

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

FORM 10-K

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

For the fiscal year ended December 31, 2023

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-41620

**GAXOS.AI INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

**87-3288897**

(State or other jurisdiction  
of incorporation or organization)

(I. R. S. Employer  
Identification No.)

**101 Eisenhower Pkwy Suite 300,  
Roseland, New Jersey**

**07068**

(Address of principal executive offices)

(Zip Code)

**(973) 275-7428**

(Registrant's telephone number, including area code)

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

<b>Title of each class</b>	<b>Trading Symbol</b>	<b>Name of exchange on which registered</b>
Common Stock, par value \$0.0001	GXAI	The Nasdaq Stock Market LLC

Securities registered pursuant to Section 12(b) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Exchange Act) Yes  No

The aggregate market value of the voting and non-voting common equity held by non-affiliates, based upon the closing price of \$0.6925 per share of common stock as of June 30, 2023 (the last business day of the registrant's most recently completed second fiscal quarter), was \$6,482,171.

As of March 27, 2024, 1,093,672 shares of the registrant's common stock, \$0.0001 par value per share, were issued and outstanding.

Documents Incorporated by Reference: None.



**GAXOS.AI INC.**  
**Form 10-K**  
**For the Fiscal Year Ended December 31, 2023**

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## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K contains certain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Any statements in this Annual Report on Form 10-K about our expectations, beliefs, plans, objectives, assumptions or future events or performance are not historical facts and are forward-looking statements. These statements are often, but not always, made through the use of words or phrases such as “believe,” “will,” “expect,” “anticipate,” “estimate,” “intend,” “plan” and “would.” For example, statements concerning financial condition, possible or assumed future results of operations, growth opportunities, industry ranking, plans and objectives of management, markets for our common stock and future management and organizational structure are all forward-looking statements. Forward-looking statements are not guarantees of performance. They involve known and unknown risks, uncertainties and assumptions that may cause actual results, levels of activity, performance or achievements to differ materially from any results, levels of activity, performance or achievements expressed or implied by any forward-looking statement.

Any forward-looking statements are qualified in their entirety by reference to the risk factors discussed throughout this Annual Report on Form 10-K. Some of the risks, uncertainties and assumptions that could cause actual results to differ materially from estimates or projections contained in the forward-looking statements include, but are not limited to:

- our ability to obtain additional funds for our operations;
- our financial performance, including our revenues, cost of revenues, operating expenses, and our ability to attain and sustain profitability;
- our ability to attract and retain users;
- our ability to attract and retain advertisers;
- our ability to compete effectively with existing competitors and new market entrants;
- our ability to successfully expand in our existing markets and penetrate new markets;
- our expectations regarding the time during which we will be an emerging growth company under the Jumpstart Our Business Startups Act, or JOBS Act;
- our ability to effectively manage our growth, and future expenses;
- our ability to maintain, protect, and enhance our intellectual property;
- our ability to comply with modified or new laws and regulations applying to our business, competitors and industry;
- our ability to attract and retain qualified key management and technical personnel; and
- other risks and uncertainties, including those listed under the caption “Risk Factors.”

The foregoing list sets forth some, but not all, of the factors that could affect our ability to achieve results described in any forward-looking statements. You should read this Annual Report on Form 10-K and the documents that we reference herein and have filed as exhibits to the Annual Report on Form 10-K, completely and with the understanding that our actual future results may be materially different from what we expect. You should assume that the information appearing in this Annual Report on Form 10-K is accurate as of the date hereof. Because the risk factors referred to on page 4 of Annual Report on Form 10-K could cause actual results or outcomes to differ materially from those expressed in any forward-looking statements made by us or on our behalf, you should not place undue reliance on any forward-looking statements. Further, any forward-looking statement speaks only as of the date on which it is made, and except as required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict which factors will arise. In addition, we cannot assess the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. We qualify all of the information presented in this Annual Report on Form 10-K, and particularly our forward-looking statements, by these cautionary statements.

## SUMMARY OF RISK FACTORS

Our business is subject to significant risks and uncertainties that make an investment in us speculative and risky. Below we summarize what we believe are the principal risk factors but these risks are not the only ones we face, and you should carefully review and consider the full discussion of our risk factors in the section titled “Risk Factors,” together with the other information in this Annual Report on Form 10-K. If any of the following risks actually occurs (or if any of those listed elsewhere in this Annual Report on Form 10-K occur), our business, reputation, financial condition, results of operations, revenue, and future prospects could be seriously harmed. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business.

### **Risks Related to Our Business and Industry**

- We have a limited operating history and have not yet generated any revenues;
- We have not developed a strong customer base, and we have not generated sustainable revenue since inception. We cannot assure you that we ever will. We will incur significant losses in launching products and we may not realize sufficient subscriptions or profits in order to sustain our business;
- We are dependent on the services of certain key management personnel, employees, and advisors. If we are unable to retain or motivate such individuals or hire qualified personnel, we may not be able to grow effectively;
- The Platform is based on new and unproven technologies and is subject to the risks of failure inherent in the development of new products and services;
- A slowdown or reduction in our sales in due to a reduction in end user demand, unanticipated competition, regulatory issues, or other unexpected circumstances
- If we fail to add new users, or if our users engage less with the Platform, our business would be seriously harmed; and
- Uncertainty regarding our ability to achieve profitability and positive cash flow through the commercialization of the products we offer or intend to offer in the future.

### **Risks Related to Data Security**

- We rely on information systems to obtain, process, analyze, and manage data and to the extent IT systems are not successfully implemented or fail, our business and results of operations may be adversely affected.
- In addition to the risks generally relating to the collection, use, retention, security and transfer of personal information, we are also subject to specific obligations relating to information considered sensitive under applicable laws, such as health data and biometric data.
- Unauthorized access, use or disclosure of certain sensitive information in our possession or our failure to satisfy legal requirements, including requirements relating to safeguarding protected health information under the Health Insurance Portability and Accountability Act (“HIPAA”) or state data privacy laws could result in civil and criminal liability and regulatory action, which could result in potential fines and penalties, as well as costs relating to investigation of an incident or breach, corrective actions, required notifications to regulatory agencies and customers, credit monitoring services and other necessary expenses.

### **Risks Related to Information Technology Systems, Intellectual Property and Privacy Laws**

- We may not be able to adequately protect our proprietary technology, and our competitors may be able to offer similar products and services which would harm our competitive position;
- Unauthorized breaches or failures in cybersecurity measures adopted by us and/or included in our products and services could have a material adverse effect on our business; and
- We may be subject to stringent and changing laws, regulations, standards, and contractual obligations related to privacy, data protection, and data security. Our actual or perceived failure to comply with such obligations could adversely affect our business.

### **Risks Related to Digital Assets**

- The exchanges on which crypto assets trade are relatively new and largely unregulated, and thus may be exposed to loss, fraud and failure;
- General regulatory uncertainty with respect to whether certain NFTs could be considered securities and if NFTs sold on the Platform were deemed to be securities, we could be in violation of securities laws which could lead to an enforcement action by the SEC and result in fines and other penalties, and have a negative impact on our business; and
- We rely on third-party providers for computing infrastructure, secure network connectivity, and other technology-related services needed to deliver our products. Any disruption in the services provided by such third-party providers could adversely affect our business.

### **Risks Related to Regulatory Changes**

- We may be subject to stringent and changing laws, regulations, standards, and contractual obligations related to privacy, data protection, and data security. Our actual or perceived failure to comply with such obligations could adversely affect our business;
- Current and future laws and regulations.

### **Risks Related to the Offering and Our Common Stock**

- We do not expect to pay dividends in the foreseeable future;
- If our stock price fluctuates, you could lose a significant part of your investment;
- The delisting of our securities by Nasdaq; and
- Exclusive forum provisions in our certificate of incorporation and bylaws.

## PART I

### ITEM 1. BUSINESS

#### Overview

We are a technology based company that is developing applications aimed at redefining the way we utilize artificial intelligence (“AI”) to optimize the user experience. We are committed to addressing the need for AI solutions in both health and entertainment.

#### *Gaxos Gaming*

Our flagship product is our gaming platform called “Gaxos” (the “Platform” or “Gaxos Gaming”), created with a vision to develop, design, acquire, and manage conventional games and to combine these games with unconventional game mechanisms, such as the ability for gamers and developers to utilize artificial intelligence to create and design in-game features, as well as to mint unique in-game features, such as skins, characters, weapons, gear, levels, and virtual lands, in the form of non-fungible tokens, or “NFTs,” that will allow users to have unique experiences and more control over in-game assets.

In 2023, we launched our own proprietary games that are simple and fun to play, and that offer gamers the ability to utilize AI to personalize their gaming experience as well as to mint their own affordable NFTs, with unique and exclusive features, that can be utilized across the network of games and platform that we intend to build. As of December 31, 2023, we have launched four games, Space Striker AI, Brawl Bots, BattleFleet AI, and Jigsaw Puzzle AI. Space Striker AI allows players to engage in a captivating storyline and exciting retro shooting space action in the players AI-generated spaceship. Players can fuse crystals to upgrade their ship parts to craft, clash and conquer the galaxy all within a dynamic free-to-play economy. Brawl Bots immerses users in high-octane battles in real time against other players, in solo play or teams. Each player gets to control their own exclusive Bot character, ensuring a personalized gaming experience. BattleFleet AI is a take on the classic Battleship game with AI elements that allow gamers to design their ships. Jigsaw Puzzle AI lets gamers solve preloaded jigsaw puzzles as well as design and solve new jigsaw puzzles using AI.

We expect to launch more games in 2024. We have a pipeline of games in various stages of development. We plan to methodically launch games based on research and market data.

In addition to launching our own proprietary games, Gaxos Gaming is developing an artificial intelligence solution for game developers and studios. The solution is intended to offer a transformative generative AI service that empowers the gaming industry to create without limits through dynamic content generation, seamless integration, and personalized solutions. Key features of the product will be:

- **AI-Powered Creativity:** Reduces creative asset development time from hours to minutes, transforming artistic visions into reality with ease.
- **Seamless Integration:** With plug-and-play functionality for Unity and upcoming support for Unreal Engine, integration is effortless into existing workflows.
- **Dynamic Content Generation:** User-Generated-Ai-Content (“UGAiC”) feature offers new experiences with each playthrough by letting gamers use AI in real time, fostering a dynamic gaming environment.
- **Customized Solutions:** From personalized AI models and templates to expert consulting services, offering to include custom solutions to meet unique needs of each developer.

We expect to launch the artificial intelligence solution in Q2 of 2024.

#### *Gaxos Health*

Recently, we launched a new initiative, Gaxos Health, which is dedicated to revolutionizing personal health and wellness by developing a suite of innovative AI-powered health optimization solutions. Gaxos Health will integrate AI-driven insights with individual biometric data and health goals to create web and application based personalized wellness strategies to users. We believe that this cutting-edge approach will redefine preventative medicine, offering unparalleled personalization in health and wellness. Gaxos Health solutions will analyze a wide range of health data to provide tailored wellness plans and address the growing demand for personalized health solutions. We believe that this technology is not just a step but a leap forward in empowering individuals to take control of their health and longevity with AI’s precision and intelligence.

We expect to launch the AI-powered health optimization product in the second half of 2024.

#### Our Strategy

Our strategy for Gaxos Gaming includes the development of proprietary games and the development and launch of our AI solution for developers and studios.

We intend to implement a number of initiatives and strategies that are designed to help us achieve revenue in the very near term and give us the ability to grow our user base and future revenue opportunities significantly. This includes the following:

- Generating revenue from the sale of our in-game items to our customers including AI tickets for user-generated content and NFT minting
- Subscription sales –Generating revenues from the sale of the AI solution for developers and studios
- NFT royalties — royalties that will be paid to us in the event that NFTs that are minted in our games are resold;
- Advertising and Partnerships — fees that will be paid by game advertisers, developers, hardware companies, or other strategic partners.

We intend to utilize various marketing strategies to target users, third-party game publishers, and developers, and believe that as the quantity of the gaming assets and quality of our services increases, the likelihood of adoption of our games and services will increase.

