applicable) on behalf of each Disclosed Beneficial Purchaser for whom it is acting, represents, warrants and certifies as set out in Schedule "A" hereto and further certifies that the Subscriber and (if applicable) each such Disclosed Beneficial Purchaser, as the case may be, falls into one or more of the categories of prospectus exempt purchasers listed in Schedule "A" hereto (as specified by the Subscriber in such Schedule).

The Subscriber has duly and properly completed, executed and delivered to the Corporation within applicable time periods, the certificate and appendix set forth in Schedule "A" hereto and the representations, warranties and certifications contained therein are true and correct as at the date hereof and will be true and correct at the Closing Time.

The execution and delivery of this Subscription Agreement, the performance and compliance with the terms hereof, the subscription for and purchase of the Subscribed Convertible Debentures and the completion of the transactions described herein by the Subscriber will not result in any material breach of, or be in conflict with or constitute a material default under, or create a state of facts which, after notice or lapse of time, or both, would constitute a material default under any term or provision of the constating documents, by-laws or resolutions of the Subscriber or any Disclosed Beneficial Purchaser for whom the Subscriber is acting, the Securities Laws or any other laws applicable to the Subscriber or any Disclosed Beneficial Purchaser for whom the Subscriber is acting, any agreement to which the Subscriber or any Disclosed Beneficial Purchaser for whom the Subscriber is acting is a party, or any judgment, decree, order, statute, rule or regulation applicable to the Subscriber or any Disclosed Beneficial Purchaser for whom the Subscriber is acting.

The Subscriber is subscribing for the Subscribed Convertible Debentures as principal for its own account and not for the benefit of any other Person (within the meaning of applicable Securities Laws) and not with a view to the resale or distribution of all or any of the Convertible Debentures or the Underlying Securities or if it is not subscribing as principal, it acknowledges that the Corporation may be required by law to disclose to certain Securities Regulators and/or other authorities the identity of each Disclosed Beneficial Purchaser of the Subscribed Convertible Debentures for whom it is acting.

In the case of a subscription for the Subscribed Convertible Debentures by the Subscriber acting as trustee or agent (including, for greater certainty, a portfolio manager or comparable adviser) for a principal, the Subscriber is duly and properly authorized to execute and deliver this Subscription Agreement and all other necessary documentation in connection with such subscription on behalf of such Disclosed Beneficial Purchaser, who is subscribing as principal for its own account, not for the benefit of any other Person and not with a view to the resale or distribution of the Convertible Debentures or the Underlying Securities, and this Subscription Agreement has been duly authorized, executed and delivered by or on behalf of and constitutes a legal, valid and binding agreement of such principal, enforceable in accordance with its terms against such principal, and the Subscriber acknowledges that the Corporation may be required by law to disclose the identity of such Disclosed Beneficial Purchaser for whom the Subscriber is acting.

In the case of a subscription for the Subscribed Convertible Debentures by the Subscriber acting as principal, this Subscription Agreement has been duly and properly authorized, executed and delivered by, and constitutes a legal, valid and binding agreement of, the Subscriber. This Subscription Agreement is enforceable in accordance with its terms against the Subscriber and (if applicable) any Disclosed Beneficial Purchaser on whose behalf the Subscriber is acting.

If the Subscriber is:

a corporation, the Subscriber is duly incorporated and is validly subsisting under the laws of its jurisdiction of incorporation and has all requisite legal and corporate power and authority to execute and deliver this Subscription Agreement, to subscribe for the Subscribed Convertible Debentures as contemplated herein and to observe and perform its obligations under the terms of this Subscription Agreement;

a partnership, syndicate or other form of unincorporated organization, the Subscriber has the necessary legal capacity and authority to execute and deliver this Subscription Agreement and to observe and perform its covenants and obligations hereunder and has obtained all necessary approvals in respect thereof; or

an individual, the Subscriber is of the full age of majority and is legally competent to execute this Subscription Agreement and to observe and perform his or her covenants and obligations hereunder.

There is no person acting or purporting to act in connection with the transactions contemplated herein who is entitled to any brokerage or finder's fee. If any person establishes a claim that any fee or other compensation is payable in connection with this subscription for the Subscribed Convertible Debentures, the Subscriber covenants to indemnify and hold harmless the Corporation with respect thereto and with respect to all costs reasonably incurred in the defence thereof.

Except for the Subscriber's knowledge regarding its subscription for Subscribed Convertible Debentures hereunder, the Subscriber is not purchasing Convertible Debentures with knowledge of any "material fact" or "material change" (as those terms are defined in the applicable Securities Laws) in the affairs of the Corporation which has not been generally disclosed to the public.

No person has made to the Subscriber any written or oral representations:

that any person will resell or repurchase any of the Convertible Debentures; that any person will refund the Subscription Price; as to the future price or value of the Convertible Debentures; or

that there is any guarantee that the Convertible Debentures or any of the Underlying Securities will be listed and posted for trading on a stock exchange or that application has been made to list and post any of the Convertible Debentures or the Underlying Securities for trading on any stock exchange.

This subscription for Convertible Debentures has not been made through or as a result of, and the distribution of Convertible Debentures is not being accompanied by, any form of advertisement, including, without limitation, in printed public media, radio, television, internet or telecommunications, including electronic display (such as the internet), or as part of a general solicitation.

None of the funds the Subscriber is using to purchase the Subscribed Convertible Debentures is, to the knowledge of the Subscriber, proceeds obtained or derived, directly or indirectly, as a result of illegal activities.

The funds representing the Subscription Price which will be advanced by the Subscriber to the Corporation hereunder will not represent proceeds of crime for the purposes of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) (the "**PCMLA**") and the Subscriber acknowledges that the Corporation may in the future be required by law to disclose the Subscriber's name and other information relating to this Subscription Agreement and the Subscriber's subscription hereunder, on a confidential basis, pursuant to the PCMLA. To the best of the knowledge of the Subscriber: (a) none of the subscription funds to be provided by the Subscriber: (i) have been or will be derived from or related to any activity that is deemed criminal under the law of Canada, the United States, or any other jurisdiction; or (ii) are being tendered on behalf of a person or entity who has not been identified to the Subscriber; and (b) it shall promptly notify the Corporation if the Subscriber discovers that any of such representations ceases to be true, and will provide the Corporation with appropriate information in connection therewith.

The Subscriber, and any Disclosed Beneficial Purchaser for whom it is acting, deals at arm's length and will continue to deal at arm's length (within the meaning of the Tax Act and applicable Securities Laws) with the Corporation.

The Subscriber, and any Disclosed Beneficial Purchaser for whom it is acting, is not a Control Person of the Corporation, will not become a Control Person by virtue of this subscription for the Convertible Debentures, and does not intend to act in concert with any other Person to form a control group of the Corporation.

Where the Subscriber is resident outside of Canada, the delivery of this subscription, the acceptance hereof by the Corporation and the issuance of Subscribed Convertible Debentures to the Subscriber complies with all applicable laws of the Subscriber's jurisdiction of residence and domicile and will not cause the Corporation or any of its officers or directors to become subject to or require any registration, disclosure, prospectus or other reporting requirement to which the Corporation is not currently subject.

If the Subscriber is a corporation, syndicate, partnership or other form of entity (other than an investment fund, as defined in National Instrument 45-106), the Subscriber was not created or is not being used solely to purchase or hold the Subscribed Convertible Debentures and has a bona fide purpose other than investing in the Subscribed Convertible Debentures.

Acknowledgments and Agreements of the Subscriber

The Subscriber, on its own behalf and, if applicable, on behalf of each Disclosed Beneficial Purchaser for whom it is acting, acknowledges and agrees as follows:

The Subscriber has received a copy of the Term Sheet setting out the principal terms of the Offering.

The Subscriber acknowledges that the Corporation contemplates completing the Offering and that the aggregate gross proceeds of the Offering will be up to \$2,000,000, with closing to occur on one or more Closing Dates.

No securities commission, agency, governmental authority, regulatory body, stock exchange or other regulatory body has reviewed or passed on the merits of the Subscribed Convertible Debentures.

The Subscriber understands that the Convertible Debentures are not listed on any stock exchange and may not be resold except in accordance with limited exemptions under applicable securities legislation and regulatory policies.

The Subscribed Convertible Debentures shall be subject to statutory resale restrictions under the Securities Laws of the province of Ontario, and the jurisdiction in which the Subscriber resides and under other applicable securities laws, and the Subscriber covenants that it will not resell the Subscribed Convertible Debentures except in compliance with such laws, and the Subscriber acknowledges that it is solely responsible (and the Corporation is not in any way responsible) for such compliance.

The Subscriber's ability to transfer the Subscribed Convertible Debentures is limited by, among other things, applicable Securities Laws.

The certificates representing the Convertible Debentures, the Underlying Securities and the Common Shares underlying the Warrants (if applicable) will bear the following legends as required by National Instrument 45-102 - *Resale of Securities* and with the necessary information inserted and the Subscriber agrees to comply with the terms of such legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) <INSERT DISTRIBUTION DATE >, AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY."

The Subscriber and each Disclosed Beneficial Purchaser for whom it is acting shall execute and file, together with the prescribed fees, all documentation required by the applicable Securities Laws or by any legislation or order in force in its jurisdiction of residence or to which it may be subject, within the time limits prescribed to permit the subscription for, and issuance of, the Subscribed Convertible Debentures.

If required by applicable Securities Laws or by the Corporation, the Subscriber and each Disclosed Beneficial Purchaser for whom it is acting will execute, deliver and file or assist the Corporation in filing such reports, undertakings and other documents with respect to the issue of the Subscribed Convertible Debentures as may be required by any securities commission, stock exchange or other regulatory authority.

The Subscriber, and each Disclosed Beneficial Purchaser for whom it is acting, have been advised to consult their own legal advisors with respect to trading in the Convertible Debentures or the Underlying Securities and with respect to the resale restrictions imposed by the Securities Laws of the province or territory in which the Subscriber resides and other applicable securities laws, and acknowledges that no representation has been made respecting the applicable hold periods imposed by the Securities Laws or other resale restrictions applicable to such securities which restrict the ability of the Subscriber (or others for whom it is acting) to resell such securities that the Subscriber (or others for whom it is acting) is solely responsible to find out what these restrictions are and the Subscriber is solely responsible (and the Corporation is not in any way responsible) for compliance with applicable resale restrictions and the Subscriber is aware that it (or the Disclosed Beneficial Purchaser for whom it is acting) may not be able to resell such securities except in accordance with limited exemptions under the Securities Laws and other applicable securities laws.

The Subscriber has not received or been provided with a prospectus, offering memorandum (within the meaning of the Securities Laws) or any sales or advertising literature in connection with the Offering and the Subscriber's decision to subscribe for Convertible Debentures was not based upon, and the Subscriber has not relied upon, any verbal or written representations as to facts made by or on behalf of the Corporation. The Subscriber's decision to subscribe for the Convertible Debentures was based solely upon information about the Corporation which is publicly available (any such information having been obtained by the Subscriber).

The Corporation afforded the Subscriber and his, her or its advisor full and complete access to all information concerning the business and financial condition of the Corporation (to the extent that such information was possessed by the Corporation or could be acquired by the Corporation without unreasonable effort or expense) that the Subscriber deemed necessary in order to evaluate the merits and risks of an investment in the Convertible Debentures. The Subscriber further represents and warrants that his, her or its advisors have received satisfactory and complete information concerning the business and financial condition of the Corporation in response to all inquiries made by them in respect thereof.