Our strategy for Gaxos Health includes the development of customized health and wellness plans based on goals, traits, DNA, blood biomarkers, and data from various sources, such as wearables. The data will be supported by an AI-powered application that centralizes all the information and will allow users to adhere and comply with the health plans which are designed to achieve higher success rates.

*Plan of Operations*

We have had a dedicated approach to long-term success that we believe will allow us to achieve our milestones in product development, user acquisition, and growth. In the next twelve months we plan to accomplish the following:

<b>Milestones</b>	<b>Timeline</b>
<b>Initial Development</b>	
• Complete production and development of our AI solution for developers;	Q2 2024
• Complete development of Gaxos Health offering;	2 <sup>nd</sup> half of 2024
• Launch a successful beta test of our AI solution for developers with a limited group of users;	Q2 2024
• Launch Gaxos Health;	2 <sup>nd</sup> half of 2024
• Launch initial marketing campaigns for AI solution and Gaxos Health	2 <sup>nd</sup> half of 2024
<b>Future Development</b>	
• Launch of digital advertising campaigns for promotion and user acquisition;	Ongoing
• Create and grow our community;	Ongoing
• Launches of new games;	Ongoing
• Develop additional content for our games and services.	Ongoing

We currently estimate that the cost of the development of our games, AI solution for developers, and Gaxos Health product, will cost approximately \$1.1 million.

**Intellectual Property**

Our business is dependent upon the creation, acquisition, use and protection of intellectual property. Some of this intellectual property is expected to be in the form of software code, patented technology, copyright, and trade secrets that we will use to develop our games and the Platform. While we will develop our own intellectual property, we may also acquire and/or license other intellectual property which is owned by third parties.

We protect our intellectual property rights by relying on federal, state and common law protections, as well as contractual restrictions. We actively seek protection covering any intellectual property we believe may be useful or relevant to our business.

Our goal is to obtain, maintain and enforce protection for our intellectual property, and to operate without infringing on the rights of other parties. Our policy is to actively seek the broadest intellectual property protection possible for our intellectual property through a combination of contractual arrangements, registration of our domain names, copyrights, trademarks, service marks and/or patents. We have established business procedures designed to maintain the confidentiality of our proprietary information, including the use of confidentiality agreements with employees, independent contractors, consultants, and entities with which we conduct business.

The Platform will allow third-party game developers to mint NFTs using their own intellectual property and our tools to list those NFTs for sale (primary sales) on the Platform. The Platform only allows NFTs that were originally minted using the Company’s NFT infrastructure to be listed for sale. All third-party game developers who create NFTs on the Platform will be required to agree to our Terms of Service and Privacy Policy prior to engaging with the Platform. Our Terms of Service and Privacy Policy will require creators to attest they own the intellectual property used to create their NFTs and to monitor for obvious copyright violations. It is not yet certain to what extent the Digital Millennium Copyright Act (DMCA) applies to NFT platforms. However, it seems likely that NFT platform owners will be subject to at least some responsibility for responding to copyright infringement on their sites,

therefore, we plan to take proactive approach by registering with the DMCA to retain a designated agent for DMCA notices as well as instructions for submitting copyright infringement claims.

## **Government Regulation**

### *Data Privacy Laws and Regulations*

We are subject to various federal, state, and international laws and regulations that affect companies conducting business on the Internet and mobile platforms, including those relating to privacy, use and protection of player and employee personal information and data (including the collection of data from minors), the Internet, behavioral tracking, mobile applications, content, advertising and marketing activities and anti-corruption. Additional laws in all of these areas are likely to be passed in the future, which could result in significant limitations on or changes to the ways in which we can collect, use, host, store or transmit the personal information and data of our customers or employees, communicate with our players and deliver products and services, which may significantly increase our compliance costs.

We recognize that users of Gaxos Gaming and Gaxos Health care deeply about how their personal information is collected, used and shared.

Users of Gaxos Gaming and Gaxos Health may be required to provide us with certain personal information such as their name, email address and phone number. We take commercially reasonable and appropriate measures to protect this personal information from accidental loss, misuse, and unauthorized access, disclosure, alteration, or destruction, taking into account the risks involved in processing and the nature of such data, and comply with applicable laws and regulations. We do not currently transfer any personal information to third-parties that do not act on our behalf, and we will not do so without users' opt-in consent. Similarly, we do not currently collect sensitive personal information from users without opt-in consent. We may disclose personal information to certain types of third-party companies, but only to the extent needed to enable them to provide such services. The types of companies that may receive personal information and their functions are: marketing assistance, analytics and reporting, customer support, email and SMS delivery, cloud infrastructure, and systems monitoring. All such third parties function as our agents, performing services at our instruction and on our behalf pursuant to contracts which require them to provide at least the same level of privacy protection as is required by our Privacy Policy. In addition, we may be required to disclose personal information in response to lawful requests by public authorities, including for the purpose of meeting national security or law enforcement requirements. We may also disclose personal information to other third parties when compelled to do so by government authorities or required by law or regulation including, but not limited to, in response to court orders and subpoenas.

With respect to retention of personal information, we may only retain such users' personal information in a form that identifies them only for as long as it serves the purpose(s) for which it was initially collected as stated in our Privacy Policy, as may be subsequently authorized. We may continue processing users' personal information for longer periods, but only for the time and to the extent such processing reasonably serves the purposes of statistical analysis, and subject to the protection of our Privacy Policy. After such time periods have expired, we may either delete the personal information or retain it in a form such that it does not identify the user personally.

### *Healthcare Laws and Regulations*

We will be subject to healthcare regulation and enforcement by the federal government and the states and foreign governments in which we might conduct our business, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 and their implementing regulations, impose obligations on certain types of individuals and entities regarding the electronic exchange of information in common healthcare transactions, as well as standards relating to the privacy and security of individually identifiable health information.

## **Competition**

We operate in industries that are highly competitive and evolving. Specifically, our business faces intense competition in gaming, NFT marketplaces, and other various digital products. In addition, our Platform may face competition from other AI services that cater to game users and game developers. Further, our competition may become more intense if gaming industry leaders such as Sony, Nintendo, and Microsoft, all of whom have significant financial, technical and other resources, greater brand recognition and longer operating histories, decide to focus their efforts on blockchain gaming.

Gaxos Health will also operate in a competitive health and wellness landscape. Specifically, Gaxos Health may face intense competition from other companies catering to individuals that are seeking for ways to improve their longevity and health span. Certain competitors, such as Inside Tracker and Tally Health, may expand their offering to include artificial intelligence and other proprietary methodologies that can further increase competition.

Our ability to compete depends in large part on our continuous commitment to research and development, our ability to rapidly introduce new features and functionality, and to acquire users. We intend to work closely with our customers to continuously enhance the performance, functionality, usability, reliability and flexibility of the Platform.

## Employees

As of March 27, 2024, we have a total of 3 full-time employees. We have established a network of external professionals and consultants to which we outsource various research and development and operational tasks in an effort to minimize administrative overhead. We are not a party to any collective bargaining agreements. We believe that we maintain good relations with our employees.

## Our Corporate Information

We were originally incorporated in the State of Wyoming on October 27, 2021 (“NFT Wyoming”). On March 29, 2022, the Board of Directors of the Company approved, subject to shareholder approval, a Plan of Conversion, pursuant to which the Company converted from a corporation incorporated under the laws of the State of Wyoming to a corporation incorporated under the laws of the State of Delaware (the “Reincorporation”), and such approval included the adoption of the Certificate of Incorporation (the “Delaware Certificate”) and the Bylaws (the “Delaware Bylaws”) for the Company under the laws of the State of Delaware, under the name, “The NFT Gaming Company, Inc.,” to become effective with the effectiveness of the Reincorporation. On March 29, 2022, we received majority shareholder approval. On March 30, 2022, we completed the Reincorporation by filing the Delaware Certificate with the Delaware Secretary of State. On January 5, 2024, we filed an amendment to our Certificate of Incorporation with the Delaware Secretary of State to change our name to “Gaxos.ai Inc.” On March 7, 2024, we filed a Certificate of Amendment with the Delaware Secretary of State to effectuate a 1-for-12 reverse stock split of our issued and outstanding and authorized shares of common stock. The reverse stock split became effective on March 7, 2024. All share data, per share data and related information contained in this Annual Report on Form 10-K has been retrospectively adjusted to reflect the effect of the reverse stock split.

## Available Information

Our website address is <https://gaxos.ai>. The contents of, or information accessible through, our website are not part of this Annual Report on Form 10-K, and our website address is included in this document as an inactive textual reference only. We make our filings with the U.S. Securities and Exchange Commission (“SEC”), including our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and all amendments to those reports, available free of charge on our website as soon as reasonably practicable after we file such reports with, or furnish such reports to, the SEC. The public may read and copy the materials we file with the SEC at the SEC’s Public Reference Room at 100 F Street, NE, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. Additionally, the SEC maintains an internet site that contains reports, proxy and information statements and other information. The address of the SEC’s website is [www.sec.gov](http://www.sec.gov). The information contained in the SEC’s website is not intended to be a part of this filing.

## ITEM 1A. RISK FACTORS

*An investment in our securities involves a high degree of risk. An investor should carefully consider the risks described below as well as other information contained in this Annual Report on Form 10-K and our other reports filed with the U.S. Securities and Exchange Commission (“SEC”). The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently believe are immaterial may also impair our business operations. If any of the following risks actually occur, our business, financial condition or results of operations could be materially adversely affected, the value of our securities could decline, and investors in our company may lose all or part of their investment.*

### **Risks Related to Our Business and Industry**

***We have a limited operating history and, therefore, cannot accurately project our revenues and operating expenses.***

Because we have a limited history, it is difficult to evaluate our proposed business and future prospects, including our ability to plan for and model future growth. For example, we intend to launch our Platform. There is no guarantee that the Platform will be launched or that expenditures will result in profit or growth of our business. Our limited operating experience, combined with the rapidly evolving nature of the NFT market in which we intend to operate, substantial uncertainty concerning how this market may develop, and other economic factors beyond our control reduce our ability to accurately forecast quarterly or annual revenue. Failure to manage our current and future growth effectively could have an adverse effect on our business, operating results, and financial condition. Our business should be considered in light of the risks, expenses, and difficulties that we have encountered to date and will continue to encounter.

***We have not developed a strong customer base, and we have not generated sustainable revenue since inception. We cannot assure you that we ever will. We will incur significant losses in launching products and we may not realize sufficient subscriptions or profits in order to sustain our business.***

We have not yet developed a strong customer base and we have not generated sustainable revenue since inception. We are subject to the substantial risk of failure facing businesses seeking to develop and commercialize new products and technologies. Maintaining and improving our Platform will require significant capital. We will also incur substantial accounting, legal, and other overhead costs as a public company. If our offerings to customers are unsuccessful, result in insufficient revenue, or result in us not being able to sustain revenue, we will be forced to reduce expenses, which may result in an inability to gain new customers.

***We may encounter numerous difficulties frequently encountered by companies in the early stage of operations.***

We have a limited operating history upon which any investor may evaluate our current business and future prospects. Any potential investor must consider the risks and difficulties frequently encountered by early-stage companies. Historically, there has been a high failure rate among early-stage companies. Our future performance will depend upon a number of factors, including our ability to:

- implement our growth strategy;
- aggressively counter and respond to actions by our competitors;
- pursue new users and maintain relationship with current users;
- maintain adequate control of our expenses;
- attract, retain and motivate qualified personnel;
- react to user preferences and demands;
- our ability to successfully implement, launch, and achieve market acceptance of our NFT products and to anticipate and manage the risks associated therewith; and
- regulatory compliance.

We cannot assure investors that we will successfully address any of these factors, and our failure to do so could have a material adverse effect on our business, financial condition, results of operations, and future prospects.

***We may be unable to manage our growth or implement our expansion strategy.***

We may not be able to develop our product or implement the other features of our business strategy at the rate or to the extent presently planned. Our projected growth will place a significant strain on our administrative, operational, and financial resources. If we are unable to successfully manage our future growth, establish and continue to upgrade our operating and financial control systems, recruit and hire necessary personnel, or effectively manage unexpected expansion difficulties, our financial condition and results of operations could be materially and adversely affected.

***We will need additional debt or equity financing in the future.***

While we expect to be able to generate operating revenues from the sale of our video digital products, our operating revenues will not be sufficient to finance our operations including our marketing efforts. Accordingly, we will need to obtain additional financing to operate and fully implement our business plan and aggressive growth strategy. There can be no assurance that any additional financing will be available to us or, if available, that such financing will be on terms acceptable to us. If we obtain additional financing through the issuance of equity or convertible debt securities, it may be significantly dilutive to our shareholders and such additional equity or convertible debt securities may have rights, preferences, or privileges senior to those of our Common Stock. In addition, our ability to issue debt securities or to service any debt may also be limited by our inability to generate consistent cash flow. If additional financing is not available on acceptable terms, we may not be able to fund our on-going operations or any future expansion of our business, develop or enhance our products or services, or respond effectively to competitive pressures. The inability to raise additional capital in the future may force us to curtail future business opportunities or cease operations entirely.

***If we are unable to obtain additional funding when needed, our business operations will be harmed, and if we do obtain additional financing, our then-existing shareholders may suffer substantial dilution.***

As we take steps in the commercialization and marketing of our technologies, or respond to potential opportunities and/or adverse events, our working capital needs may change. We anticipate that if our cash and cash equivalents are insufficient to satisfy our liquidity requirements, we will require additional funding to sustain our ongoing operations and to continue our research and development activities. We do not have any contracts or commitments for additional funding, and there can be no assurance that financing will be available in amounts or on terms acceptable to us, if at all, if needed. The inability to obtain additional capital will restrict our ability to grow and may reduce our ability to conduct business operations. If we are unable to obtain additional financing to finance a revised growth plan, we will likely be required to curtail such plans or cease our business operations. Any additional equity financing may involve substantial dilution to our then existing shareholders.

***We are dependent on the services of certain key management personnel, employees, and advisors. If we are unable to retain or motivate such individuals or hire qualified personnel, we may not be able to grow effectively.***

We depend on the services of a number of key management personnel, employees, and advisors and our future performance will largely depend on the talents and efforts of such individuals. We do not currently maintain “key person” life insurance on any of our employees. The loss of one or more of such key individuals, or failure to find a suitable successor, could hamper our efforts to successfully operate our business and achieve our business objectives. Our future success will also depend on our ability to identify, hire, develop, motivate, and retain highly skilled personnel. Competition in our industry for qualified employees is

intense, and our compensation arrangements may not always be successful in attracting new employees and/or retaining and motivating our existing employees. Future acquisitions by us may also cause uncertainty among our current employees and employees of the acquired entity, which could lead to the departure of key individuals. Such departures could have an adverse impact on the anticipated benefits of an acquisition.

***We may continue to incur substantial losses and negative operating cash flows and may not achieve or maintain positive cash flow or profitability in the future.***

We have incurred significant losses and negative operating cash flow from inception and may continue to incur significant losses and negative operating cash flow into the future. In order to reach our business growth objectives, we expect to incur significant sales, marketing, software development and other operating costs, including costs associated with the expansion of our personnel. As a result, we will need to generate and grow our revenues significantly to achieve positive cash flow and profitability. There can be no assurance that we will be successful in generating and increasing our revenues or that we can achieve or maintain positive cash flow or profitability. The uncertainties regarding the commencement of adequate commercial revenues raise substantial doubt about our ability to continue as a going concern.

***Our Platform is currently under development and no assurance can be given that our Platform will be accepted by others or generate sufficient interest.***

Our proposed Platform is currently under development. It is our intent that the Platform will (i) support our owned- and-operated games; (ii) provide third-party game creators and publishers with the ability to integrate our NFT infrastructure; and (iii) create a unified environment where all the games and users on the Platform can participate in promotions, opportunities, and various experiences. Failure to develop a robust gaming platform will adversely affect our business objectives.

***Our business will be intensely competitive. We may not deliver successful and engaging games, or players and consumers may prefer our competitors' products over our own.***

We operate in a competitive environment that is characterized by price fluctuation and technological change. We will compete with major international and domestic companies. Some of our current and future potential competitors may have greater market recognition and customer bases, longer operating histories, and substantially greater financial, technical, marketing, distribution, purchasing, manufacturing, personnel, and other resources than we do. In addition, competitors may be developing similar technologies with a cost similar to, or lower than, our projected costs. As a result, they may be able to respond more quickly to changing customer demands or to devote greater resources to the development, promotion and sales of blockchain-based games and NFT products than we can.

***The Platform is based on new and unproven technologies and is subject to the risks of failure inherent in the development of new products and services.***

Because the Platform is based on certain new technologies, it is subject to risks of failure that are particular to new technologies, including the possibility that:

- the Platform may not gain market acceptance;
- proprietary rights of third parties may preclude us from marketing a new product or service;
- the Platform may not receive the exposure required to obtain new users; or
- third parties may market superior products or services.

***Digital ecosystems, including offerings of digital assets, is evolving, and uncertain, and new regulations or policies may materially adversely affect our development.***

The technologies supporting these digital assets like blockchain and NFTs are new and rapidly evolving. To the extent these technologies become more widely utilized in the industry, our revenues could be negatively impacted. If we fail to explore these new technologies and apply them innovatively to keep our products and services competitive, we may not experience significant growth of our business. Regulation of digital assets like cryptocurrencies, blockchain technologies, NFTs, and cryptocurrency exchanges is currently underdeveloped and likely to rapidly evolve as government agencies take greater interest in them. Regulation also varies significantly among international, federal, state and local jurisdictions and is subject to significant uncertainty. Various legislative and executive bodies in the United States and in other countries may in the future adopt laws, regulations, or guidance, or take other actions, which may severely impact the permissibility of tokens generally and the technology behind them or the means of transacting in or transferring them. The regulatory regime governing blockchain technologies, NFTs, cryptocurrencies, digital assets, utility tokens, security tokens and offerings of digital assets is uncertain, and new regulations or policies may materially adversely affect our development and our value if we materially embrace digital assets and cryptocurrencies in the future.

***Marketplace demand of the NFTs is unpredictable.***

The appetite in the marketplace is unpredictable as it is related to NFTs and may change over time. The trading of NFTs in the open market and use in gameplay are based purely on marketplace demand.

***We may not be able to adequately evaluate the risks associated with our planned NFT platform.***

The Platform may not be successful and may expose us to legal, regulatory, and other risks. Given the nascent and evolving nature of cryptocurrencies, NFTs, and blockchain technology, we may be unable to accurately anticipate or adequately address such risks or the potential impact of such risks. The occurrence of any such risks could materially and adversely affect our business, financial condition, results of operations, reputation, and prospects.

As the market for NFTs is relatively nascent, it is difficult to predict how the legal and regulatory framework around NFTs will develop and how such developments will impact our business and the Platform. Further, market acceptance of NFTs is uncertain as buyers may be unfamiliar or uncomfortable with digital assets generally, how to transact in digital assets, or how to assess the value of NFTs. The launch of the Platform also subjects us to risks similar to those associated with any new platform offering, including, but not limited to, our ability to accurately anticipate market demand and acceptance, our ability to successfully launch our new offering, creator and buyer acceptance, technical issues with the operation of the Platform, and legal and regulatory risks as discussed above. We believe these risks may be heightened with respect to the Platform, as NFTs are still considered a relatively novel concept. If we fail to accurately anticipate or manage the risks associated with the Platform or with our facilitation of crypto asset transactions, or if we directly or indirectly become subject to disputes, liability, or other legal or regulatory issues in connection with the Platform or crypto asset transactions, the Platform may not be successful and our business, financial condition, results of operations, reputation, and prospects could be materially harmed.

***Our industry is subject to rapid technological change, and if we do not adapt to, and appropriately allocate our resources among, emerging technologies and business models, our business may be negatively impacted.***

Technology changes rapidly in the interactive entertainment industry. We must continually anticipate and adapt to emerging technologies, such as cloud-based game streaming, and business models, such as free-to-play and subscription-based access to a portfolio of interactive content, to stay competitive. Forecasting the financial impact of these changing technologies and business models is inherently uncertain and volatile. Supporting a new technology or business model may require partnering with a new platform, business, or technology partner, which may be on terms that are less favorable to us than those for traditional technologies or business models. If we invest in the development of interactive entertainment products for distribution channels that incorporate a new technology or business model that does not achieve significant commercial success, whether because of competition or otherwise, we may not recover the often-substantial up-front costs of developing and marketing those products, or recover the opportunity cost of diverting management and financial resources away from other products or opportunities. Further, our competitors may adapt to an emerging technology or business model more quickly or effectively than we do, creating products that are technologically superior to ours, more appealing to consumers, or both.

If, on the other hand, we elect not to pursue the development of products incorporating a new technology, or otherwise elect not to pursue new business models that achieve significant commercial success, it may have adverse consequences. It may take significant time and expenditures to shift product development resources to that technology or business model, and it may be more difficult to compete against existing products incorporating that technology or using that business model.

***Negative perceptions about our business, products, and services and the communities within our products and services may damage our business, and we may incur costs to address concerns.***

Expectations regarding the quality, performance and integrity of our products and services are high. Negative responses about our products and services may not be foreseeable. We also may not effectively manage these responses because of reasons within or outside of our control. For example, we have included in certain games the ability for players to purchase digital items, including in some instances virtual “picks”, “boxes” or “crates” that contain variable digital items. The inclusion of variable digital items in certain games has the possibility of creating a negative perception of gameplay fairness or other negative perceptions, our reputation and brand could be harmed and revenue could be negatively impacted.

In addition, we aim to offer our players safe, inclusive and fulfilling online communities. We may not be able to maintain healthy, long-term online communities within our games and services as a result of the use of those communities as forums for harassment or bullying, our inability to successfully discourage overuse of our games and services or overspending within our games and services, or the successful implementation of cheating programs. Although we expend resources, and expect to continue to expend resources, to maintain healthy online communities, our efforts may not be successful due to scale, limitations of existing technologies or other factors.

In the event that there is negative sentiment about gameplay fairness, our online communities, our business practices, business models or game content, it can lead to investigations or increased scrutiny from governmental bodies and consumer groups, as well as litigation, which, regardless of their outcome, may be costly, damaging to our reputation and harm our business.

***We may become involved in legal proceedings that may result in adverse outcomes.***

We may become subject to claims, suits, government investigations, and other proceedings involving competition and antitrust, intellectual property, privacy, tax, labor and employment, commercial disputes, content generated by our users, goods and services offered by advertisers or publishers using our platforms, and other matters. Such claims, suits, government investigations, and proceedings are inherently uncertain and their results cannot be predicted with certainty. Regardless of the outcome, such legal proceedings can have an adverse impact on us because of legal costs, diversion of management resources, and other factors. Determining reserves for our pending litigation is a complex, fact-intensive process that requires significant

judgment. It is possible that a resolution of one or more such proceedings could result in substantial fines and penalties that could adversely affect our business, financial position, results of operations, or cash flows in a particular period. These proceedings could also result in criminal sanctions, consent decrees, or orders preventing us from offering certain features, functionalities, products, or services, requiring a change in our business practices, or requiring development of non-infringing products or technologies, which could also adversely affect our business and results of operations.

***Our business is subject to economic, market and geopolitical conditions.***

Our business is subject to economic, market, public health, and geopolitical conditions which are beyond our control. The United States and other international economies have experienced cyclical downturns from time to time. Worsening economic conditions that negatively impact discretionary consumer spending and consumer demand, including inflation, slower growth, recession, and other macroeconomic conditions, including those resulting from public health outbreaks such as the COVID-19 pandemic and geopolitical issues could have a material adverse impact on our business and operating results.

We are particularly susceptible to market conditions and risks associated with the entertainment industry, which, in addition to general macroeconomic downturns, also include the popularity, price and timing of our games, changes in consumer demographics, the availability and popularity of other forms of entertainment, and critical reviews and public tastes and preferences, which may change rapidly and cannot necessarily be predicted.