The Corporation and its counsel are relying on the representations, warranties and covenants contained herein and in the applicable Schedules attached hereto to determine the Subscriber's eligibility to subscribe for the Convertible Debentures under applicable Securities Laws and the Subscriber (on its own behalf and, if applicable, on behalf of any Disclosed Beneficial Purchaser) agrees to indemnify the Corporation and each of its directors, officers, shareholders, employees and agents (including legal counsel) against all losses, claims, costs, expenses, damages or liabilities which any of them may suffer or incur as a result of or arising from reliance thereon. The Subscriber undertakes to immediately notify the Corporation of any change in any statement or other information relating to the Subscriber set forth in such applicable Schedules which takes place prior to the Closing Time.

The Corporation is relying on an exemption from the requirement to provide the Subscriber with a prospectus under the Securities Laws and, as a consequence of acquiring Convertible Debentures pursuant to such exemption, (i) certain protections, rights and remedies provided by the Securities Laws, including statutory rights of rescission and/or damages, will not be available to the Subscriber; (ii) the Subscriber may not receive information that would otherwise be required by applicable Securities Laws; and (iii) the Corporation is relieved from certain obligations that would otherwise apply under applicable Securities Laws.

(p) The Subscriber agrees that this offer is made for valuable consideration and may not be withdrawn, cancelled, terminated or revoked by the Subscriber.

(q) The Subscriber, and each Disclosed Beneficial Purchaser for whom it is acting, is responsible for obtaining such independent legal, tax and investment advice as it considers appropriate in connection with the execution, delivery and performance of this Subscription Agreement and the transactions contemplated under this Subscription Agreement, including without limitation for the purposes of giving representations, warranties and covenants under this Subscription Agreement.

1. There is no government or other insurance covering the Convertible Debentures.

The Subscriber acknowledges that the Corporation may complete additional financings in the future in order to develop the proposed business of the Corporation and to fund its ongoing development. There is no assurance that such financing will be available and if available, on reasonable terms. Any such future financings may have a dilutive effect on current shareholders, including the Subscriber. If such future financings are not available, the

Corporation may be unable to fund its ongoing development and the lack of capital resources may result in the failure of its business venture;

The Subscriber acknowledges that all costs and expenses incurred by the Subscriber (including any fees and disbursements of any special counsel or other advisors retained by the Subscriber) relating to the purchase of the Subscribed Convertible Debentures shall be borne by the Subscriber.

The Subscriber and each Disclosed Beneficial Purchaser for whom it is acting acknowledge that the Convertible Debentures are speculative in nature and that there are risks inherent in any business enterprise including risks associated with the purchase of Convertible Debentures and the Subscriber and each Disclosed Beneficial Purchaser for whom it is acting has such knowledge, sophistication and experience in business and financial matters as to be capable of evaluating the merits and risks of its investment in the Subscribed Convertible Debentures, fully understands the speculative nature of the Convertible Debentures and is able to bear the economic risk of loss of its entire investment.

Reliance on Representations, Warranties, Covenants and Acknowledgements

The Subscriber acknowledges and agrees that the representations, warranties, covenants and acknowledgements made by the Subscriber in this Subscription Agreement are made with the intention that they may be relied upon by the Corporation and its counsel in determining the Subscriber's eligibility (and, if applicable, the eligibility of others for whom the Subscriber is acting) to purchase Convertible Debentures under the Securities Laws. The Subscriber further agrees that by accepting Convertible Debentures, the Subscriber shall be representing and warranting that such representations, warranties, acknowledgements and covenants are true as at the Closing Time with the same force and effect as if they had been made by the Subscriber at the Closing Time and that they shall survive the purchase by the Subscriber of Convertible Debentures and shall continue in full force and effect notwithstanding any subsequent disposition by the Subscriber of any of the Subscribed Convertible Debentures.

SURVIVAL OF REPRESENTATIONS, WARRANTIES AND COVENANTS

Survival of Representations, Warranties and Covenants of the Corporation

The representations, warranties and covenants of the Corporation contained in this Subscription Agreement shall survive the Closing and, notwithstanding such Closing or any investigation made by or on behalf of the Subscriber with respect thereto, shall continue in full force and effect for the benefit of the Subscriber.

Survival of Representations, Warranties and Covenants of the Subscriber

The representations, warranties and covenants of the Subscriber contained in this Subscription Agreement shall survive the Closing and, notwithstanding such Closing or any investigation made by or on behalf of the Corporation shall continue in full force and effect for the benefit of the Corporation.

COLLECTION OF PERSONAL INFORMATION

Collection of Personal Information

The Subscriber (on its own behalf and, if applicable, on behalf of each Disclosed Beneficial Purchaser for whose benefit the Subscriber is acting):

- (a) acknowledges, consents and authorizes the Corporation to collect the Subscriber's (and any Disclosed Beneficial Purchaser's) personal information for the purpose of completing the Subscriber's subscription;
- (b) acknowledges and consents to the Corporation retaining the personal information for as long as permitted or required by applicable law or business practices;
- (c) acknowledges, consents and authorizes the Corporation to deliver to the Ontario Securities Commission personal information (such as full name, residential address and telephone number) pertaining to the Subscriber (and any Disclosed Beneficial Purchaser) if the Subscriber is resident in Ontario or otherwise subject to the securities legislation of Ontario;

- (d) acknowledges and consents to the fact that the Corporation may be required by applicable Securities Laws, stock exchange rules and Investment Dealers Association of Canada rules, or other applicable securities laws, to provide regulatory authorities any personal information provided by the Subscriber respecting itself (and any Disclosed Beneficial Purchaser);
- (e) acknowledges that this information is being collected indirectly by the Ontario Securities Commission (as applicable), and may be collected by other Securities Regulators (as applicable), under the authority granted to it in applicable Securities Laws;
- (f) if resident in Ontario or otherwise subject to the securities legislation of Ontario acknowledges that this information is being collected for the purposes of the administration and enforcement of the securities legislation of Ontario, and acknowledges that this information is being collected by the other Securities Regulators (as applicable) for the purposes of the administration and enforcement of the Securities Laws;
- (g) acknowledges that the public official in Ontario who can answer questions about the Ontario Securities Commission's indirect collection of such information is the Administrative Assistant to the Director of Corporate Finance, Suite 1903, Box 55, 20 Queen Street West, Toronto, Ontario M5H 3S8, who may be contacted at (416) 593-3684; and
- (h) represents and warrants that it has the authority to provide the consents, acknowledgements and authorizations set out in this paragraph on behalf of all Disclosed Beneficial Purchasers.

MISCELLANEOUS

Further Assurances

Each of the parties hereto upon the request of each of the other parties hereto, whether before or after the Closing Time, shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, deeds, documents, assignments, transfers, conveyances, powers of attorney and assurances as may reasonably be necessary or desirable to complete the transactions contemplated herein.

Notices

Any notice, direction or other instrument required or permitted to be given to any party hereto shall be in writing and shall be sufficiently given if delivered personally, or transmitted by facsimile tested prior to transmission to such party, as follows:

in the case of the Corporation, to:

Sphere 3D Corp.
895 Don Mills Road, Building 2
Toronto, ON M3C 1W3

Attention: Peter Tassiopoulos, Chief Executive Officer
Facsimile: (858) 495-4267

Any such notice, direction or other instrument, if delivered personally, shall be deemed to have been given and received on the day on which it was delivered, provided that if such day is not a Business Day then the notice, direction or other instrument shall be deemed to have been given and received on the first Business Day next following such day and if transmitted by fax, shall be deemed to have been given and received on the day of its transmission, provided that if such day is not a Business Day or if it is transmitted or received after the end of normal business hours then the notice, direction or other instrument shall be deemed to have been given and received on the first Business Day next following the day of such transmission.

Any party hereto may change its address for service from time to time by notice given to each of the other parties hereto in accordance with the foregoing provisions.

Time of the Essence

Time shall be of the essence of this Subscription Agreement and every part hereof.

No Partnership

Nothing herein shall constitute or be construed to constitute a partnership of any kind whatsoever among the Subscriber and the Corporation.

Costs and Expenses

All costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Subscription Agreement and the transactions herein contemplated shall be paid and borne by the party incurring such costs and expenses.

Applicable Law

This Subscription Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the internal laws of the Province of Ontario and the federal laws of Canada applicable therein, without reference to any conflicts of law rules that would impose a law of another jurisdiction. Any and all disputes arising under this Subscription Agreement, whether as to interpretation, performance or otherwise, shall be subject to the non-exclusive jurisdiction of the courts of the Province of Ontario and each of the parties hereto hereby irrevocably attorns to the jurisdiction of the courts of such province.

Entire Agreement

This Subscription Agreement, including the Schedules hereto, constitutes the entire agreement between the parties with respect to the transactions contemplated herein and cancels and supersedes any prior understandings, agreements, negotiations and discussions between the parties. There are no representations, warranties, terms, conditions, undertakings or collateral agreements or understandings, express or implied, between the parties hereto other than those expressly set forth in this Subscription Agreement or in any such agreement, certificate, affidavit, statutory declaration or other document as aforesaid. This Subscription Agreement may not be amended or modified in any respect except by written instrument executed by each of the parties hereto.

Severability

The invalidity, illegality or unenforceability of any provision of this Subscription Agreement shall not affect the validity, legality or enforceability of any other provision hereof.

Survival

The covenants, representations and warranties contained in this Subscription Agreement shall survive the closing of the transactions contemplated hereby, and shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

Interpretation

The headings used in this Subscription Agreement have been inserted for convenience of reference only and shall not affect the meaning or interpretation of this Subscription Agreement or any provision hereof.

Counterparts

This Subscription Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same Subscription Agreement and shall be legally effective to create a valid and binding agreement between the Subscriber and the Corporation. Counterparts may be delivered either in original, faxed or PDF form and the parties adopt any signature received as original signatures of the parties.

If less than a complete copy of this Subscription Agreement is delivered to the Corporation at Closing, the Corporation and its advisors are entitled to assume that the Subscriber accepts and agrees to all the terms and conditions of the pages not delivered at Closing unaltered.

Assignment

This Subscription Agreement may not be assigned by either party except with the prior written consent of the other parties hereto.

Enurement

This Subscription Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, successors (including any successor by reason of the amalgamation or merger of any party), administrators and permitted assigns.

Language

The parties hereto acknowledge and confirm that they have requested that this Subscription Agreement as well as all notices and other documents contemplated hereby be drawn up on the English language. Les parties aux présentes reconnaissent et confirment qu'elles ont convenu que la présente convention ainsi que tous les avis et documents qui s'y rattachent soient rédigés dans la langue anglaise.

Acceptance

The Corporation hereby accepts the subscription for Subscribed Convertible Debentures as set forth on the face page of this Subscription Agreement on the terms and conditions contained in the Subscription Agreement (including all applicable schedules) this ___ day of _____, 2020.

SPHERE 3D CORP.

Per:

Authorized Signing Officer

SCHEDULE "A"
CERTIFICATE
(TO BE COMPLETED BY ALL SUBSCRIBERS)

TO: SPHERE 3D CORP. (the "Corporation")

Capitalized terms used in this Schedule "A" and defined in the subscription agreement to which this Schedule "A" is attached have the meaning defined in such subscription agreement unless otherwise defined herein.