***Catastrophic events may disrupt our business.***

Natural disasters, cyber-incidents, weather events, wildfires, power disruptions, telecommunications failures, public health outbreaks, failed upgrades of existing systems or migrations to new systems, acts of terrorism or other events could cause outages, disruptions and/or degradations of our infrastructure, including our or our partners' information technology and network systems, a failure in our ability to conduct normal business operations, or the closure of public spaces in which players engage with our games and services. The health and safety of our employees, players, third-party organizations with whom we partner or regulatory agencies on which we rely could be also affected, which may prevent us from executing against our business strategies or cause a decrease in consumer demand for our products and services. System redundancy may be ineffective and our disaster recovery and business continuity planning may not be sufficient for all eventualities. Such failures, disruptions, closures, or inability to conduct normal business operations could also prevent access to our products, services or online stores selling our products and services, cause delay or interruption in our product or live services offerings, allow breaches of data security or result in the loss of critical data. An event that results in the disruption or degradation of any of our critical business functions or information technology systems, harms our ability to conduct normal business operations or causes a decreased in consumer demand for our products and services could materially impact our reputation and brand, financial condition and operating results.

***We may not meet our product and live service development schedules and live service release schedule may be delayed, cancelled, or poorly received.***

Our ability to meet product development schedules is affected by a number of factors both within and outside our control, including feedback from our players, the creative processes involved, the coordination of large and sometimes geographically dispersed development teams, the complexity of our products and the platforms for which they are developed, the need to fine-tune our products prior to their release and, in certain cases, approvals from third parties. Any failure to meet anticipated production or release schedules likely would result in a delay of revenue and/or possibly a significant shortfall in our revenue, increase our development and/or marketing expenses, harm our profitability, and cause our operating results to be materially different than anticipated. If we miss key selling periods for products or services, particularly the fiscal quarter ending in December, for any reason, including product delays or product cancellations our sales likely will suffer significantly.

***Increasing gas fees on Polygon could materially affect our revenues.***

Users must pay gas fees on NFT platforms when minting NFTs. Gas fees are transaction fees specific to the Ethereum ("ETH") blockchain network. The fee is determined by the number of transactions on the protocol and type of computations required to verify transactions; the greater the popularity, the greater the fee. Increased traffic can also lead to scalability problems which may also push gas fees higher. To mitigate this risk we have chosen to build our NFTs on the Polygon network and to strategically price our NFTs. Gas fees on Polygon are significantly cheaper than that of the most widely used blockchain network, Ethereum. We do not currently anticipate any material changes in gas prices on the Polygon network that would affect our business model. However, if gas prices on the Polygon network become too high, then demand for our NFTs could decrease and we could potentially lose existing and potential customers to competitors with cheaper fees. This would materially and adversely affect our revenues and thereby the success of our business.

**Risks Related to Information Technology Systems, Intellectual Property and Privacy Laws**

***Security breaches and attacks against our systems and network, and any potentially resulting breach or failure to otherwise protect confidential and proprietary information, could damage our reputation and negatively impact our business, as well as materially and adversely affect our financial condition and results of operations.***

Although we have employed significant resources to develop our security measures against breaches, our cybersecurity measures may not detect or prevent all attempts to compromise our systems, including distributed denial-of-service attacks, viruses, malicious software, break-ins, phishing attacks, social engineering, security breaches or other attacks and similar

disruptions that may jeopardize the security of information stored in and transmitted by our systems or that we otherwise maintain. Breaches of our cybersecurity measures could result in unauthorized access to our systems, misappropriation of information or data, deletion or modification of client information, or a denial-of-service or other interruption to our business operations. As techniques used to obtain unauthorized access to or sabotage systems change frequently and may not be known until launched against us or our third-party service providers, we may be unable to anticipate, or implement adequate measures to protect against, these attacks.

If we are unable to avert these attacks and security breaches, we could be subject to significant legal and financial liability, our reputation would be harmed and we could sustain substantial revenue loss from lost sales and customer dissatisfaction. We may not have the resources or technical sophistication to anticipate or prevent rapidly evolving types of cyber-attacks. Cyber-attacks may target us, our Traders or other participants, the communication infrastructure, or the e-platform on which we depend. Actual or anticipated attacks and risks may cause us to incur significantly higher costs, including costs to deploy additional personnel and network protection technologies, train employees, and engage third-party experts and consultants. Cybersecurity breaches would not only harm our reputation and business, but also could materially decrease our revenue and net income.

***We face the risk of fraud.***

Online transactions may be subject to sophisticated schemes or collusion to defraud, launder money or other illegal activities, and there is a risk that our products may be used for those purposes either by our customers or our employees or contractors. This may be especially true when dealing with cryptocurrencies, which by design, may be difficult or impossible to trace. While we believe that our systems, both computer and procedural, afford an adequate degree of protection against fraudulent activities, if such protection is not effective in all cases, is circumvented or if we fail to implement updated controls and procedures or to counter new fraud techniques, we could lose the confidence of our customers and our reputation could be damaged. Moreover, any failure to protect ourselves and our customers from fraudulent activity, could result in reputational damage and could materially adversely affect our operations, financial performance and prospects. Failure to adequately monitor and prevent money laundering and other fraudulent activity could also result in civil or criminal liability.

***We use open-source software in connection with certain of our games and services which may pose particular risks to our proprietary software, products, and services in a manner that could have a negative impact on our business.***

We use open-source software in connection with some of the games and services we offer. Some open-source software licenses require users who distribute open source software as part of their software to publicly disclose all or part of the source code to such software or make available any derivative works of the open source code on unfavorable terms or at no cost. The terms of various open-source licenses have not been interpreted by courts, and there is a risk that such licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our use of the open-source software. Were it determined that our use was not in compliance with a particular license, we may be required to release our proprietary source code, pay damages for breach of contract, re-engineer our games or products, discontinue distribution in the event re-engineering cannot be accomplished on a timely basis, or take other remedial action that may divert resources away from our game development efforts, any of which could negatively impact our business.

***We rely on third-party providers for computing infrastructure, secure network connectivity, and other technology-related services needed to deliver our products. Any disruption in the services provided by such third-party provider could adversely affect our business.***

Our products are hosted from, and use computing infrastructure, secure network connectivity, and other technology-related services provided by third-party providers. We do not control the operations of these third-party provider or own the equipment used to provide such services. Because we cannot easily switch between cloud providers, any disruption of or interference, for example, due to natural disasters, cyber-attacks, terrorist attacks, power losses, telecommunications failures, or similar events, would impact our operations and may adversely affect our business, financial condition, operating results and cash flows. In addition, these providers have no obligation to renew their agreements with us on commercially reasonable terms or at all. If we are unable to renew our agreements on commercially reasonable terms or develop our blockchain capabilities, we may be required to transition to a new provider, and we may incur significant costs and possible service interruption in connection with doing so.

In addition, these providers may take actions beyond our control that could seriously harm our business, including:

- discontinuing or limiting our access to its cloud platform
- increasing pricing terms;
- terminating or seeking to terminate our contractual relationship altogether;
- establishing more favorable relationships or pricing terms with one or more of our competitors; and
- modifying or interpreting its terms of service or other policies in a manner that impacts our ability to run our business and operations.

Cloud hosting providers have broad discretion to change and interpret their terms of service and other policies with respect to us, and those actions may be unfavorable to us. They may also alter how we are able to process data on their respective cloud platforms. If changes or interpretations are made that are unfavorable to us, our business could be seriously harmed.

***We may not be able to secure all rights to our intellectual property or our rights may be subject to claims of infringement by others and other issues affecting production.***

We will rely on a combination of trade secret, trademark, and copyright laws, as well as employee and third-party non-disclosure agreements and other protective measures, to protect intellectual property rights pertaining to our products and technologies both in the U.S. and abroad. There can be no assurance, however, that these measures will provide meaningful protection of our technology, trade secrets, know-how or other intellectual property in the event of any unauthorized use, misappropriation, or disclosure. There can also be no assurance that others will not independently develop similar technologies or duplicate any technology that we develop or have developed without violating our intellectual property rights. In addition, there can be no assurance that our intellectual property rights will be held to be valid, will not be successfully challenged or will otherwise be of value. In the event that we are subject to a claim of intellectual property infringement, whether it be patent, copyright or trademark, the cost of defending such a claim, even if partly covered by insurance, will be significant and will have a material adverse effect on our financial results.

***If third parties claim that we infringe their intellectual property, it may result in costly litigation.***

We cannot assure you that third parties will not claim our current or future products or services infringe their intellectual property rights. Any such claims, with or without merit, could cause costly litigation that could consume significant management time. Such claims also might require us to enter into royalty or license agreements. If required, we may not be able to obtain such royalty or license agreements, or obtain them on terms acceptable to us.

***We may not be able to adequately protect our proprietary technology, and our competitors may be able to offer similar products and services which would harm our competitive position.***

Our success, in part, depends upon our proprietary technology. We have various forms of intellectual property including patent, copyright, trademark and trade secret laws, confidentiality procedures and contractual provisions to establish and protect our proprietary rights. Despite these precautions, third parties could copy or otherwise obtain and use our technology without authorization, or develop similar technology independently. We also pursue the registration of our domain names, trademarks, and service marks in the United States. However, we cannot provide any assurance that patent applications that we file will ultimately result in an issued patent or, if issued, that they will provide sufficient protections for our technology against competitors. We cannot assure you that the protection of our proprietary rights will be adequate or that our competitors will not independently develop similar technology, duplicate our products and services or design around any intellectual property rights we hold.

***The Platform may raise issues regarding third party intellectual property rights.***

NFTs raise various intellectual property law considerations, including adequacy and scope of assignment, licensing, transfer, copyright, and other right of use issues. The creator of an NFT will often have all rights to the content of the NFT and can determine what rights to assign to a buyer, such as the right to display, modify, or copy the content. To the extent we are directly or indirectly involved in a dispute between creators and buyers on the Platform, it could materially and adversely affect the success of the Platform and harm our business and reputation.

***The Platform may face cybersecurity risks.***

NFTs in general, and the Platform specifically, may also be an attractive target for cybersecurity attacks. For example, a perpetrator could seek to obtain the private key associated with a digital wallet holding an NFT to access and sell the NFT without valid authorization, and the owner of the NFT may have limited recourse due to the nature of blockchain transactions and of cybercrimes generally. NFT marketplaces, including the Platform, may also be vulnerable to attacks where an unauthorized party acquires the necessary credentials to access user accounts. The safeguards we have implemented or may implement in the future to protect against cybersecurity threats may be insufficient. If the Platform were to experience any cyberattacks, it could negatively impact our reputation and market acceptance of our platform.

***The laws and regulations concerning data privacy are continually evolving. Failure to comply with these laws and regulations could harm our business.***

We will collect and store information about our consumers, including consumers who play our games. In addition, we collect and store information about our employees. We will be subject to laws from a variety of jurisdictions regarding privacy and the protection of this information, including the E.U.'s General Data Protection Regulation (the "GDPR"), the U.S. Children's Online Privacy Protection Act ("COPPA"), which regulates the collection, use, and disclosure of personal information from children under 13 years of age, and the California Consumer Privacy Act (the "CCPA"). Failure to comply with any of these laws or regulations may increase our costs, subject us to expensive and distracting government investigations, and result in substantial fines.

Data privacy protection laws are rapidly changing and likely will continue to do so for the foreseeable future and may be inconsistent from jurisdiction to jurisdiction. For example, the E.U. has traditionally taken a broader view than the United States and certain other jurisdictions as to what is considered personal information and has imposed greater obligations under data

privacy and protection regulations, including those imposed under the GDPR. The U.S. government, including the Federal Trade Commission and the Department of Commerce, as well as various U.S. state governments, are continuing to review the need for greater regulation over the collection of personal information and information about consumer behavior on the Internet and on mobile devices. Complying with emerging and changing laws could require us to incur substantial costs or impact our approach to operating and marketing our games. Due to the rapidly changing nature of these data privacy protection laws, there is not always clear guidance from the respective governments and regulators regarding the interpretation of the law, which may create the risk of an inadvertent violation. For example, the California legislature recently passed the CCPA and the E.U. has proposed further reforms to its existing data protection legal framework, in addition to the GDPR, which may further change our compliance obligations. Various government and consumer agencies worldwide have also called for new regulation and changes in industry practices. In addition, in some cases, we are dependent upon our platform providers and external data processors to assist us in ensuring compliance with these various types of regulations, and a violation by one of these third parties may also subject us to government investigations and result in substantial fines.