In connection with the purchase by the undersigned purchaser (the "**Purchaser**") of Convertible Debentures of the Corporation, the undersigned subscriber or, if applicable, the principal on whose behalf the undersigned is purchasing as agent (the "**Subscriber**" for the purposes of this Certificate), hereby represents, warrants, covenants and certifies to the Corporation that the Subscriber at the date of this Certificate and as of the Closing Date is and will be resident in a province or territory of Canada and is an "accredited investor" within the meaning of National Instrument 45106 and if resident in Ontario within the meaning of section 73.3(2) of the Ontario *Securities Act* by virtue of satisfying one of the indicated criteria as set out in Exhibit "1" to this Accredited Investor Certificate and as so marked by the Subscriber.

If the Subscriber is an individual "accredited investor" within the meaning of National Instrument 45106 by virtue of satisfying one of the indicated criteria in paragraphs (j), (k) or (l) as set out in Exhibit "1" to this Accredited Investor Certificate, the Subscriber has also completed and signed the Form 45106F9 Form for Individual Accredited Investors attached as Exhibit "2" to this Accredited Investor Certificate.

Dated:

Print name of Subscriber

By: _____
Signature

Print name of Signatory (if different from Subscriber)

Director
Title

**** Please check the appropriate box****

"accredited investor" means:

- (a) except in Ontario, a **Canadian financial institution**, or a Schedule III bank;
- (a.1) in Ontario, a financial institution that is (i) a bank listed in Schedule I, II or III of the *Bank Act* (Canada); (ii) an association to which the *Cooperative Credit Associations Act* (Canada) applies or a central cooperative credit society for which an order has been made under subsection 473(1) of that Act; or (iii) a loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative or credit union league or federation that is authorized by a statute of Canada or Ontario to carry on business in Canada or Ontario, as the case may be;
- (b) except in Ontario, the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada);
- (c) a **subsidiary** of any **person** referred to in paragraph (a) or (b), if the **person** owns all of the voting securities of the **subsidiary**, except the voting securities required by law to be owned by directors of that **subsidiary**;
- (d) except in Ontario, a **person** registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer;
- (d.1) in Ontario, a person or company registered under the securities legislation of a province or territory of Canada as an adviser or dealer, except as otherwise prescribed by the regulations;
- (e) an **individual** registered under the securities legislation of a jurisdiction of Canada, as a representative of a **person** referred to in paragraph (d);
- (e1) an **individual** formerly registered under the securities legislation of a jurisdiction of Canada, other than an individual formerly registered solely as a representative of a limited market dealer under one or both of the Securities Act (Ontario) or the Securities Act (Newfoundland and Labrador);
- (f) the Government of Canada or a jurisdiction of Canada, or any crown corporation, agency or wholly owned entity of the Government of Canada or a jurisdiction of Canada;
- (g) a municipality, public board or commission in Canada and a metropolitan community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec;
- (h) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government;
- (i) a pension fund that is regulated by the Office of the Superintendent of Financial Institutions (Canada), a pension commission or similar regulatory authority of a jurisdiction of Canada;
- (j) an **individual** who, either alone or with a **spouse**, beneficially owns **financial assets** having an aggregate realizable value that, before taxes but net of any **related liabilities**, exceeds Cdn\$1,000,000, **IF YOU INITIAL THIS CATEGORY, YOU MUST COMPLETE, INITIAL, AND SIGN THE RISK ACKNOWLEDGEMENT FORM (Form 45-106F9 - Form for Individual Accredited Investors) ATTACHED AS EXHIBIT "2"**;
- (j1) an **individual** who beneficially owns **financial assets** having an aggregate realizable value that, before taxes but net of any **related liabilities**, exceeds Cdn\$5,000,000;

- (k) an **individual** whose net income before taxes exceeded Cdn\$200,000 in each of the two most recent calendar years or whose net income before taxes combined with that of a **spouse** exceeded Cdn\$300,000 in each of the two most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year, **IF YOU INITIAL THIS CATEGORY, YOU MUST COMPLETE, INITIAL, AND SIGN THE RISK ACKNOWLEDGEMENT FORM (Form 45-106F9 - Form for Individual Accredited Investors) ATTACHED AS EXHIBIT "2"**;
- (l) an **individual** who, either alone or with a **spouse**, has **net assets** of at least Cdn\$5,000,000, **IF YOU INITIAL THIS CATEGORY, YOU MUST COMPLETE, INITIAL, AND SIGN THE RISK ACKNOWLEDGEMENT FORM (Form 45-106F9 - Form for Individual Accredited Investors) ATTACHED AS EXHIBIT "2"**;
- (m) a person, other than an **individual** or **investment fund**, that has **net assets** of at least Cdn\$5,000,000 as shown on its most recently prepared financial statements;
- (n) an **investment fund** that distributes or has distributed its securities only to:
 - (i) a person that is or was an accredited investor at the time of the distribution,
 - (ii) a person that acquires or acquired securities in the circumstances referred to in sections 2.10 [Minimum amount investment], or 2.19 [Additional investment in investment funds] of NI 45106, or
 - (iii) a person described in paragraph (i) or (ii) that acquires or acquired securities under section 2.18 [Investment fund reinvestment] of NI 45106;
- (o) an **investment fund** that distributes or has distributed securities under a prospectus in a jurisdiction of Canada for which the regulator or, in Québec, the securities regulatory authority, has issued a receipt;
- (p) a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction, acting on behalf of a **fully managed account** managed by the trust company or trust corporation, as the case may be;
- (q) a person acting on behalf of a **fully managed account** managed by that person, if that person is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction;
- (r) a registered charity under the *Income Tax Act* (Canada) that, in regard to the trade, has obtained advice from an eligibility adviser or an adviser registered under the securities legislation of the jurisdiction of the registered charity to give advice on the securities being traded;
- (s) an entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in paragraphs (a) to (d) or paragraph (i) in form and function;
- (t) a **person** in respect of which all of the owners of **interests**, direct, **indirect** or beneficial, except the voting securities required by law to be owned by directors, are persons that are accredited investors;
- (u) an **investment fund** that is advised by a person registered as an adviser or a person that is exempt from registration as an adviser;
- (v) a **person** that is recognized or designated by the securities regulatory authority or, except in Ontario and Québec, the regulator as an accredited investor; or

- (w) a trust established by an accredited investor for the benefit of the accredited investor's family members of which a majority of the trustees are accredited investors and all of the beneficiaries are the accredited investor's **spouse**, a former **spouse** of the accredited investor or a parent, grandparent, brother, sister, child or grandchild of that accredited investor, of that accredited investor's **spouse** or of that accredited investor's former **spouse**.

For the purposes hereof:

"**Canadian financial institution**" means (a) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under section 473(1) of that Act, or (b) a bank, loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada.

"**financial assets**" for the purposes of paragraphs (j) and (j.1) means (a) cash; (b) securities; or (c) a contract of insurance, a deposit or an evidence of a deposit that is not a security for the purposes of securities legislation. These financial assets are generally liquid or relatively easy to liquidate. The value of the Purchaser's personal residence or other real estate is not included in a calculation of financial assets.

"**fully managed account**" means an account of a client for which a person makes the investment decisions if that person has full discretion to trade in securities for the account without requiring the client's express consent to a transaction.

"**indirect interest**" means an economic interest in the person referred to in paragraph (t).

"**investment fund**" means a mutual fund or a non-redeemable investment fund, and, for greater certainty in British Columbia, includes an EVCC and a VCC.

"**net assets**" for the purposes of paragraph (l) means all of the Purchaser's total assets minus all of the Purchaser's total liabilities. The calculation of total assets includes the value of a purchaser's personal residence and the calculation of total liabilities includes the amount of any liability (such as a mortgage) in respect of the Purchaser's personal residence. The value attributed to assets should reasonably reflect their estimated fair value. Income tax should be considered a liability if the obligation to pay it is outstanding at the time of the distribution of the securities to the Purchaser.

"**NI 45106**" means National Instrument 45106 *Prospectus Exemptions*.

"**person**" includes (a) an individual; (b) a corporation; (c) a partnership, trust, fund and an association, syndicate, organization or other organized group of persons, whether incorporated or not; and (d) an individual or other person in that person's capacity as a trustee, executor, administrator or personal or other legal representative.

"**related liabilities**" means (a) liabilities incurred or assumed for the purpose of financing the acquisition or ownership of

financial assets; or (b) liabilities that are secured by **financial assets**. "**spouse**" means an individual who,

- (a) is married to another individual and is not living separate and apart within the meaning of the *Divorce Act* (Canada), from the other individual;
- (b) is living with another individual in a marriage-like relationship, including a marriage-like relationship between individuals of the same gender, or
- (c) in Alberta, is an individual referred to in paragraph (a) or (b), or is an adult interdependent partner within the meaning of the *Adult Interdependent Relationships Act* (Alberta).

"**subsidiary**" means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary.

Affiliate and Control

- A. an issuer is an affiliate of another issuer if (a) one of them is the subsidiary of the other; or (b) each of them is controlled by the same person.
- B. a person (first person) is considered to control another person (second person) if (a) the first person beneficially owns or directly or indirectly exercises control or direction over securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation; (b) the second person is a partnership, other than a limited partnership, and the first person holds more than 50% of the interests of the partnership; or (c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

Form 45-106F9
Form for Individual Accredited Investors

WARNING!
 This investment is risky. Don't invest unless you can afford to lose all the money you pay for this investment.

SECTION 1 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER	
1. About your investment	
Type of securities: 6% convertible debentures issued in increments of \$1,000.00, convertible at \$0.6495 per unit into units consisting of (a) 1,540 common shares, and (b) 1,540 nontransferable warrants which entitles the holder to purchase one common share at a purchase price of \$0.60 per share for a period of 3 years from the closing date.	Issuer: Sphere 3D Corp.
Purchased from: <i>[Instruction: Indicate whether securities are purchased from the issuer or a selling security holder.]</i> The Issuer.	
SECTIONS 2 TO 4 TO BE COMPLETED BY THE PURCHASER	
2. Risk acknowledgement	
This investment is risky. Initial that you understand that:	
Risk of loss – You could lose your entire investment of \$US 150,000.00. <i>[Instruction: Insert the total dollar amount of the investment.]</i>	
Liquidity risk – You may not be able to sell your investment quickly – or at all.	
Lack of information – You may receive little or no information about your investment.	
Lack of advice – You will not receive advice from the salesperson about whether this investment is suitable for you unless the salesperson is registered. The salesperson is the person who meets with, or provides information to, you about making this investment. To check whether the salesperson is registered, go to www.aretheyregistered.ca .	
3. Accredited investor status	
You must meet at least one of the following criteria to be able to make this investment. Initial the statement that applies to you. <i>(You may initial more than one statement.)</i> The person identified in section 6 is responsible for ensuring that you meet the	

definition of accredited investor. That person, or the salesperson identified in section 5, can help you if you have questions about whether you meet these criteria.	
<ul style="list-style-type: none"> Your net income before taxes was more than \$200,000 in each of the 2 most recent calendar years, and you expect it to be more than \$200,000 in the current calendar year. <i>(You can find your net income before taxes on your personal income tax return.)</i> 	
<ul style="list-style-type: none"> Your net income before taxes combined with your spouse's was more than \$300,000 in each of the 2 most recent calendar years, and you expect your combined net income before taxes to be more than \$300,000 in the current calendar year. 	
<ul style="list-style-type: none"> Either alone or with your spouse, you own more than \$1 million in cash and securities, after subtracting any debt related to the cash and securities. 	
<ul style="list-style-type: none"> Either alone or with your spouse, you have net assets worth more than \$5 million. <i>(Your net assets are your total assets (including real estate) minus your total debt.)</i> 	
4. Your name and signature	
By signing this form, you confirm that you have read this form and you understand the risks of making this investment as identified in this form.	
First and last name (please print):	
Signature:	Date:
SECTION 5 TO BE COMPLETED BY THE SALESPERSON	
5. Salesperson information	
<i>[Instruction: The salesperson is the person who meets with, or provides information to, the purchaser with respect to making this investment. That could include a representative of the issuer or selling security holder, a registrant or a person who is exempt from the registration requirement.]</i>	
First and last name of salesperson (please print):	
Telephone:	Email:
Name of firm (if registered):	
SECTION 6 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER	
6. For more information about this investment	
For investment in a non-investment fund Sphere 3D Corp. 895 Don Mills Road, Building 2	

Toronto, ON M3C 1W3
Attention: Peter Tassiopoulos, Chief Executive Officer
Fax: (358) 495-4267
Email: Peter.Tassiopoulos@sphere3d.com
Website: www.sphere3d.com
For more information about prospectus exemptions, contact your local securities regulator. You can find contact information at www.securities-administrators.ca.