Player interaction with our games will be subject to our privacy policies, end user license agreements (“EULAs”), and terms of service. If we fail to comply with our posted privacy policies, EULAs, or terms of service, or if we fail to comply with existing privacy-related or data protection laws and regulations, it could result in proceedings or litigation against us by governmental authorities or others, which could result in fines or judgments against us, damage our reputation, impact our financial condition, and harm our business. If regulators, the media, consumers, or employees raise any concerns about our privacy and data protection or consumer protection practices, even if unfounded, this could also result in fines or judgments against us, damage our reputation, negatively impact our financial condition, or damage our business.

Gaxos Health will rely on information systems to obtain, process, analyze, and manage data. To the extent IT systems are not successfully implemented or fail, our business and results of operations may be adversely affected. Further, our business will rely to a significant degree upon the secure transmission, use and storage of sensitive information, including protected health information and other personally identifiable information, financial information and other confidential information and data within these systems.

To protect this information, we will need to implement commercially reasonable security measures and maintain information security policies and procedures informed by requirements under applicable law and recommended practices, in each case, as applicable to the data collected, hosted and processed. Despite our efforts, our business will be vulnerable to unauthorized access to data and/or breaches of confidential information due to criminal conduct, physical break-ins, hackers, employee or insider malfeasance and/or improper employee or contractor access, computer viruses, programming errors, denial-of-service attacks, ransomware events, phishing schemes, fraud, terrorist attacks, human error or other breaches by insiders or third parties or similar disruptive problems. It is not possible to prevent all security threats to our data. Techniques used to obtain unauthorized access, disable or degrade service or sabotage systems change frequently and may be difficult to detect for long periods of time. Further, defects in the design or manufacture of applications we develop or procure from third parties could compromise our data. These events, including unauthorized access, misappropriation, disclosure or loss of sensitive information (including financial or personal health information) or a significant disruption of our network, expose us to risks including risks to our ability to provide our solutions, management distraction and the obligation to devote significant financial and other resources to mitigate such problems and increases to our future information security costs. Moreover, unauthorized access, use or disclosure of certain sensitive information in our possession or our failure to satisfy legal requirements, including requirements relating to safeguarding protected health information under the Health Insurance Portability and Accountability Act (“HIPAA”) or state data privacy laws could result in civil and criminal liability and regulatory action, which could result in potential fines and penalties, as well as costs relating to investigation of an incident or breach, corrective actions, required notifications to regulatory agencies and customers, credit monitoring services and other necessary expenses. In addition, actual or perceived breaches of our security management efforts can cause existing customers to terminate their relationship with us and deter existing or prospective customers from using or purchasing our solutions in the future. These events can have a material adverse impact on our business, results of operations, financial condition and reputation.

***We collect, store, process, and use personal data, which subjects us to legal obligations and laws and regulations related to security and privacy, and any actual or perceived failure to meet those obligations could harm our business.***

We collect, process, store, and use a wide variety of data from our customers, including personal information. We are subject to federal, state and international laws relating to the collection, use, retention, security and transfer of various types of personal information. U.S. federal, state, and international laws and regulations governing privacy and data protection impose restrictions on what we can do with our customers’ personal data and provide for related obligations. These obligations include heightened transparency about data collection, use and sharing practices, new data privacy rights, and rules in respect to cross-border data transfers, which carry significant enforcement penalties for non-compliance. These laws and regulations also require us to safeguard our customers’ personal data. Although we have established security procedures to protect customer information, our or our third-party service providers’ security and testing measures may not prevent security breaches. Any compromise of our security or breach of our customers’ privacy could harm our reputation or financial condition and, therefore, our business.

In addition to the risks generally relating to the collection, use, retention, security and transfer of personal information, we are also subject to specific obligations relating to information considered sensitive under applicable laws, such as health data and biometric data. Health data is subject to additional privacy, security and breach notification requirements, and we are subject to audit by governmental authorities regarding our compliance with these obligations. The collection, handling, and other processing of biometric data also are subject to particular scrutiny and obligations under applicable laws and regulations, including consumer protection legislation (such as the Federal Trade Commission Act and similar state legislation), general privacy legislation (such as the California Consumer Privacy Act, or CCPA), and state statutes addressing biometric information

specifically (including Illinois' Biometric Information Privacy Act, or BIPA), and by consumer protection regulators. If we fail to adequately comply with applicable rules and requirements, or if health data is handled in a manner not permitted by law or under our agreements with healthcare institutions, we can be subject to litigation or government investigations or other proceedings, and can be liable for associated investigatory expenses, and can also incur significant fees or fines. Some of those laws, including BIPA, provide consumers with a private right of action for certain violations and large potential statutory damages awards. Recent litigation around these laws has encouraged plaintiffs' attorneys to bring additional actions against other targets. Further, the FTC issued a policy statement regarding biometric information on May 18, 2023, that identifies numerous risks the FTC considers key, outlines relevant practices the FTC plans to scrutinize, and affirms the FTC's commitment to addressing deceptive and unfair practices involving the collection and use of biometric information, as well as deceptive marketing of biometric information technologies. These developments underscore the legal and regulatory risks applicable to our collection, use, disclosure, and other processing of health and biometric information.

In addition, a party who circumvents our security measures or exploits inadequacies in our security measures, could, among other effects, misappropriate customer data or other proprietary information or cause interruptions in our operations. Actual or perceived vulnerabilities may lead to claims against us. To the extent that the measures we or our third-party business partners have taken are, or are perceived to be, insufficient or inadequate, we may become subject to litigation, breach notification obligations, or regulatory or administrative sanctions, which could result in significant fines, penalties, or damages and harm to our reputation. Depending on the nature of the information compromised, in the event of a data breach or other unauthorized processing of our customer data, we may also have obligations to notify customers about the incident and we may need to provide some form of remedy for the individuals affected by the incident. A growing number of legislative and regulatory bodies have adopted consumer notification requirements in the event of unauthorized access to or acquisition of certain types of personal data. Such breach notification laws continue to evolve and may be inconsistent from one jurisdiction to another. Complying with these obligations could cause us to incur substantial costs and could increase negative publicity surrounding any incident that compromises customer data.

Violations of applicable laws relating to privacy, data protection, or cybersecurity, or cybersecurity breaches or incidents, as well as the perception that any of the foregoing have occurred, could impact our business in a number of ways, such as a temporary suspension of some or all of our operating and/or information systems, damage to our reputation and brand and our relationships with customers, suppliers, vendors, and service providers and could result in lost, unavailable, or corrupted data, lost sales, increased insurance premiums, substantial breach-notification and other remediation costs and claims, demands, and litigation, as well as adversely affect results of operations. In addition, we may also face regulatory investigations and other proceedings with corresponding fines, penalties, and other liabilities, civil claims including representative actions, and other class action type litigation (where individuals have suffered harm), potentially amounting to significant compensation or damages liabilities, as well as associated costs, diversion of internal resources, and reputational harm. We may also incur additional costs in the future related to the implementation of additional security measures to protect against new or enhanced data security and privacy threats, to comply with state, federal, and international laws that may be enacted to address personal data processing risks and data security threats, or to investigate or address potential or actual data security breaches or incidents or violations of our actual or alleged obligations relating to privacy, data protection, or cybersecurity.

***United States federal and state privacy laws, and equivalent laws of other nations, may increase our costs of operation and expose us to civil and criminal sanctions.***

Regulation of data processing is evolving, as federal, state, and foreign governments continue to adopt new, or modify existing, laws and regulations addressing data privacy and security, and the collection, processing, storage, transfer, and use of data. These new or proposed laws and regulations are subject to differing interpretations and may be inconsistent among jurisdictions, and guidance on implementation and compliance practices are often updated or otherwise revised, which adds to the complexity of processing personal data. These and other requirements could require us or our collaborators to incur additional costs to achieve compliance, limit our competitiveness, necessitate the acceptance of more onerous obligations in our contracts, restrict our ability to use, store, transfer, and process data, impact our or our collaborators' ability to process or use data in order to support the provision of our products, affect our or our collaborators' ability to offer our products in certain locations, or cause regulators to reject, limit or disrupt our clinical trial activities.

We and our collaborators may be subject to federal, state, and foreign data protection laws and regulations (i.e., laws and regulations that address privacy and data security). In the United States, numerous federal and state laws and regulations, including federal health information privacy laws, state personal information laws, state data breach notification laws, state health information privacy laws and federal and state consumer protection laws and regulations that govern the collection, use, disclosure and protection of health-related and other personal information could apply to our operations or the operations of our collaborators. In addition, we may obtain health information from third parties (including research institutions from which we obtain clinical trial data) that are subject to privacy and security requirements under the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, or HITECH. Depending on the facts and circumstances, we could be subject to civil or criminal penalties if we knowingly use or disclose individually identifiable health information maintained by a HIPAA-covered entity in a manner that is not authorized or permitted by HIPAA.

***Our business will be subject to complex and prescriptive regulations regarding consumer protection and data privacy practices, and could be adversely affected if our consumer protection, data privacy and security practices are not adequate, or perceived as being inadequate.***

We will be subject to global data privacy, data protection, localization, security and consumer-protection laws and regulations worldwide. These laws and regulations are emerging and evolving and the interpretation and application of these laws and regulations often are uncertain, contradictory, and changing. The failure to maintain data practices that are compliant with applicable laws and regulations, or evolving interpretations of applicable laws and regulations, could result in inquiries from enforcement agencies or direct consumer complaints, resulting in civil or criminal penalties, and could adversely impact our reputation and brand. In addition, the operational costs of compliance with these regulations are high and will likely continue to increase.

Even if we remain in strict compliance with applicable laws and regulations, consumer sensitivity to the collection and processing of their personal information continues to increase. Any real or perceived failures in maintaining acceptable data privacy practices, including allowing improper or unauthorized access, acquisition or misuse and/or uninformed disclosure of consumer, employee and other information, or a perception that we do not adequately secure this information or provide consumers with adequate notice about the information that they authorize us to collect and disclose could result in brand, reputational, or other harms to the business, result in costly remedial measures, deter current and potential customers from using our products and services and cause our financial results to be materially affected.

Third party vendors and business partners receive access to certain information that we collect. These vendors and business partners may not prevent data security breaches with respect to the information we provide them or fully enforce our policies, contractual obligations and disclosures regarding the collection, use, storage, transfer and retention of personal data. A data security breach of one of our vendors or business partners could cause reputational and financial harm to them and us, negatively impact our ability to offer our products and services, and could result in legal liability, costly remedial measures, governmental and regulatory investigations, harm our profitability, reputation and brand, and cause our financial results to be materially affected.

***Digital ecosystems, including offerings of digital assets, are evolving, and uncertain, and new regulations or policies may materially adversely affect our development.***

The technologies supporting these digital assets like blockchain and NFT are new and rapidly evolving. To the extent these technologies become more widely utilized in the industry, our revenues could be negatively impacted. If we fail to explore these new technologies and apply them innovatively to keep our products and services competitive, we may not experience significant growth of our business. Regulation of digital assets like, cryptocurrencies, blockchain technologies, NFTs and cryptocurrency exchanges, is currently underdeveloped and likely to rapidly evolve as government agencies take greater interest in them. Regulation also varies significantly among international, federal, state and local jurisdictions and is subject to significant uncertainty. Various legislative and executive bodies in the United States and in other countries may in the future adopt laws, regulations, or guidance, or take other actions, which may severely impact the permissibility of tokens generally and the technology behind them or the means of transacting in or transferring them. The regulatory regime governing blockchain technologies, NFTs, cryptocurrencies, digital assets, utility tokens, security tokens and offerings of digital assets is uncertain, and new regulations or policies may materially adversely affect our development and our value if we materially embrace digital assets and cryptocurrencies in the future.

#### **Risks Related to Digital Assets**

***The sale of NFTs on the Platform could be determined to be the unregistered sale of securities.***

There is regulatory uncertainty with respect to whether certain NFTs could be considered securities. If NFTs sold on the Platform were deemed to be securities, we may be found to be in violation of securities laws for engaging in transactions regarding unregistered securities. Such a determination could lead to an enforcement action by the SEC and result in fines and other penalties, and have a negative impact on our business.

***Risks relating to our decision to accept cryptocurrency as a form of payment may subject us to exchange risk and additional tax and regulatory requirements.***

We currently plan to accept Bitcoin and Ethereum, as a form of payment for purchases on the Platform, in which case we would be subject to additional regulatory requirements. We do not currently plan to accept any other cryptocurrencies as a form of payment.

Cryptocurrencies are not currently considered legal tender or backed by any government. The prices of digital assets have been in the past and may continue to be highly volatile, including as a result of various associated risks and uncertainties. For example, the prevalence of such assets is a relatively recent trend, and their long-term adoption by investors, consumers and businesses is unpredictable. Moreover, their lack of a physical form, their reliance on technology for their creation, existence and transactional validation and their decentralization may subject their integrity to the threat of malicious attacks and technological obsolescence. As intangible assets without centralized issuers or governing bodies, digital assets have been, and may in the future be, subject to security breaches, cyberattacks or other malicious activities, as well as human errors or computer malfunctions that may result in the loss or destruction of private keys needed to access such assets.

We will not accept such cryptocurrency payments directly, but plan to use a third-party vendor to accept and process any such cryptocurrency payments on our behalf. Such third-party vendor may then immediately convert the cryptocurrency into U.S. dollars so that we would receive payment in U.S. dollars. However, the regulatory environment covering the acceptance of cryptocurrencies is still evolving and the extent to which we would be responsible for any decrease in the value of such cryptocurrencies after the customer has tendered the funds but prior to its delivery to us in U.S. dollars has not been established.

We may also hold cryptocurrencies directly, and we have exchange rate risk in the amounts we hold as well as the risks that regulatory or other developments may adversely affect the value of the cryptocurrencies we hold. There is substantial uncertainty regarding legal and regulatory requirements relating to cryptocurrencies or transactions utilizing cryptocurrencies. These uncertainties, as well as potential accounting and tax issues, or other requirements relating to cryptocurrencies could have a material adverse effect on our business.

Furthermore, it is unclear the extent to which accepting Bitcoin and Ethereum would subject us to additional money laundering regulations, “Know Your Customer” (“KYC”) procedures or other laws or to additional taxation. If we fail to comply with prohibitions applicable to us, we could face regulatory or other enforcement actions and potential fines and other consequences.

***We rely on third parties for certain aspects of our business, which creates additional risk.***

We rely on third parties for certain aspects of our business, including payment service providers and digital wallets to process transactions. We may not manage to comply with our agreement with third parties or these third parties may refuse to process transactions adequately, may breach their agreements with us, may refuse to renew agreements on commercially reasonable terms, take actions that degrade the functionality of our services, impose additional costs, new licenses or other requirements on us, or give preferential treatment to competitive services or suffer outages in their systems, any of which could disrupt our operations and materially and adversely affect our business, financial condition and results of operations. Some third parties that provide services to us may have or gain market power and could increase their prices to us without competitive constraint. In addition, there can be no assurance that third parties that provide services directly to us will continue to do so on acceptable terms, or at all, or will not suffer from outages to their systems. If any third parties were to stop providing services to us on acceptable terms, we may be unable to find alternative providers in a timely and efficient manner and on acceptable terms, or at all, which could materially adversely affect our business, financial condition, and results of operations.

***Our crypto assets may be subject to loss, damage, theft or restriction on access. Further, digital asset exchanges on which crypto assets trade are relatively new and largely unregulated, and thus may be exposed to fraud and failure. Incorrect or fraudulent cryptocurrency transactions may be irreversible.***

We plan to use a third party payment service provider to process any transactions involving payment for our NFTs with digital currencies. In addition, we intend to purchase and hold MATIC, in increments as needed, solely for the purpose of paying the fees associated with minting our NFTs on the Polygon network. Our intention is to immediately convert all cryptocurrency received as payment to cash. In addition, we intend to hold only the minimal amount of MATIC required to interact with the blockchain as part of our core business of minting NFTs, and we do not intend to accept MATIC as a form of payment or to hold MATIC as a long term asset. We are currently in the process of selecting the right custodian for our crypto assets and do not have any custody arrangements. There is a risk that part or a portion or all of our crypto assets could be lost, stolen or destroyed. Crypto assets are stored in crypto asset sites commonly referred to as “wallets” which may be accessed to exchange a holder’s crypto assets. Access to our crypto assets could also be restricted by cybercrime (such as a denial of service attack) against a service at which we maintain a hosted wallet. We believe that our crypto assets will be an appealing target to hackers or malware distributors seeking to destroy, damage or steal our crypto assets. Hackers or malicious actors may attempt to steal our crypto assets, such as by attacking such network source code, exchange miners, third-party platforms, storage locations or software, our general computer systems or networks, or by other means. Access to our crypto assets could also be restricted by natural events (such as an earthquake or flood) or human actions (such as a terrorist attack). Any of these events may adversely affect our operations and, consequently, our investments and profitability and we cannot guarantee that we will prevent loss, damage or theft, whether caused intentionally, accidentally or by act of God. The loss or destruction of a private key required to access our digital wallets may be irreversible and we may be denied access for all time to our crypto asset holdings. Our loss of access to our private keys or our experience of a data loss relating to our digital wallets could adversely affect our investments and assets.

It is possible that, through computer or human error, theft or criminal action, our crypto assets could be transferred in incorrect amounts or to unauthorized third parties or accounts. In general, Bitcoin transactions are irrevocable, and stolen or incorrectly transferred cryptocurrencies may be irretrievable, and we may have extremely limited or no effective means of recovering such Bitcoins.

Digital asset payment service providers and exchanges on which cryptocurrencies trade are relatively new and, in most cases, largely unregulated. Many digital asset payment service providers and/or exchanges do not provide the public with significant information regarding their ownership structure, management teams, corporate practices or regulatory compliance. As a result, the marketplace may lose confidence in, or may experience problems relating to, cryptocurrency payment service providers and/or exchanges, including prominent exchanges handling a significant portion of the volume of digital asset trading. During 2022, a number of companies in the crypto industry have declared bankruptcy, including Core Scientific Inc., Celsius Network LLC (“Celsius”), Voyager Digital Ltd., Three Arrows Capital, BlockFi Lending LLC, and FTX Trading Ltd. (“FTX”). In June 2022, Celsius began pausing all withdrawals and transfers between accounts on its platform, and in July 2022, it filed for Chapter 11 bankruptcy protection. Further, in November 2022, FTX, one of the major cryptocurrency exchanges, also filed for Chapter 11 bankruptcy. Such bankruptcies have contributed, at least in part, to further price decreases in most crypto assets, a loss of confidence in the participants of the digital asset ecosystem and negative publicity surrounding digital assets more broadly, and other participants

and entities in the digital asset industry have been, and may continue to be, negatively affected. These events have also negatively impacted the liquidity of the digital assets markets as certain entities affiliated with FTX engaged in significant trading activity.

We have not been directly impacted by any of the recent bankruptcies in the crypto asset space, as we have no contractual privity or relationship to the relevant parties. However, we are dependent on the overall crypto assets industry with respect to any transactions involving payment for our NFTs with digital currencies and for the digital currencies needed by us to pay the fees associated with minting our NFTs, and such recent events may contribute, at least in part, to decreases and volatility to our stock price as well as the price of most crypto assets. If the liquidity of the digital assets markets continues to be negatively impacted, digital asset prices (including the price of bitcoin) may continue to experience significant volatility and confidence in the digital asset markets may be further undermined. A perceived lack of stability in the digital asset market and the closure or temporary shutdown of digital asset payment service providers and/or exchanges due to business failure, hackers or malware, government-mandated regulation, or fraud, may reduce confidence in digital asset networks and result in greater volatility in cryptocurrency values. These potential consequences of a digital asset payment service provider's and/or exchange's failure could adversely affect an investment in us.

We intend safeguard and keep private custodian our digital assets by utilizing storage solutions provided by a custodian, which will likely require multi-factor authentication. While we are confident in the security of our digital assets that will be held by our custodian, given the broader market conditions, there can be no assurance that other crypto asset market participants, including our custodian, will not ultimately be impacted by recent market events. If our custodian were to limit or halt services, we would need to find another custodian. While we have not been directly impacted by any of the recent bankruptcies in the crypto asset space as we had no contractual privity or relationship to the relevant parties, we are dependent on the overall industry perception tied to these recent bankruptcy events, and this may be reflected in our stock price as well as the price of Bitcoin and other crypto assets. We continue to monitor the digital assets industry as a whole, although these events are continuing to develop and it is not possible at this time to predict all of the risks stemming from these events that may result to us, our service providers, including digital asset payment service providers, custodians and wallets, our counterparties, and the broader industry as a whole.

Any of these events may adversely affect our operations and results of operations and, consequently, an investment in us.

***If our current, or any of our future, custodians file for bankruptcy, crypto assets held in their custody could be determined to be property of a bankruptcy estate and we could be considered a general unsecured creditor thereof.***

The treatment of bitcoins and other crypto assets held by custodians that file for bankruptcy protection is uncharted territory in U.S. Bankruptcy law. We cannot say with certainty whether bitcoins and other crypto assets held in custody by a bankrupt custodian would be treated as property of a bankruptcy estate and, accordingly, whether the owner of that bitcoin would be treated as a general unsecured creditor.

***Malicious actors could manipulate distributed ledger networks and smart contract technology upon which digital assets rely and increase the vulnerability of the distributed ledger networks.***

If a malicious actor, including a state-sponsored actor, is able to hack or otherwise exert unilateral control over a particular distributed ledger network, or the digital assets on such a network, that actor could attempt to divert assets from that distributed ledger or otherwise prevent the confirmation of transactions recorded on that distributed ledger.

Such an event could materially and adversely affect our business. Digital assets have been the subject of attempted manipulation by hackers to use them for malicious purposes. For example, misuses could occur if a malicious actor obtains a majority of the processing power controlling the digital asset validating activities and altering the distributed ledger on which digital asset transactions rely. Moreover, if the award for solving transaction blocks for a particular digital asset declines, and transaction fees are not sufficiently high, the incentive to continue validating distributed ledger transactions would decrease and could lead to a stoppage of validation activities. The collective processing power of that distributed ledger would be reduced, which would adversely affect the confirmation process for transactions by decreasing the speed of the adaptation and adjustment in the difficulty for transaction block solutions. Such slower adjustments would make the distributed ledger network more vulnerable to malicious actors' obtaining control of the processing power over distributed ledger network processing.

***The network contributors for certain Digital Assets could propose amendments to the network protocols and software for Digital Assets that, if accepted and authorized by the network for the Digital Assets, could adversely affect the Platform.***

The networks for certain digital assets are based on a protocol governing the peer-to-peer interactions between computers connected to each other within that network. The development team for a network (if any) might propose and implement amendments to a network's source code through software upgrades altering the original protocol, including fundamental ideas such as the irreversibility of transactions and limitations on the validation of blockchain software distributed ledgers. Such changes to original protocols and software could materially and adversely affect our business.

***We currently support, and expect to continue to support, certain smart contract-based crypto assets. If the underlying smart contracts for these crypto assets do not operate as expected, they could lose value and our business could be adversely affected.***

We currently support, and expect to continue to support, various crypto assets that represent units of value on smart contracts deployed on a third party blockchain. Smart contracts are programs that store and transfer value and execute automatically when

certain conditions are met. Since smart contracts typically cannot be stopped or reversed, vulnerabilities in their programming and design can have damaging effects. For instance, in April 2018, a batch overflow bug was found in many Ethereum-based ERC20-compatible smart contract tokens that allows hackers to create a large number of smart contract tokens, causing multiple crypto asset platforms worldwide to shut down ERC20-compatible token trading. If any such vulnerabilities or flaws come to fruition, smart contract-based crypto assets, including those held by our customers on our platforms, may suffer negative publicity, be exposed to security vulnerabilities, decline significantly in value, and lose liquidity over a short period of time.