Form instructions:

1. This form does not mandate the use of a specific font size or style but the font must be legible.
2. The information in sections 1, 5 and 6 must be completed before the purchaser completes and signs the form.
3. The purchaser must sign this form. Each of the purchaser and the issuer or selling security holder must receive a copy of this form signed by the purchaser. The issuer or selling security holder is required to keep a copy of this form for 8 years after the distribution.

UNLESS PERMITTED UNDER APPLICABLE SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THIS SECURITY TO OR FOR THE BENEFIT OF A CANADIAN PURCHASER UNTIL THE DATE THAT IS FOUR MONTHS AND A DAY AFTER [•], 2020.

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT.

THIS DEBENTURE IS NOT TRANSFERABLE EXCEPT IN COMPLIANCE WITH SECTION 5.11 HEREOF AND THE ABOVE LEGENDS.

SPHERE 3D CORP.

UNSECURED CONVERTIBLE DEBENTURES

Number of Convertible Debentures: [•]

Date: [•], 2020

ARTICLE 1
PRINCIPAL AND INTEREST

1.1 **Promise to Pay**

FOR VALUE RECEIVED, the undersigned, SPHERE 3D CORP., a corporation amalgamated under the laws of the Province of Ontario (the "Company"), hereby acknowledges itself indebted and promises to pay to • and its successors and permitted assigns (the "Holder"), as it may direct, on the Maturity Date (as hereinafter defined) or on such earlier date as the principal amount hereof may become due in accordance with the provisions hereof, on presentation and surrender of this Debenture in accordance with the provisions hereof at the offices of the Company, the principal amount of • Dollars (\$•) in lawful money of United States (the "Principal Amount"), and to pay interest ("Interest") on the Principal Amount outstanding from time to time (after as well as before maturity, default and judgment) at a rate equal to six percent (6%) per annum (the "Interest Rate"). Interest shall accrue and be calculated monthly, not in advance, at the Interest Rate, shall compound semi-annually, and shall be payable by the Company, subject to the repayment provisions contained herein, on the Maturity Date or on such earlier date as the Interest may become due in accordance with the provisions hereof. Interest shall accrue commencing on the Closing Date (as hereafter defined) and shall be calculated on the basis of the actual days elapsed and on the basis of a year of 365 days.

1.2 **Purpose of the Loan**

The Company shall use the Loan to settle outstanding obligations of the Company for working capital and general corporate purposes.

1.3 **Voluntary Prepayment**

The Company shall be entitled to voluntarily prepay any amounts outstanding hereunder without the prior written consent of the Holder.

1.4 Designation and Priority

This Debenture is one of several six percent (6%) unsecured convertible debentures to be issued by the Company on or about the date hereof in an aggregate principal amount of up to Two Million Dollars (\$2,000,000.00) issuable in increments of \$1,000.00 (collectively, the "**Convertible Debentures**"), each of which Convertible Debentures shall be in substantially the same form as this Debenture, shall bear interest in accordance with Section 1.1 hereof and shall be convertible in accordance with Article 3 hereof. Each Convertible Debenture shall rank equally and ratably without discrimination, preference or priority with all other Convertible Debentures. For greater certainty, the Obligations of the Company evidenced by any Convertible Debenture shall not be superior in right of payment to the Obligations evidenced by any other Convertible Debenture. The ranking of the Convertible Debentures set out in this Section 1.4 shall apply in all events and circumstances regardless of the date of the Debenture or the date of any advance or advances made to the Company by the holders of the Convertible Debentures. The provisions of this Debenture shall be binding on the Company, the Holder and all Persons claiming through or under them respectively and any Person shall be deemed to have notice of these provisions.

ARTICLE 2 DEFINITIONS, INTERPRETATIONS AND GENERAL PROVISIONS

2.1 Interpretation

In this Debenture, unless there is something in the subject matter or context inconsistent therewith:

- (a) "**Affiliate**" has the meaning specified in the *Business Corporations Act* (Ontario);
- (b) "**As If Converted Basis**" at any time, means that all Convertible Debentures outstanding at that time will be deemed to have been fully converted, in accordance with the rights, privileges, restrictions and conditions attached thereto, into Common Shares and the Common Shares issuable as a result thereof will be deemed to have been issued and to form part of the holdings of the person entitled to receive such Common Shares;
- (c) "**Business**" means the business carried on by the Company;
- (d) "**Business Day**" means any day, other than Saturday, Sunday or any civic or statutory holiday in the City of Toronto, Ontario;
- (e) "**Change of Control**" means any event whereby any Person or any Persons acting jointly or in concert (as that term is used in the Securities Act) with such Person, together with any Affiliate of any such Person, become(s) the beneficial owner(s) of shares of the Company, or securities exercisable or convertible into shares of the Company, carrying more than fifty percent (50%) of the votes for the election of directors and the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the Company;
- (f) "**Closing Date**" means the date hereof;
- (g) "**Common Shares**" means the authorized common shares in the capital of the Company, as currently constituted, and any shares into which such common shares may be changed, converted, exchanged or reclassified from time to time;
- (h) "**Company**" has the meaning given thereto in Section 1.1;

- (i) "**Contract**" means any contract (i) involving aggregate payments to or by the Company in excess of Two Hundred and Fifty Thousand Dollars (\$250,000) during any year; or (ii) which if terminated would cause a Material Adverse Change, including, without limitation, the Convertible Debentures;
- (j) "**Conversion Price**" means \$0.6495 per Common Share, subject to adjustment as provided in Section 3.3;
- (k) "**Convertible Debentures**" has the meaning given thereto in Section 1.4;
- (l) "**Date of Conversion**" has the meaning given thereto in Section 3.2(b);
- (m) "**Debenture**" means this unsecured convertible debenture of the Company as same may be revised, restated, replaced or supplemented from time to time;
- (n) "**Director**" means a director of the Company from time to time;
- (o) "**Event of Default**" has the meaning given thereto in Section 4.1;
- (p) "**Exchange**" means The Nasdaq Stock Market;
- (q) "**Governmental Body**" means any government, parliament, legislature, or any regulatory authority, agency, commission or board of any government, parliament or legislature, or any court or (without limitation to the foregoing) any other law, regulation or rule-making entity (including any central bank, fiscal or monetary authority or authority regulating banks), having or purporting to have jurisdiction in the relevant circumstances, or any Person acting or purporting to act under the authority of any of the foregoing (including any arbitrator);
- (r) "**Holder**" has the meaning given thereto in Section 1.1 above;
- (s) "**Interest**" has the meaning given thereto in Section 1.1;
- (t) "**Interest Conversion Price**" has the meaning given thereto in Section 3.1;
- (u) "**Interest Rate**" has the meaning given thereto in Section 1.1;
- (v) "**Investors**" means the Holder and the Other Investors;
- (w) "**Law**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws (including zoning by-laws) and regulations, and all applicable official directives, orders, judgments and decrees, consents, exemptions, approvals, licences, guidelines and policies of any Governmental Body (whether or not having the force of law) relating to such Person, property, transaction or event, whether applicable in Canada or any other jurisdiction;
- (x) "**Loan**" means, at any time, the accommodations of credit made pursuant to this Debenture;

- (y) "**Majority of Investors**" means seventy-five percent (75%) of the Investors, determined on a pro-rata basis, based on the outstanding Obligations owing by the Company to each of them, respectively, pursuant to their respective Convertible Debentures;
- (z) "**Material Adverse Change**" means, as of any date of determination, any change, circumstance, state of facts or occurrence (or series of occurrences) including any litigation which, in the reasonable credit discretion of the Holder, has or is reasonably likely to have a Material Adverse Change on:
- (i) the business, assets, liabilities, operations, results of operations, financial condition, or prospects of the Company,
 - (ii) the ability of the Company to carry on its Business, or
 - (iii) the ability of the Company to perform any of its obligations hereunder or under any Contract;
- (aa) "**Maturity Date**" means [•], 2023, unless this Debenture is converted earlier pursuant to and in accordance with the provisions hereof;
- (bb) "**Obligations**" includes, without limitation, the Principal Amount, Interest (at the Interest Rate) and any and all costs, fees and expenses incurred by the Holder in connection with this Debenture;
- (cc) "**Other Debentures**" means the Convertible Debentures issued by the Company to the Other Investors on the date hereof contemporaneously with the issue of this Debenture;
- (dd) "**Other Investors**" means other purchasers of Convertible Debentures;
- (ee) "**Person**" means an individual, natural person, partnership, company, corporation, joint stock company, trust, unincorporated association, joint venture, government, Governmental Body or any other entity, whether acting in an individual, fiduciary or other capacity;
- (ff) "**Principal Amount**" has the meaning given thereto in Section 1.1;
- (gg) "**Securities Act**" means the *Securities Act* (Ontario), as amended, replaced or supplemented from time to time;
- (hh) "**Subscription Agreement**" means the subscription agreement accepted by the Company and dated the date hereof pursuant to which, *inter alia*, the Holder subscribed for this Debenture;
- (ii) "**Taxes**" means all taxes of any kind or nature whatsoever including, without limitation, income taxes, sales or value-added taxes, levies, stamp taxes, royalties, duties, and all fees, deductions, compulsory loans and withholdings imposed, levied, collected, withheld or assessed as of the date hereof or at any time in the future, by any Governmental Body having power to tax, together with penalties, fines, additions to tax and interest thereon; and

(jj) "This Debenture", "hereto", "herein", "hereby", "hereunder", "hereof" and similar expressions refer to this Debenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto.

2.2 Plurality and Gender

Words importing the singular number only shall include the plural and vice versa, and words importing gender shall include the feminine and masculine genders.

2.3 Headings, etc.

The division of this Debenture into Articles, Sections, Subsections and paragraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Debenture.

2.4 Day Not a Business Day

In the event that any day on or before which any action is required to be taken hereunder is not a Business Day, then such action shall be required to be taken at or before the requisite time on the next succeeding day that is a Business Day.

2.5 Reference to Law

Reference herein to any Law means such Law as amended, modified, codified or re-enacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder.

2.6 Currency

Any reference in this Debenture to "**Dollars**", "**dollars**" or the sign "\$" shall be a reference to the currency of the United States.

ARTICLE 3 CONVERSION

3.1 Conversion Privilege

Subject to and upon compliance with the provisions of this Article 3, the Holder shall have the right, at its option, at any time up to and including the Maturity Date, to convert the whole, and not less than the whole, of the Principal Amount, and all accrued and unpaid interest thereon, into fully paid and non-assessable Common Shares. Upon exercise of the conversion privilege in this Article 3, each Convertible Debenture shall be converted into 1,540 Common Shares of the Company (as adjusted pursuant to Section 3.3), and any accrued and unpaid Interest shall be converted into fully paid and non-assessable Common Shares at the "Market Price" (as such term is defined pursuant to applicable rules and policies of the Exchange) at the Date of Conversion. In the event that the Common Shares are not listed for trading at the relevant time on the Exchange, the Interest Conversion Price (as defined below) for any accrued and unpaid Interest shall be determined in accordance with the rules and policies of any stock exchange upon which the Common Shares are then trading, and if the Common Shares are not then listed for trading on any stock exchange, the Interest Conversion Price (as defined below) for any accrued and unpaid Interest shall be determined by the board of directors of the Company, acting reasonably (the "**Interest Conversion Price**").

3.2 Manner of Exercise of Right to Convert

- (a) If the Holder wishes to convert this Debenture into Common Shares, it shall surrender such Debenture to the Company together with the Conversion Form set forth in Schedule "A" hereto, duly executed by the Holder, irrevocably exercising its right to convert such Debenture in accordance with the provisions of this Article 3. Thereupon the Holder or its nominee or assignee shall be entitled to be entered in the books of the Company as at the Date of Conversion as the holder of the number of Common Shares into which such Convertible Debenture (including any accrued and unpaid Interest) is convertible in accordance with the provisions hereof and, as soon as practicable thereafter, the Company shall deliver to such Holder or, subject as aforesaid, its nominee or assignee, a certificate for such Common Shares and, if applicable, a cheque in the amount payable under Section 3.4 in respect of fractional shares, if any.
- (b) For the purposes hereof, the date of conversion of the Debenture (the "**Date of Conversion**") shall be deemed to be the date on which it is surrendered in accordance with the provisions hereof and, in the case of a Debenture so surrendered by mail or other means of delivery, the date on which it is received by the Company during regular business hours on a Business Day.
- (c) Upon surrender of this Debenture for conversion in accordance with this Section 3.2, the Holder will be entitled to receive 1,540 shares for each Convertible Debenture (as adjusted pursuant to Section 3.3), plus that number of Common Shares equal to the quotient obtained when the aggregate of the accrued and unpaid Interest is divided by the Interest Conversion Price. The Common Shares issued upon conversion shall be entitled to all rights and privileges accorded to holders of record of Common Shares on and after the Date of Conversion, from which date they will for all purposes be and be deemed to be issued and outstanding as fully paid and non-assessable Common Shares.

3.3 Adjustment Provisions

- (a) If and whenever at any time prior to the Maturity Date, the Company shall:

- (i) subdivide or redivide the outstanding Common Shares into a greater number of Common Shares; or
- (ii) reduce, combine or consolidate the outstanding Common Shares into a smaller number of Common Shares,

the Conversion Price in effect on the effective date of such subdivision, redivision, reduction, combination or consolidation, as the case may be, shall, in the case of the events referred to in Sections 3.4(a)(i) above, be decreased in proportion to the increase in the number of outstanding Common Shares resulting from such subdivision or redivision or shall, in the case of the events referred to in Section 3.3(a)(ii) above, be increased in proportion to the decrease in the number of outstanding Common Shares resulting from such reduction, combination or consolidation on such effective or record date. Such adjustment shall be made successively whenever any event referred to in this Section 3.3(a) shall occur.

- (b) If and whenever at any time prior to the Maturity Date, the Company shall: (i) issue Common Shares (or securities convertible into or exchangeable for Common Shares) to the holders of all or substantially all of the outstanding Common Shares by way of stock dividend; (ii) declare a cash dividend on the Common Shares; or (iii) make a distribution to all or substantially all the holders of its outstanding Common Shares of: (A) shares of any class other than Common Shares (or other than securities convertible into or exchangeable for Common Shares), (B) rights, options or warrants (other than rights, options or warrants referred to in Section 3.3(b)(i)), (C) evidences of its indebtedness, or (D) assets (including dividends paid in the ordinary course), then in each of the foregoing cases the Company shall at the same time make or declare the equivalent issuance, dividend or distribution on the Convertible Debentures on an As If Converted Basis. In this Section 3.3(b) the term "**dividends paid in the ordinary course**" shall include the value of any securities or other property or assets distributed in lieu of cash dividends paid in the ordinary course at the option of shareholders.

- (c) If and whenever at any time after the date hereof and prior to the Maturity Date, there is a reclassification of the Common Shares at any time outstanding or a change of the Common Shares into other shares or into other securities or other capital reorganization (other than as set out in Section 3.3 hereof), or a consolidation, amalgamation or merger of the Company with or into any other corporation or other entity (other than a consolidation, amalgamation or merger which does not result in any reclassification of the outstanding Common Shares or a change of the Common Shares into other shares), or a transfer of the undertaking or assets of the Company as an entirety or substantially as an entirety to another corporation or other entity in which the holders of Common Shares are entitled to receive shares, other securities or other property (any of such events being called a "**Capital Reorganization**"), any Holder who exercises the right to convert Convertible Debentures into Common Shares pursuant to Convertible Debentures then held after the effective date of such Capital Reorganization will be entitled to receive, and will accept for the same aggregate consideration in lieu of the number and percentage outstanding of Common Shares to which such Holder was previously entitled upon such conversion after giving effect to the consolidation, the aggregate number of shares, other securities or other property which such Holder would have been entitled to receive as a result of such Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number and percentage outstanding of Common Shares to which such holder was previously entitled upon conversion after giving effect to the consolidation. The Company shall take all steps necessary to ensure that, on a Capital Reorganization, the Holder will receive the aggregate number of shares, other securities or other property to which it is entitled as a result of the Capital Reorganization.
- (d) In any case in which this Section 3.3 shall require that an adjustment shall become effective immediately after a record date for an event referred to herein, the Company may defer, until the occurrence of such event, issuing to the Holder before the occurrence of such event, the additional Common Shares issuable upon such conversion by reason of the adjustment required by such event before giving effect to such adjustment; provided, however, that the Company shall deliver to the Holder an appropriate instrument evidencing the Holder's right to receive such additional Common Shares upon the occurrence of the event requiring such adjustment and the right to receive any distributions made on such additional Common Shares declared in favour of holders of record of Common Shares on and after the Date of Conversion or such later date as the Holder would, but for the provisions of this Section 3.3(d), have become the holder of such additional Common Shares pursuant to Section 3.3.

- (e) The adjustments or equivalent distribution entitlements provided for in this Section 3.3 are cumulative and shall apply to successive subdivisions, redivisions, reductions, combinations, consolidations, distributions, issues or other event resulting in any adjustment or equivalent distribution entitlements under the provisions of this Section, provided that, notwithstanding any other provision of this Section, no adjustment of the Conversion Price shall be required unless such adjustment would require an increase or decrease of at least one percent (1%) in the Conversion Price then in effect; provided, however, that any adjustments which by reason of this Section 3.3(e) are not required to be made shall be carried forward and taken into account in any subsequent adjustment.
- (f) For greater certainty, no adjustment in the Conversion Price shall be made in respect of any event described in Section 3.3(b) where the Holder is entitled to participate in such event on an As If Converted Basis.
- (g) In the event of any question arising with respect to the adjustments provided herein, such question will be conclusively determined by the Company's auditors who shall have access to all necessary records of the Company and such determination will be binding upon the Company and the Holder.

3.4 No Requirement to Issue Fractional Shares

The Company shall not issue fractional Common Shares upon the conversion of this Debenture. If any fractional interest in a Common Share would, except for the provisions of this Section 3.4, be deliverable upon the conversion of the Principal Amount, or all accrued and unpaid Interest thereon, of this Debenture, the Company shall, in lieu of delivering any certificate of such fractional interest, satisfy such fractional interest by paying to the Holder of such surrendered Debenture an amount equal to an identical fraction of the Conversion Price or Interest Conversion Price, as applicable, of the Common Shares on any of the Date of Conversion.

3.5 Taxes and Charges on Conversion

The Company will from time to time promptly pay or make provision for the payment of all Taxes which may be imposed by applicable Laws (except income tax or security transfer tax, if any) which shall be payable with respect to the issuance or delivery of Common Shares to the Holder upon conversion of this Debenture.

3.6 Certificate as to Adjustment

The Company shall from time to time, immediately after the occurrence of any event which requires an adjustment or readjustment as provided in Section 3.3, deliver a notice to the Investors specifying the nature of the event requiring the same and the amount of the adjustment or readjustment necessitated thereby including the resulting Conversion Price and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based. Such notice and the amount of the adjustment specified therein shall, subject to the provisions of Sections 3.4 and 3.5 and absent manifest error, be conclusive and binding on all interested parties.

3.7 Notice of Special Matters

The Company covenants that, so long as this Debenture remains outstanding, it will give notice to the Holder of its intention to fix a record date for any event referred to in Section 3.3 which may give rise to an adjustment in the Conversion Price and such notice shall specify the particulars of such event and the record date or the effective date, as applicable, for such event, provided that the Company shall only be required to specify in such notice such particulars of such event as shall have been fixed and determined on the date on which such notice is given. Except where the Investors otherwise consent in writing, such notice shall be given not less than fourteen (14) days prior to the applicable record date.

The Company covenants that it will at all times reserve and keep available out of its authorized share capital such number of Common Shares as shall then be issuable upon the conversion of the Principal Amount and Interest on this Debenture. All Common Shares which shall so be issuable shall be, upon issuance, duly and validly issued, fully paid and non-assessable.

**ARTICLE 4
DEFAULT AND ENFORCEMENT**

4.1 Events of Default

The happening of any of the following events or conditions shall constitute an event of default ("**Event of Default**") hereunder:

- (a) **Failure to Pay Principal Amount.** If the Company makes default in payment of the Principal Amount on the Maturity Date or when the same otherwise becomes due under any provision hereof;
- (b) **Failure to Pay Interest.** If the Company fails to make a payment of any accrued and unpaid Interest when due;
- (c) **Default in Other Covenants.** If, other than in respect of any covenant to pay, there is any default or failure in the observance or performance of any other act hereby or in the Subscription Agreement required to be done or any other material covenant or condition hereby or in the Subscription Agreement required to be observed or performed and such default or failure has not been cured within thirty (30) days;
- (d) **False Representations, etc.** If any representation, warranty, certificate, statement or report of the Company made or given herein or otherwise in connection hereunder is false or erroneous or misleading in any material respect at the time it was made or given;
- (e) **Insolvency.** If the Company is unable to pay its debts as such debts become due, or is, or is adjudged or declared to be, or admits to being, bankrupt or insolvent;
- (f) **Voluntary Proceedings.** If the Company makes a general assignment for the benefit of creditors, or any proceedings or filing is instituted or made by the Company seeking relief on its behalf as debtor, or to adjudicate it to a bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment recomposition of it or its debts under any Law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its properties or assets; or the Company takes any corporate action to authorize any of the actions set forth in this Section 4.1(i);
- (g) **Involuntary Proceedings.** If any notice of intention is filed or any proceeding or filing is instituted or made against the Company in any jurisdiction seeking to have an order for relief entered against it as debtor or to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding-up, reorganization, arrangement, adjustment or composition of it or its debts under any Law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its properties or assets or seeking possession, foreclosure or retention, or sale or other disposition of, or other proceedings to enforce security over, all or a substantial part of the assets of the Company unless the same is being contested actively and diligently in good faith by appropriate and timely proceedings and is dismissed, vacated or stayed within thirty (30) days of institution thereof;

- (h) **Receiver, etc.** If a receiver, liquidator, trustee, sequestrator or other officer with like powers is appointed with respect to, or an encumbrancer takes possession of, or forecloses or retains, or sells or otherwise disposes of, or otherwise proceeds to enforce security over all or a substantial part of the properties or assets of the Company or gives notice of its intention to do so;
- (i) **Execution, Distress.** If any writ, attachment, execution, sequestration, extent, distress or any other similar process becomes enforceable against the Company or if a distress or any analogous process is levied against all or a substantial part of the properties or assets of the Company;
- (j) **Improper Use of Proceeds.** If the Company does not use the proceeds of the Loan in accordance with Section 1.2 hereof; and
- (k) **Listing.** If the Company fails to: (i) list the Common Shares issuable on conversion of the Convertible Debentures and to maintain the listing of its Common Shares on the Exchange or such other stock exchange as determined by the Company's board of directors; and (ii) maintain its status as a reporting issuer not in default in those Canadian jurisdictions in which it is a reporting issuer as of the date hereof.