In some cases, smart contracts can be controlled by one or more “admin keys” or users with special privileges, or “super users”. These users have the ability to unilaterally make changes to the smart contract, enable or disable features on the smart contract, change how the smart contract receives external inputs and data, and make other changes to the smart contract. For smart contracts that hold a pool of reserves, these users may also be able to extract funds from the pool, liquidate assets held in the pool, or take other actions that decrease the value of the assets held by the smart contract in reserves. Even for crypto assets that have adopted a decentralized governance mechanism, such as smart contracts that are governed by the holders of a governance token, such governance tokens can be concentrated in the hands of a small group of core community members, who would be able to make similar changes unilaterally to the smart contract. If any such super user or group of core members unilaterally make adverse changes to a smart contract, the design, functionality, features and value of the smart contract, its related crypto assets may be harmed. In addition, assets held by the smart contract in reserves may be stolen, misused, burnt, locked up or otherwise become unusable and irrecoverable. These super users can also become targets of hackers and malicious attackers. If an attacker is able to access or obtain the super user privileges of a smart contract, or if a smart contract’s super-users or core community members take actions that adversely affects the smart contract, our customers who hold and transact in the affected crypto assets may experience decreased functionality and value of the applicable crypto assets, up to and including a total loss of the value of such crypto assets. Although we do not control these smart contracts, any such events could cause customers to seek damages against us for their losses, result in reputational damage to us, or in other ways adversely impact our business.

***Acceptance and/or widespread use of digital assets is uncertain.***

Currently, there is a relatively small use of digital assets in the retail and commercial marketplace for goods or services. In comparison, there is relatively large use by speculators contributing to price volatility.

The relative lack of acceptance of digital assets in the retail and commercial marketplace limits the ability of end-users to use them to pay for goods and services. Such lack of acceptance or decline in acceptances would have a material adverse effect on our ability to continue as a going concern or to pursue this segment at all, which would have a material adverse effect on our business, prospects or operations and potentially the value of any digital assets we hold or expect to acquire for our own account.

***Incorrect or fraudulent cryptocurrency transactions may be irreversible.***

Cryptocurrency transactions are irrevocable and stolen or incorrectly transferred cryptocurrencies may be irretrievable. As a result, any incorrectly executed or fraudulent cryptocurrency transactions, such as a result of a cybersecurity breach against our cryptocurrency holdings, could adversely affect our investments and assets. This is because cryptocurrency transactions are not, from an administrative perspective, reversible without the consent and active participation of the recipient of the cryptocurrencies from the transaction. Once a transaction has been verified and recorded in a block that is added to a blockchain, an incorrect transfer of a cryptocurrency or a theft thereof generally will not be reversible, and we may not have sufficient recourse to recover our losses from any such transfer or theft. Further, it is possible that, through computer or human error, or through theft or criminal action, our cryptocurrency rewards could be transferred in incorrect amounts or to unauthorized third parties, or to uncontrolled accounts. If an errant or fraudulent transaction in our cryptocurrency holdings were to occur, we would have very limited means of seeking to reverse the transaction or seek recourse. To the extent that we are unable to recover our losses from such action, error or theft, such events could have a material adverse effect on our business.

***Because there has been limited precedent set for financial accounting for digital assets, the determinations that we have made for how to account for digital assets transactions may be subject to change.***

Because there has been limited precedent set for the financial accounting for digital assets and related revenue recognition and no official guidance has yet been provided by the Financial Accounting Standards Board or the SEC, it is unclear how companies may in the future be required to account for cryptocurrency transactions and assets and related revenue recognition. A change in regulatory or financial accounting standards could result in the necessity to change the accounting methods we currently intend to employ in respect of our anticipated revenues and assets and restate any financial statements produced based on those methods. Such a restatement could adversely affect our business, prospects, financial condition, and results of operation.

***Banks and financial institutions may not provide banking services, or may cut off services, to businesses that provide cryptocurrency-related services or that accept cryptocurrencies as payment.***

A number of companies that provide cryptocurrency-related services have been unable to find banks or financial institutions that are willing to provide them with bank accounts and other services. Similarly, a number of companies and individuals or businesses associated with cryptocurrencies may have had and may continue to have their existing bank accounts closed or services discontinued with financial institutions. We also may be unable to maintain these services for our business.

The difficulty that many businesses that provide cryptocurrency-related services have and may continue to have in finding banks and financial institutions willing to provide them services may decrease the usefulness of cryptocurrencies as a payment system

and harm public perception of cryptocurrencies. Similarly, the usefulness of cryptocurrencies as a payment system and the public perception of cryptocurrencies could be damaged if banks or financial institutions were to close the accounts of businesses providing cryptocurrency-related services. This could occur as a result of compliance risk, cost, government regulation or public pressure. The risk applies to securities firms, clearance and settlement firms, national stock and commodities exchanges, the over the counter market and the Depository Trust Company. Such factors would have a material adverse effect on our business, prospects, financial condition, and operating results.

***Regulatory changes or actions may restrict the use of digital assets in a manner that adversely affects an investment in us.***

As digital assets have grown in popularity and in market size, the Federal Reserve Board, U.S. Congress and certain U.S. agencies (e.g., the CFTC, the Commission, FinCEN and the Federal Bureau of Investigation) have begun to examine digital assets. On March 9, 2022, President Biden signed an executive order on cryptocurrencies. While the executive order did not mandate any specific regulations, it instructs various federal agencies to consider potential regulatory measures, including the evaluation of the creation of a U.S. Central Bank digital currency. Future changes to existing regulations or entirely new regulations may affect our business in ways it is not presently possible for us to predict with any reasonable degree of reliability. Digital assets currently face an uncertain regulatory landscape in not only the United States but also in such foreign jurisdictions as the European Union and China. While certain governments such as Germany, have issued guidance as to how to treat cryptocurrencies, most regulatory bodies have not issued specific policy determinations. Future changes to existing regulations or entirely new regulations may affect our business in ways it is not presently possible for us to predict with any reasonable degree of reliability, but such change could be substantial and adverse to us and could adversely affect an investment in us.

***Political or economic crises may motivate large-scale sales of crypto assets, which could result in a reduction in values of crypto assets and adversely affect an investment in us.***

Geopolitical crises such as Russia’s recent invasion of Ukraine may motivate large-scale sales of crypto assets, which could rapidly decrease the price of crypto assets. Alternatively, as an emerging asset class with limited acceptance as a payment system or commodity, global crises and general economic downturn may discourage investment in crypto assets as investors focus their investment on less volatile asset classes as a means of hedging their investment risk.

Crypto assets, which are relatively new, are subject to supply and demand forces based upon the desirability of an alternative, decentralized means of buying and selling goods and services, and it is unclear how such supply and demand will be impacted by geopolitical events, including the war in Ukraine or other crises which may arise in the future. Nevertheless, political or economic crises may motivate large-scale acquisitions or sales of crypto assets either globally or locally. Large-scale sales of crypto assets would result in a reduction in cryptocurrency values and could adversely affect an investment in us.

***We may lose our private key to our digital wallet, causing a loss of all of our digital assets.***

Digital assets, such as cryptocurrencies and NFTs, are stored in a so-called “digital wallet”, which may be accessed to exchange a holder’s digital assets and is controllable by the processor of both the public key and the private key relating to this digital wallet in which the digital assets are held, both of which are unique. We will publish the public key relating to digital wallets in use when we verify the receipt of transfers and disseminate such information into the network, but we will need to safeguard the private keys relating to such digital wallets, which are stored in the possession of certain of our officers. If the private key is lost, destroyed, or otherwise compromised, we may be unable to access our cryptocurrencies held in the related digital wallet which will essentially be lost. If the private key is acquired by a third party, then this third party may be able to gain access to our cryptocurrencies. Any loss of private keys relating to digital wallets used to store our cryptocurrencies could have a material adverse effect on our ability to continue as a going concern or could have a material adverse effect on our business, prospects, financial condition, and operating results.

***Whether a particular NFT or other digital or “crypto” asset is a “security” is subject to a high degree of uncertainty, and if we are unable to properly characterize an NFT or other digital asset, we may be subject to regulatory scrutiny, inquiries, investigations, fines, and other penalties, which may adversely affect our business, operating results, and financial condition.***

The SEC and its staff have taken the position that certain digital or “crypto” assets (which includes NFTs) fall within the definition of a “security” under the U.S. federal securities laws.

The classification of a digital asset as a security under applicable law has wide-ranging implications for the regulatory obligations that flow from the offer and sale of such assets. For example, a digital asset that is a security in the United States may generally only be offered or sold in the United States pursuant to a registration statement filed with the SEC or in an offering that qualifies for an exemption from registration. Persons that effect transactions in digital assets that are securities in the United States may be subject to registration with the SEC as a “broker” or “dealer.”

Platforms that bring together purchasers and sellers to trade digital assets that are securities in the United States are generally subject to registration as national securities exchanges, or must qualify for an exemption, such as by being operated by a registered broker-dealer as an alternative trading system (“ATS”) in compliance with rules for ATSS.

We will have policies and processes to analyze whether each NFT that we sell on the Platform could be deemed to be a “security” under applicable laws. Our policies and processes do not constitute a legal standard but rather represent our company-developed model, which permits us to make a risk-based assessment regarding the likelihood that a particular NFT could be

deemed a “security” under applicable laws. Regardless of our conclusions, they are not binding on regulators or courts and we could be subject to legal or regulatory action in the event the SEC, a state or foreign regulatory authority, or a court were to determine that an NFT posted and sold on the Platform is a “security” under applicable laws. Because the Platform is not registered or licensed with the SEC or foreign authorities as a broker-dealer, national securities exchange, or ATS (or foreign equivalents), and we do not seek to register or rely on an exemption from such registration or license to facilitate the offer and sale of NFTs on the Platform, we only permit posting on the Platform of our own NFTs for which we determine there are reasonably strong arguments to conclude that the NFT is not a security. We believe that our process reflects a comprehensive and thoughtful analysis and is reasonably designed to facilitate consistent application of available legal guidance to digital assets to facilitate informed risk-based business judgment. However, we recognize that the application of securities laws to the specific facts and circumstances of digital assets may be complex and subject to change, and that a posting determination does not guarantee any conclusion under the U.S. federal securities laws. We expect our risk assessment policies and to continuously evolve to take into account case law, facts, and developments in technology.

There can be no assurances that we will properly characterize any given NFT as a security or non-security for purposes of determining whether the Platform will allow the posting of such NFT, or that the SEC, foreign regulatory authority, or a court, if the question was presented to it, would agree with our assessment. If the SEC, state or foreign regulatory authority, or a court were to determine that NFTs offered or sold on the Platform are securities, we would not be able to offer such NFTs until we are able to do so in a compliant manner. A determination by the SEC, a state or foreign regulatory authority, or a court that an NFT sold on our Platform was a security may also result in us determining that it is advisable to remove NFTs from the Platform that have similar characteristics to the NFT that was determined to be a security. In addition, we could be subject to judicial or administrative sanctions for failing to offer or sell the NFT in compliance with the registration requirements, or for acting as a broker, dealer, or national securities exchange without appropriate registration. Such an action could result in injunctions, cease and desist orders, as well as civil monetary penalties, fines, and disgorgement, criminal liability, and reputational harm. Customers that purchased such NFTs on the Platform and suffered losses could also seek to rescind a transaction that we facilitated as the basis that it was conducted in violation of applicable law, which could subject us to significant liability.

### **Risks Related to Regulatory Changes**

#### ***Changes in our tax rates or exposure to additional tax liabilities, and changes to tax laws and interpretations of tax laws could adversely affect our earnings and financial condition.***

We are subject to taxes in the United States and in various foreign jurisdictions. Significant judgment will be required to determine our worldwide income tax provision, tax assets, and accruals for other taxes, and there are many transactions and calculations where the ultimate tax determination is uncertain. Our effective income tax rate is based in part on our corporate operating structure and the manner in which we operate our business and develop, value and use our intellectual property. Taxing authorities in jurisdictions in which we operate may challenge and audit our methodologies for calculating our income taxes, which could increase our effective income tax rate and have an adverse impact on our results of operations and cash flows. In addition, our provision for income taxes is materially affected by our profit levels, changes in our business, changes in the mix of earnings in countries with differing statutory tax rates, changes in the elections we make, changes in the valuation of our deferred tax assets and liabilities, or changes in applicable tax laws or interpretations of existing income and withholding tax laws, as well as other factors. For example, the outcome of future guidance related to the U.S. Tax Act could cause us to change our analysis and materially impact our previous estimates and financial statements.