4.2 **Notice of Event of Default**

The Company shall give notice in writing to the Holder of the occurrence of any Event of Default or other event which, with the lapse of time or giving of notice or otherwise, would be an Event of Default, forthwith upon becoming aware thereof. Such written notice shall specify the nature of such default or Event of Default and the steps being taken to remedy the same.

4.3 **Consequences of an Event of Default**

Upon the occurrence and during the continuance of an Event of Default and upon delivery to the Company of a notice in writing signed by the Majority of Holders, the Principal Amount and any accrued and unpaid Interest shall, at the option of the Holder, become immediately due and payable.

4.4 **Set-Off**

Upon the occurrence and during the continuance of an Event of Default, the Holder may from time to time set off the Obligations under this Debenture against any and all deposits at any time held by the Holder for the account of the Company and any other indebtedness at any time owing by the Holder to the Company, whether or not the Majority of Holders shall have issued a notice pursuant to Section 4.3 or otherwise made any demand hereunder and whether or not any of such obligations may be unliquidated, contingent or unmatured.

ARTICLE 5
GENERAL MATTERS

5.1 **No Registration**

Neither the issuance and sale of the securities represented by this Convertible Debenture nor the Common Shares into which these securities are exercisable have been registered under the United States Securities Act of 1933, as amended (the "U.S. Securities Act") or applicable state securities laws. These securities may not be offered for sale, sold, transferred or assigned unless registered under the U.S. Securities Act and any applicable state securities laws or unless an exemption from such registration is available, and the Corporation and its transfer agent has received an opinion of counsel of recognized standing in form and substance reasonably satisfactory to them to such effect.

5.2 **Amalgamation**

The Company acknowledges that if it amalgamates with any other corporation or corporations: (a) the term "**Company**", where used herein shall extend to and include each of the amalgamating corporations and the amalgamated corporation; and (b) the term, "**Obligations**", where used herein shall extend to and include the Obligations of each of the amalgamating corporations and the amalgamated corporation.

5.3 **Costs and Expenses**

The Company shall pay all reasonable costs, fees and expenses of the Holder, whether directly or for services rendered (including, without limitation, reasonable solicitors' and other professional costs, fees and expenses) in connection with the preparation, negotiation and documentation of this Debenture and any and all documents ancillary thereto and under any other document delivered pursuant to this Debenture provided funds are advanced as described herein. Such costs, fees and expenses shall form part of the Obligations.

5.4 **General Interest Provisions**

Notwithstanding any other provision of this Debenture, in no event shall the aggregate "interest" (as that term is defined in section 347 of the *Criminal Code* (Canada)) paid or payable pursuant to this Debenture exceed the effective annual rate of interest on the "credit advanced" (as defined therein) lawfully permitted under section 347 of the *Criminal Code* (Canada). The effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles over the term of this Debenture, and in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Holder will be conclusive for the purposes of such determination. If at any time the implementation of any provision hereof results in a payment or an obligation to make a payment in contravention of this Section 5.4, the amount of the excess shall be applied as a partial prepayment of Principal and the obligation to make such excess payment shall be deemed a severable obligation. The Company represents and warrants to the Holder that it has not incurred, and will not incur, any charges or expenses pursuant to this Debenture which may be considered to be "interest" in an aggregate amount which is in contravention of section 347 of the *Criminal Code* (Canada). A certificate of the Holder as to each amount and/or each rate of interest payable hereunder from time to time shall, in the absence of manifest error, be conclusive evidence of such amount and of such rate.

5.5 **Performance by Holder**

If the Company fails to perform any of its obligations hereunder, the Holder may, after notice to the Company, but shall not be obligated to, perform any or all such obligations, and all costs, charges, expenses, fees, outlays and premiums incurred by the Holder in connection therewith shall be payable by the Company forthwith upon demand by the Holder and shall bear interest from the date incurred by the Holder at the Interest Rate, compounded semi-annually and payable on demand and shall form part of the Obligations. Any such performance by the Holder shall not constitute a waiver by the Holder of any right, power, or privilege under this Debenture.

5.6 **No Modification**

No modification, variation or amendment of any provision of this Debenture shall be made without the prior written consent of the Majority of Investors and without the same modifications being made to the Other Debentures contemporaneously therewith, and no waiver of any provision hereof shall be effective unless in writing.

5.7 **Relationship of Parties**

The provisions contained in this Debenture shall not create or be deemed to create any relationship as between the Company and the Holder other than that of borrower and creditor. For greater certainty, nothing herein shall constitute the Holder and the Company as partners or joint venturers or impose any liability upon them as such.

5.8 **Notice to the Company and the Holder**

Any demand, notice or other communication (a "**Communication**") to be given in connection with this Debenture shall be given in writing and may be given by personal delivery, by courier, by registered mail, by transmittal of facsimile transmission (provided the intended recipient has a fax machine) or by e-mail transmission of an Adobe Acrobat file, or similar means of recorded electronic transmission, as follows:

- (a) if to the Company, at:

Sphere 3D Corp.
895 Don Mills Road, Building 2
Toronto, ON M3C 1W3

Attention: Peter Tassiopoulos, Chief Executive Officer
Facsimile: (858) 495-4267

- (b) if to the Holder, at the Holder's address as it appears on the records of the Company

or to such other address, facsimile number, e-mail address or individual as may be designated by written notice by either party to the other. Any Communication given by personal delivery, courier or registered mail shall be conclusively deemed to have been given on the day of actual delivery thereof and, if given by facsimile transmission or by e-mail, on the day of transmittal thereof if such day is a Business Day and is received before 5:00 p.m. (local time to the recipient) or otherwise on the next Business Day after the day of transmittal.

5.9 **Replacement of Debenture**

If the Debenture shall become mutilated or be lost, stolen or destroyed and in the absence of notice that the Debenture has been acquired by a *bona fide* purchaser, the Company in its discretion may issue a new Debenture upon surrender and cancellation of the mutilated Debenture, or, in the event that a Debenture is lost, stolen or destroyed, in lieu of and in substitution for the same, and the substituted Debenture shall be in the form hereof and the Holder shall be entitled to benefits hereof. In case of loss, theft or destruction, the Holder shall furnish to the Company such evidence of such loss, theft or destruction as shall be satisfactory to the Company in its discretion acting reasonably together with an indemnity in form and substance mutually acceptable to the Company and the Holder, each acting reasonably. The applicant shall pay reasonable expenses incidental to the issuance of any such new Debenture.

5.10 Successors and Assigns

This Debenture shall enure to the benefit of the Holder and its successors and permitted assigns and shall be binding upon the Company and its successors and permitted assigns.

5.11 Assignment

This Debenture is non-negotiable and each of the Company and the Holder covenants and agrees that it cannot, and shall not, transfer, sell, assign or pledge this Debenture without the prior written consent of a Majority of Investors. The Holder acknowledges and agrees that any transfer, sale, assignment or pledging of this Debenture by it shall comply with the provisions of the Securities Act and/or such regulatory authorities having jurisdiction.

5.12 Invalidity of Provisions

Each of the provisions contained in this Debenture is distinct and severable and a declaration of invalidity or unenforceability of any such provision by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof or thereof.

5.13 Governing Law

This Debenture shall be governed by and construed, interpreted and performed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5.14 Time of Essence

Time shall be of the essence of this Debenture and a forbearance by the Holder of the strict application of this provision shall not operate as a continuing or subsequent forbearance.

5.15 No Waiver

No failure or delay by the Holder in exercising any right, power or privilege under this Debenture shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

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IN WITNESS WHEREOF, the Company has caused this Debenture to be executed by its duly authorized officer as of the date first written above.

SPHERE 3D CORP.

Per: _____
Peter Tassiopoulos
Chief Executive Officer

SCHEDULE "A"

CONVERSION FORM

TO: SPHERE 3D CORP.

All terms used herein but not defined shall have the meanings ascribed thereto in the within Debenture.

Pursuant to Article 3 of the Debenture, the undersigned registered Holder hereby irrevocably elects to convert each Convertible Debenture into 1,540 Common Shares and all accrued and unpaid Interest into Common Shares at the Interest Conversion Price in accordance with the terms of the Debenture and directs that the aggregate number of Common Shares issuable and deliverable upon the conversion.

(If Common Shares are to be issued in the name of a Person other than the Holder, all requisite transfer taxes must be tendered by the undersigned).

Print name in which Common Shares issued on conversion are to be issued, delivered and registered:

Name: _____

(Address) (City, Province and Postal Code)

DATED this ____ day of _____, 20 ____.

[HOLDER]

Per: _____ c/s

Name:

Title:



UNLESS PERMITTED UNDER APPLICABLE SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THIS SECURITY TO OR FOR THE BENEFIT OF A CANADIAN PURCHASER UNTIL THE DATE THAT IS FOUR MONTHS AND A DAY AFTER [•], 2020.

NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT.

Void after 5:00 p.m. (Toronto time) on the Expiry Date.

WARRANT

For the purchase of Common Shares of

SPHERE 3D CORP.

(Amalgamated under the laws of the Province of Ontario, Canada)

Number of Warrants: [•]

Warrant Certificate No. [•]

This is to certify that, for value received, • [address of holder] (the "**Holder**"), shall have the right to purchase from Sphere 3D Corp. (the "**Corporation**"), at any time and from time to time up to 5:00 p.m. (Toronto time) (the "**Expiry Time**") on [•], 2023 (the "**Expiry Date**"), as amended herein, one fully paid and non-assessable common share in the capital of the Corporation (a "**Common Share**") for each Warrant (individually, a "**Warrant**") represented hereby at a price of US\$0.60 per Common Share (the "**Exercise Price**"), upon and subject to the terms and conditions set forth herein.

The Holder acknowledges and agrees that, in accordance with the U.S. Securities Act (as defined below), it shall not, under any circumstances, be entitled to exercise the Warrant if, upon exercise thereof, the aggregate number of Common Shares held by the Holder shall equal or exceed 5% of the issued and outstanding shares of the Corporation, calculated on a partially converted basis (i.e. assuming the conversion of all rights to receive Common Shares of the Corporation held by the Holder).

1. For the purposes of this Warrant Certificate, the term "**Common Shares**" means common shares without par value in the capital of the Corporation as constituted as of the date hereof, provided that in the event of a subdivision, redivision, reduction, combination or consolidation thereof or any other adjustment under section 8 hereof, or successive such subdivisions, redivisions, reductions, combinations, consolidations or other adjustments, then subject to the adjustments, if any, having been made in accordance with the provisions of this Warrant Certificate, "**Common Shares**" shall thereafter mean the shares, other securities or other property resulting from such subdivision, redivision, reduction, combination or consolidation or other adjustment.

2. All Warrant Certificates shall be signed by an officer of the Corporation holding office at the time of signing, or any successor or replacement of such person and notwithstanding any change in any of the persons holding said offices between the time of actual signing and the delivery of the Warrant Certificate, the Warrant Certificate so signed shall be valid and binding upon the Corporation.

3. All rights under any of the Warrants in respect of which the right of subscription and purchase therein provided for shall not theretofore have been exercised shall wholly cease and such Warrants shall be wholly void and of no valid or binding effect after the Expiry Time.
 4. The right to purchase Common Shares of the Corporation pursuant to the Warrants may only be exercised by the Holder at or before the Expiry Time by:
 - (a) duly completing and executing a subscription substantially in the form attached as Schedule "A" (the "**Subscription Form**"), in the manner therein indicated; and
 - (b) surrendering this Warrant Certificate and the duly completed and executed Subscription Form to the Corporation prior to the Expiry Time at 895 Don Mills Road, Building 2, Toronto, ON M3C 1W3, Attention: Peter Tassiopoulos, Chief Executive Officer, Facsimile: (858) 495-4267, together with payment of the purchase price for the Common Shares subscribed for in the form of certified cheque, money order or bank draft payable to the Corporation in an amount equal to the then applicable Exercise Price multiplied by the number of Common Shares subscribed for ("**Aggregate Exercise Price**").
 5. Upon delivery and payment as set forth in section 4, the Corporation shall cause to be issued to the Holder the number of Common Shares subscribed for by the Holder and the Holder shall become a shareholder of the Corporation in respect of such Common Shares with effect from the date of such delivery and payment and shall be entitled to delivery of a certificate or certificates evidencing such shares, or to a non-transferable written acknowledgement of the right to obtain a certificate. The Corporation shall cause such certificate or certificates to be mailed to the Holder at the address or addresses specified in the Subscription Form within five (5) Business Days (as defined below) of such delivery and payment as set forth in section 4 or, if so instructed by the Holder, held for pick-up by the Holder at the principal office of the Corporation; provided, however, if the transfer agent for the Common Shares is participating in DTC Fast Automated Securities Transfer Program (the "**DTC Program**") and the Common Shares to be delivered to the Holder pursuant to this Section 5 are eligible to participate in the DTC Program, the Corporation will cause the transfer agent to credit such aggregate number of Common Shares to which the Holder is entitled pursuant to this Section 5 to the Holder's or its designee's balance account with DTC through its Deposit / Withdrawal At Custodian system. Notwithstanding any adjustment provided for in section 8 hereof, the Corporation shall not be required upon the exercise of any Warrants to issue fractional Common Shares in satisfaction of its obligations hereunder and the Holder understands and agrees that it will not be entitled to any cash payment or other form of compensation in respect of a fractional Common Share that might otherwise have been issued. As used in this Warrant Certificate, "**Business Day**" means a day, other than a Saturday or Sunday, on which banks in Toronto, Ontario are open for the general transaction of business.
 6. The holding of a Warrant shall not constitute the Holder a shareholder of the Corporation nor entitle him to any right or interest in respect thereof except as herein expressly provided.
 7. The Corporation covenants and agrees that until the Expiry Time, while any of the Warrants shall be outstanding, it shall reserve and there shall remain unissued out of its authorized capital a sufficient number of Common Shares to satisfy the right of purchase herein provided, as such right of purchase may be adjusted pursuant to sections 8 and 9 hereof. The Corporation further covenants and agrees that while any of the Warrants shall be outstanding, the Corporation shall (a) comply with the securities legislation applicable to it; and (b) use its commercially reasonable efforts to do or cause to be done all things necessary to preserve and maintain its corporate existence. All Common Shares which shall be issued upon the exercise of the right to purchase herein provided for, upon payment therefor of the amount at which such Common Shares may at the time be purchased pursuant to the provisions hereof, shall be issued as fully paid and non-assessable shares and the holders thereof shall not be liable to the Corporation or its creditors in respect thereof.
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8. (a) For the purpose of this section 8, unless there is something in the subject matter or context inconsistent therewith, the words and terms defined below shall have the respective meanings specified therefor:

"**Current Market Price**" of the Common Shares at any date means the price per share equal to the Weighted Average Price (as defined below) of the Common Shares have traded on the Nasdaq Stock Market or, if the Common Shares are not then listed on the Nasdaq, on such other stock exchange on which the shares trade as may be selected by the directors of the Corporation for such purpose (collectively, "**Nasdaq**"); and

"**director**" means a director of the Corporation for the time being and, unless otherwise specified herein, a reference to action "by the directors" means action by the directors of the Corporation as a board or, whenever empowered, action by the executive committee of such board; and

- (b) If and whenever at any time after the date hereof and prior to the Expiry Time the Corporation shall (i) subdivide or redivide its then outstanding Common Shares into a greater number of Common Shares, (ii) reduce, combine or consolidate its then outstanding Common Shares into a lesser number of Common Shares or (iii) issue Common Shares (or securities exchangeable for or convertible into Common Shares) to the holders of all or substantially all of its then outstanding Common Shares by way of a stock dividend or other distribution (any of such events herein called a "**Common Share Reorganization**"), then the Exercise Price shall be adjusted effective immediately after the effective date of any such event in (i) or (ii) above or the record date at which the holders of Common Shares are determined for the purpose of any such dividend or distribution in (iii) above, as the case may be, by multiplying the Exercise Price in effect on such effective date or record date, as the case may be, by a fraction, the numerator of which shall be the number of Common Shares outstanding on such effective date or record date, as the case may be, before giving effect to such Common Share Reorganization and the denominator of which shall be the number of Common Shares outstanding immediately after giving effect to such Common Share Reorganization including, in the case where securities exchangeable for or convertible into Common Shares are distributed, the number of Common Shares that would be outstanding if such securities were exchanged for or converted into Common Shares.
- (c) If and whenever at any time after the date hereof and prior to the Expiry Time there is a capital reorganization of the Corporation or a reclassification or other change in the Common Shares (other than a Common Share Reorganization) or a consolidation or merger or amalgamation of the Corporation with or into any other corporation or other entity (other than a consolidation, merger or amalgamation which does not result in any reclassification of the outstanding Common Shares or a change of the Common Shares into other securities), or a transfer of all or substantially all of the Corporation's undertaking and assets to another corporation or other entity in which the holders of Common Shares are entitled to receive shares, other securities or other property) (any of such events, excluding, however, a transaction effected solely to change the domicile of the Corporation, being called a "**Capital Reorganization**"), after the effective date of the Capital Reorganization the Holder shall be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Common Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of Common Shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder has been the registered holder of the number of Common Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization, appropriate adjustments shall be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder such that the provisions of this Warrant Certificate shall thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the exercise of this Warrant Certificate.
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- (d) If and whenever at any time after the date hereof and prior to the Expiry Time, any of the events set out in sections 8 (b) or (c) shall occur and the occurrence of such event results in an adjustment of the Exercise Price pursuant to the provisions of this section 8, then the number of Common Shares purchasable pursuant to this Warrant shall be adjusted contemporaneously with the adjustment of the Exercise Price by multiplying the number of Common Shares then otherwise purchasable on the exercise thereof by a fraction, the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and the denominator of which shall be the Exercise Price resulting from such adjustment.
- (e) If the Corporation takes any action affecting its Common Shares to which the foregoing provisions of this section 8, in the opinion of the board of directors of the Corporation, acting in good faith, are not strictly applicable, or if strictly applicable would not fairly adjust the rights of the Holder against dilution in accordance with the intent and purposes hereof, or would otherwise materially affect the rights of the Holder hereunder, then the Corporation shall, subject to the approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable), execute and deliver to the Holder an amendment hereto providing for an adjustment in the application of such provisions so as to adjust such rights as aforesaid in such manner as the board of directors of the Corporation may determine to be equitable in the circumstances, acting in good faith. The failure of the taking of action by the board of directors of the Corporation to so provide for any adjustment on or prior to the effective date of any action or occurrence giving rise to such state of facts will be conclusive evidence that the board of directors has determined that it is equitable to make no adjustment in the circumstances.

9. The following rules and procedures shall be applicable to the adjustments made pursuant to section 8:

- (a) any Common Shares owned or held by or for the account of the Corporation shall be deemed not to be outstanding except that, for the purposes of section 8, any Common Shares owned by a pension plan or profit sharing plan for employees of the Corporation or any of its subsidiaries shall not be considered to be owned or held by or for the account of the Corporation;
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- (b) no adjustment in the Exercise Price or the number of Common Shares purchasable pursuant to this Warrant shall be required unless a change of at least 1% of the prevailing Exercise Price or the number of Common Shares purchasable pursuant to this Warrant would result, provided, however, that any adjustment which, except for the provisions of this section 9(b), would otherwise have been required to be made, shall be carried forward and taken into account in any subsequent adjustment;
 - (c) the adjustments provided for in section 8 are cumulative and shall apply to successive subdivisions, consolidations, dividends, distributions and other events resulting in any adjustment under the provisions of such section;
 - (d) if the Corporation sets a record date to take any action and thereafter and before the taking of such action abandons its plan to take such action, then no adjustment to the Exercise Price will be required by reason of the setting of such record date;
 - (e) as a condition precedent to the taking of any action which would require any adjustment to the Warrants evidenced hereby, including the Exercise Price, the Corporation must take any corporate action which may be necessary in order that the Corporation shall have unissued and reserved in its authorized capital and may validly and legally issue as fully paid and non-assessable all of the shares or other securities which the Holder is entitled to receive on the full exercise thereof in accordance with the provisions hereof;
 - (f) forthwith, but no later than fourteen (14) days, after any adjustment to the Exercise Price or the number of Common Shares purchasable pursuant to the Warrants, the Corporation shall provide to the Holder a certificate of an officer of the Corporation certifying as to the amount of such adjustment and, in reasonable detail, describing the event requiring and the manner of computing or determining such adjustment;
 - (g) any question that at any time or from time to time arises with respect to the amount of any adjustment to the Exercise Price or other adjustment pursuant to section 8 shall be conclusively determined by a firm of independent chartered accountants (who may be the Corporation's auditors) and shall be binding upon the Corporation and the Holder;
 - (h) any adjustment to the Exercise Price or the number of Common Shares purchasable pursuant to the Warrants under the terms of this Warrant Certificate shall be subject to the prior approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable); and
 - (i) in case the Corporation, after the date of issue of this Warrant Certificate, takes any action affecting the Common Shares, other than an action described in Section 8, which in the opinion of the directors of the Corporation would materially affect the rights of the Holder, the Exercise Price will be adjusted in such manner, if any, and at such time, by action by the directors of the Corporation but subject in all cases to any necessary regulatory approval, including approval of the Nasdaq (or such other stock exchange or quotation system on which the Common Shares are then listed and posted (or quoted) for trading, as applicable). Failure of the taking of action by the directors of the Corporation so as to provide for an adjustment on or prior to the effective date of any action by the Corporation affecting the Common Shares will be conclusive evidence that the board of directors of the Corporation has determined that it is equitable to make no adjustment in the circumstances.
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10. At least 21 days prior to the effective date or record date, as the case may be, of any event referred to in section 8 herein, the Corporation shall notify the Holder of the particulars of such event and the estimated amount of any adjustment required as a result thereof.

11. On the happening of each and every such event set out in section 8, the applicable provisions of this Warrant Certificate, including the Exercise Price, shall, *ipso facto*, be deemed to be amended accordingly and the Corporation shall take all necessary action so as to comply with such provisions as so amended.

12. The Corporation shall not be required to deliver certificates for Common Shares while the share transfer books of the Corporation are properly closed, having regard to the provisions of sections 8 and 9 hereof, prior to any meeting of shareholders or for the payment of dividends or for any other purpose and in the event of the surrender of any Warrant in accordance with the provisions hereof and the making of any subscription and payment for the Common Shares called for thereby during any such period, delivery of certificates for Common Shares may be postponed for not more than five (5) Business Days after the date of the re-opening of said share transfer books; provided, however, that any such postponement of delivery of certificates shall be without prejudice to the right of the Holder so surrendering the same and making payment during such period to receive after the share transfer books shall have been re-opened such certificates for the Common Shares called for, as the same may be adjusted pursuant to sections 8 and 9 hereof as a result of the completion of the event in respect of which the transfer books were closed.

13. Subject as hereinafter provided, all or any of the rights conferred upon the Holder by the terms hereof may be enforced by the Holder by appropriate legal proceedings. No recourse under or upon any obligation, covenant or agreement contained herein shall be had against any shareholder, director or officer of the Corporation either directly or through the Corporation, it being expressly agreed and declared that the obligations under the Warrants are solely corporate obligations and that no personal liability whatever shall attach to or be incurred by the shareholders, directors or officers of the Corporation or any of them in respect thereof, any and all rights and claims against every such shareholder, officer or director being hereby expressly waived as a condition of and as a consideration for the issue of the Warrants.

14. The Holder may subscribe for and purchase any lesser number of Common Shares than the number of Common Shares expressed in any Warrant Certificate. In the case of any subscription for a lesser number of Common Shares than expressed in any Warrant Certificate, the Holder hereof shall be entitled to receive, at no cost to the Holder, a new Warrant Certificate in respect of the balance of Warrants not then exercised. Such new Warrant Certificate shall be mailed to the Holder by the Corporation or, at its direction, the transfer agent of the Corporation, contemporaneously with the mailing of the certificate or certificates representing the Common Shares issued pursuant to section 5.

15. If any Warrant Certificate becomes stolen, lost, mutilated or destroyed, the Corporation shall, on such terms as it may in its discretion impose, acting reasonably, issue and sign a new Warrant Certificate of like denomination, tenor and date as the Warrant Certificate so stolen, lost, mutilated or destroyed for delivery to the Holder. The applicant for the issue of a new Warrant Certificate pursuant to this section shall bear the cost of the issue thereof and in the case of mutilation shall as a condition precedent to the issue thereof, deliver to the Corporation the mutilated Warrant Certificate, and in case of loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Corporation such evidence of ownership and of the loss, destruction or theft of the Warrant Certificate so lost, destroyed or stolen as shall be satisfactory to the Corporation in its discretion and the applicant shall also be required to furnish an indemnity and surety bond in amount and form satisfactory to the Corporation in its discretion and shall pay the reasonable charges of the Corporation in connection therewith.

16. The Holder may transfer the Warrants represented hereby by:

- (a) duly completing and executing the transfer form attached as Schedule "B" ("Transfer Form"); and
- (b) surrendering this Warrant Certificate and the completed Transfer Form, together with such other documents as the Corporation may reasonably request, to the Corporation at the address set forth on the Transfer Form or such other office as may be specified by the Corporation, in a written notice to the Holder, from time to time,

provided that all such transfers shall be effected in accordance with all applicable securities laws, and provided that, after such transfer, the term "Holder" shall mean and include any transferee or assignee of the current or any future Holder. If only part of the Warrants evidenced hereby is transferred, the Corporation will deliver to the Holder and the transferee replacement Warrant Certificates substantially in the form of this Warrant Certificate.

17. Neither the issuance and sale of the securities represented by this Warrant Certificate nor the Common Shares into which these securities are exercisable have been registered under the United States Securities Act of 1933, as amended (the "**U.S. Securities Act**") or applicable state securities laws. These securities may not be offered for sale, sold, transferred or assigned unless registered under the U.S. Securities Act and any applicable state securities laws or unless an exemption from such registration is available, and the Corporation and its transfer agent has received an opinion of counsel of recognized standing in form and substance reasonably satisfactory to them to such effect.

18. Any certificate representing Common Shares issued upon the exercise of this Warrant may bear the following legends:

"UNLESS PERMITTED UNDER APPLICABLE SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THIS SECURITY TO OR FOR THE BENEFIT OF A CANADIAN PURCHASER UNTIL THE DATE THAT IS FOUR MONTHS AND A DAY AFTER **[INSERT DISTRIBUTION DATE]**. (In the event that no physical certificates are issued, the above constitutes written notice of the legend restriction under applicable Canadian securities laws.)

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "1933 ACT"), OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED UNLESS REGISTERED UNDER THE 1933 ACT AND ANY APPLICABLE STATE SECURITIES LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE, AND THE CORPORATION AND ITS TRANSFER AGENT HAS RECEIVED AN OPINION OF COUNSEL IN FORM AND SUBSTANCE SATISFACTORY TO THEM TO SUCH EFFECT."

19. The Corporation will maintain a register of holders of Warrants at its principal office. The Corporation may deem and treat the registered holder of any Warrant Certificate as the absolute owner of the Warrants represented thereby for all purposes, and the Corporation shall not be affected by any notice or knowledge to the contrary except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. A Holder shall be entitled to the rights evidenced by such Warrant free from all equities or rights of set-off or counterclaim between the Corporation and the original or any intermediate holder thereof and all persons may act accordingly and the receipt by any such Holder of the Common Shares purchasable pursuant to such Warrant shall be a good discharge to the Corporation for the same and the Corporation shall not be bound to inquire into the title of any such Holder except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction.

20. The Corporation shall notify the Holder forthwith of any change of the Corporation's address.
 21. All notices to be sent hereunder shall be deemed to be validly given to the registered holders of the Warrants if delivered personally or if sent by registered letter through the post addressed to such holders at their post office addresses appearing in the register of Warrant holders caused to be maintained by the Corporation, and such notice shall be deemed to have been given, if delivered personally when so delivered, and if sent by post on the fifth Business Day next following the post thereof.
 22. If for any reason, other than the failure or default of the Holder, the Corporation is unable to issue and deliver the Common Shares or other securities as contemplated herein to the Holder upon the proper exercise by the Holder of the right to purchase any of the Common Shares purchasable upon exercise of the Warrants represented hereby, the Corporation may pay, at its option and in complete satisfaction of its obligations and the rights of the Holder hereunder, to the Holder, in cash, an amount equal to the difference between the Exercise Price and the Current Market Price of such Common Shares on the date of exercise by the Holder, and upon such payment the Corporation shall have no liability or other obligation to the Holder relating to or in respect of the Warrants or this Warrant Certificate.
 23. This Warrant Certificate shall be governed by and construed, interpreted and performed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
 24. If one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Warrant Certificate, but this Warrant Certificate shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
 25. This Warrant Certificate shall enure to the benefit of and shall be binding upon the Holder and the Corporation and their respective successors and assigns.
 26. In the case of a dispute as to the determination of the Exercise Price or the arithmetic calculation of the Common Shares for which this Warrant is exercisable, the Corporation shall submit the disputed determinations or arithmetic calculations via facsimile or electronic mail to the Holder. If the Holder and the Corporation are unable to agree upon such determination or calculation of the Exercise Price or of the Common Shares for which this Warrant is exercisable within three (3) Business Days of such disputed determination or arithmetic calculation being submitted to the Holder, then the Corporation shall submit via facsimile or electronic mail the disputed arithmetic calculation of the Common Shares for which this Warrant is exercisable to the Corporation's independent, outside accountant. The Corporation shall cause the accountant to perform the determinations or calculations and notify the Corporation and the Holder of the results. Such accountant's determination or calculation shall be binding upon all parties absent demonstrable error.
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IN WITNESS WHEREOF the Corporation has caused this Warrant Certificate to be signed by its duly authorized officer.

DATED as of the [•] day of [•], 2020.

SPHERE 3D CORP.

Per:

Peter Tassiopoulos
Chief Executive Officer

SUBSCRIPTION FORM

TO BE COMPLETED IF WARRANTS ARE TO BE EXERCISED:

TO: **SPHERE 3D CORP.**
895 Don Mills Road, Building 2, Toronto, ON M3C 1W3

The undersigned hereby subscribes for _____ Common Shares of Sphere 3D Corp. according to the terms and conditions set forth in the annexed Warrant Certificate (or such number of other securities or property to which such Warrant Certificate entitles the undersigned to acquire under the terms and conditions set forth in such Warrant Certificate).

Registered Name: _____

Address for Delivery of Common Shares: _____

Attention: _____

Exercise Price Tendered (US\$0.60 per Common Share or as adjusted) US\$ _____

Capitalized terms not defined herein shall have the meanings assigned to them in the Warrant Certificate to which this subscription form is attached.

Dated at _____, this __ day of _____, 20__.

WITNESS:

)
)
)
)
)
)
)
)

HOLDER'S NAME

AUTHORIZED SIGNATURE

TITLE (IF APPLICABLE)

Signature guaranteed¹:

1. If the Common Shares are to be registered in a name other than the name of the registered Warrant Holder, the signature of the Warrant Holder must be medallion guaranteed by a bank, trust Corporation or a member of a stock exchange in the Canada.

WARRANT TRANSFER FORM

FOR VALUE RECEIVED, subject to receipt of prior written approval of SPHERE 3D CORP. (the "**Corporation**"), the undersigned (the "**Transferor**") hereby sells, assigns and transfers unto (name) _____ (the "**Transferee**") of (residential address) _____ Warrants of the Corporation registered in the name of the undersigned represented by the within certificate, and irrevocably appoints the Corporation as the attorney of the undersigned to transfer the said securities on the register of transfers for the said Warrants, with full power of substitution.

NOTICE: The signature of this assignment must correspond with the name as written upon the face of the certificate, in every particular, without alteration or enlargement or any change whatever, and must be guaranteed by a bank, trust Corporation or a member of a recognized stock exchange. The guarantor must affix a stamp bearing the actual words "Signature Guaranteed".

DATED this ___ day of _____, 20__.

Signature Guaranteed

(Signature of transferring Warrantholder)

Name (please print)

Address



TRANSFeree ACKNOWLEDGMENT

In connection with this transfer the undersigned transferee is delivering a written opinion of U.S. Counsel acceptable to the Corporation to the effect that this transfer of Warrants has been registered under the 1933 Act or is exempt from registration thereunder.

(Signature of Transferee)

Name of Transferee (please print)

Date

The Warrants and the common shares issuable upon exercise of the Warrants shall only be transferable in accordance with applicable laws. The Warrants may only be exercised in the manner required by the certificate representing the Warrants and the Warrant Exercise Form attached thereto. Any common shares acquired pursuant to this Warrant shall be subject to applicable hold periods and any certificate representing such common shares will bear restrictive legends.