In addition, changes to U.S. federal, state or international tax laws or their applicability to corporate multinationals in the countries in which we do business may affect our effective tax rates and cash taxes, cause us to change the way in which we structure our business and resulted in other costs. Our effective tax rate also could be adversely affected by changes in our valuation allowances for deferred tax assets. Actual financial results also may differ materially from our current estimates and could have a material impact on our assessment of the valuation allowance.

#### ***The Platform may be subject to regulation by financial regulators.***

NFTs, in general, and the Platform may also be subject to regulations of the Financial Crimes Enforcement Network (“FinCEN”) of the U.S. Department of Treasury and the Bank Secrecy Act. Further, the Office of Foreign Assets Controls (“OFAC”) has signaled sanctions could apply to digital transactions and has pursued enforcement actions involving cryptocurrencies and digital asset accounts. The nature of many NFT transactions also involve circumstances which present higher risks for potential violations, such as anonymity, subjective valuation, use of intermediaries, lack of transparency, and decentralization associated with blockchain technology. In addition, the Commodity Futures Trading Commission has stated that cryptocurrencies, with which NFTs have some similarities, fall within the definition of “commodities.” If NFTs were deemed to be a commodity, NFT transactions could be subject to prohibitions on deceptive and manipulative trading or restrictions on manner of trading (e.g., on a registered derivatives exchange), depending on how the transaction is conducted. Moreover, if NFTs were deemed to be a “security”, it could raise federal and state securities law implications, including exemption or registration requirements for marketplaces for NFT transactions, sellers of NFTs, and the NFT transactions themselves, as well as liability issues, such as insider trading or material omissions or misstatements, among others. NFT transactions may also be subject to laws governing virtual currency or money transmission. For example, New York has legislation regarding the operation of virtual currency businesses. NFT transactions also raise issues regarding compliance with laws of foreign jurisdictions, many of which present complex compliance issues and may conflict with one another. Our launch and operation of the Platform (including our facilitation of transactions in Ether, a cryptocurrency, in connection therewith) expose us to the foregoing risks, among others, any of which could materially and adversely affect the success of the Platform and harm our business, financial condition, results of operations, reputation, and prospects.

***Our facilitation of transactions in cryptocurrencies such as Ether on the Platform exposes us to risks under U.S. and foreign tax laws.***

Although under U.S. federal tax laws, cryptocurrencies are currently considered property versus currency, we are obligated to report transactions involving cryptocurrencies in U.S. dollars and must determine their fair market value on each transaction date. The U.S. federal taxing authorities have issued limited guidance on cryptocurrency transactions. The current guidance treats the use of cryptocurrency to purchase a NFT as a taxable disposition of the cryptocurrency, which subjects the holder to taxable gain that such holder must report for federal and state tax purposes. Similarly, a seller of a NFT is subject to tax on the sale of the NFT. Congress is currently proposing legislation that could require us to report such transactions to the IRS. Our failure to accurately record or report the cryptocurrency and NFT sales transacted through the Platform, or held by us, would expose us to adverse tax consequences, penalties, and interest. Moreover, the IRS, in connection with audits of cryptocurrency exchanges, has successfully sued to obtain account holder transaction and tax information. The applicability of tax laws in the United States and foreign jurisdictions with respect to cryptocurrency and NFTs will continue to evolve. This uncertainty increases the risk of non-compliance with tax laws, which in turn could result in adverse tax consequences, penalties, investigations or audits, litigation, account holder lawsuits, or the need to revise or restate our financial statements and associated consequences therewith, among other things. Any of the foregoing could materially and adversely affect our business, financial condition, results of operations, reputation, and prospects.

***Government regulations applicable to us may negatively impact our business.***

We are a global company subject to various and complex laws and regulations domestically and internationally, including laws and regulations related to consumer protection, protection of minors, content, advertising, localization, information security, intellectual property, competition and taxation, among others. Many of these laws and regulations are continuously evolving and developing, and the application to, and impact on, us is uncertain. For example, the World Health Organization recently included “gaming disorder” in the 11<sup>th</sup> Revision of the International Classification of Diseases, prompting discussion and consideration of legislation and policies aimed at mitigating the risk of overuse of, and overspending within, video games. These laws could harm our business by limiting the products and services we can offer consumers or the manner in which we offer them. The costs of compliance with these laws may increase in the future as a result of changes in applicable laws or changes to interpretation. Any failure on our part to comply with these laws or the application of these laws in an unanticipated manner may harm our business and result in penalties or significant legal liability.

Certain of our business models will be subject to new laws or regulations or evolving interpretations and application of existing laws and regulations, including those related to gambling. The growth and development of electronic commerce, virtual items and virtual currency has prompted calls for new laws and regulations and resulted in the application of existing laws or regulations that have limited or restricted the sale of our products and services in certain territories. New laws — each of which could vary significantly across jurisdictions — could subject us to additional regulation and oversight, cause us to further limit or restrict the sale of our products and services or otherwise impact our products and services, lessen the engagement with, and growth of, profitable business models, and expose us to increased compliance costs, significant liability, fines, penalties and harm to our reputation and brand.

We may be subject to laws in certain foreign countries, and adhere to industry standards in the United States, that mandate rating requirements or set other restrictions on the advertisement or distribution of interactive entertainment software based on content. In addition, certain foreign countries allow government censorship of interactive entertainment software products. Adoption of ratings systems, censorship or restrictions on distribution of interactive entertainment software based on content could harm our business by limiting the products we are able to offer to our consumers. In addition, compliance with new and possibly inconsistent regulations for different territories could be costly, delay or prevent the release of our products in those territories.

***Our Platform may not be successful and may expose us to legal, regulatory, and other risks. Given the nascent and evolving nature of cryptocurrencies, NFTs, and our Platform, we may be unable to accurately anticipate or adequately address such risks or the potential impact of such risks. The occurrence of any such risks could materially and adversely affect our business, financial condition, results of operations, reputation, and prospects.***

As the market for NFTs and cryptocurrencies is relatively nascent, it is difficult to predict how the legal and regulatory framework around NFTs and cryptocurrencies will develop and how such developments will impact our business and our Platform. The future legal status of NFTs and cryptocurrencies under state and federal laws (including without limitation, securities, banking, and commodities laws) is highly uncertain and unresolved. As a result of the uncertain legal status of crypto assets, we may have legal exposure for our failure to adequately comply with legal regimes. In addition governmental agencies may seek to apply laws to our business that we believe are inapplicable, and may seek sanctions relating to our alleged failure to comply with those laws. There is regulatory uncertainty with respect to whether certain NFTs and cryptocurrencies could be considered securities. If NFTs sold on our Platform or any cryptocurrencies exchanged for purposes of payment or minting of NFTs on our Platform were deemed to be a “security”, we may be in violation of securities laws for engaging in transactions regarding the sale of unregistered securities. Such a determination could lead to an enforcement action by the SEC and result in fines and other penalties and have a negative impact on our business.

Additionally, if either the NFTs we sell or the Bitcoin, Ethereum, or MATIC tokens we may acquire or hold at any time are deemed to be a “security” we may also be subject to regulations of FinCEN of the U.S. Department of Treasury and the Bank Secrecy Act. Further, OFAC has signaled that sanctions could apply to digital transactions and has pursued enforcement actions involving

cryptocurrencies and digital asset accounts. This could expose us to future allegations of violations of the Bank Secrecy Act, including any applicable KYC and Anti-Money Laundering laws and regulations (“AML”), or sanctions compliance obligations among others. In addition governmental agencies may seek to apply laws to our business that we believe are inapplicable, and may seek sanctions relating to our alleged failure to comply with those laws which would negatively impact our business.

Our launch and operation of the Platform potentially exposes us to the foregoing risks, among others, any of which could materially and adversely affect the success of our Platform and harm our business, financial condition, results of operations, reputation, and prospects. If we fail to accurately anticipate or manage the risks associated with our NFTs or with our facilitation of crypto asset transactions, or if we directly or indirectly become subject to disputes, liability, or other legal or regulatory issues in connection with the operation of our business and Platform, we may not be successful and our business, financial condition, results of operations, reputation, and prospects could be expected to be materially adversely affected.

***We may face significant competition, which may harm our business, results of operations or financial condition.***

We may face substantial competition in the healthcare services markets. Our key competitors will include, among others, healthcare consulting service providers, healthcare payment accuracy companies and providers of other data products and data analytics solutions, including healthcare risk adjustment, quality, economic statistics and other data. The increasing standardization of certain healthcare services has made it easier for companies to enter these markets with competitive products and services. We cannot fully anticipate whether or when companies in adjacent or other product or service areas may launch competitive products and/or services, and any such entry may lead to obsolescence of our products and/or services or loss of market share or erosion of the prices for our solutions, or both. The extent of this competition may vary by the size of companies, geographical coverage and scope and breadth of products and services offered. Furthermore, some of our competitors may be significantly larger and have greater financial or other resources than we do. The vigorous competition we face requires us to provide high quality, innovative products at a competitive price. We cannot guarantee that we will be able to upgrade our existing solutions, or introduce new solutions at the same rate as our competitors, or at all, nor can we guarantee that such upgrades or new solutions will achieve market acceptance over or among competitive offerings, or at all. Therefore, these competitive pressures could have a material adverse impact on our business, results of operations or financial condition.

***Gaxos Health would be adversely affected if we cannot obtain, process or distribute data we require to provide our solutions.***

The success of Gaxos Health will depend on our ability to obtain, process, monetize and distribute data in the healthcare industry in a manner that complies with applicable law, regulation and contractual and restrictions. Our failure to obtain and distribute such data in a compliant manner could have a harmful effect on our ability to use and disclose such data which in turn could impair our ability to share such data with our customers or incorporate it into our services and offerings. In addition to complying with requirements in obtaining the data, the use, processing and distribution of such data may require us to obtain consent from third parties or follow additional laws, regulations or contractual restrictions that apply to the healthcare industry. Moreover, we may be subject to claims or liability for use or disclosure of information. Any such claims or liabilities and other failures to comply with applicable requirements could subject us to unexpected costs and adversely affect our operating results.

**Risks Related to Our Common Stock**

***The market prices and trading volume of our shares of common stock may experience rapid and substantial price volatility which could cause purchasers of our common stock to incur substantial losses.***

Recently, the market prices and trading volume of shares of common stock of other small publicly traded with a limited number of shares available to purchasers, have experienced rapid and substantial price volatility unrelated to the financial performance of those companies. Similarly, shares of our common stock may experience similar rapid and substantial price volatility unrelated to our financial performance, which could cause purchasers of our common stock to incur substantial losses, which may be unpredictable and not bear any relationship to our business and financial performance. Extreme fluctuations in the market price of our common stock may occur in response to strong and atypical retail investor interest, including on social media and online forums, the direct access by retail investors to broadly available trading platforms, the amount and status of short interest in our securities, access to margin debt, trading in options and other derivatives on our common stock and any related hedging and other trading factors.

If there is extreme market volatility and trading patterns in our common stock, it may create several risks for investors, including the following:

- the market price of our common stock may experience rapid and substantial increases or decreases unrelated to our operating performance or prospects, or macro or industry fundamentals;
- if our future market capitalization reflects trading dynamics unrelated to our financial performance or prospects, purchasers of our common stock could incur substantial losses as prices decline once the level of market volatility has abated;
- if the future market price of our common stock declines, purchasers may be unable to resell your shares at or above the price at which you acquired them. We cannot assure you that the market of our common stock will not fluctuate or decline significantly in the future, in which case you could incur substantial losses.

Further, we may incur rapid and substantial increases or decreases in our stock price in the foreseeable future that may not coincide in timing with the disclosure of news or developments by or affecting us. Accordingly, the market price of our shares of common stock may fluctuate dramatically, and may decline rapidly, regardless of any developments in our business. Overall, there are various factors, many of which are beyond our control, that could negatively affect the market price of our common stock or result in fluctuations in the price or trading volume of our common stock, including:

- actual or anticipated variations in our annual or quarterly results of operations, including our earnings estimates and whether we meet market expectations with regard to our earnings;
- our current inability to pay dividends or other distributions;
- publication of research reports by analysts or others about us or cryptocurrency including the NFT industry which may be unfavorable, inaccurate, inconsistent or not disseminated on a regular basis;
- changes in market valuations of similar companies;
- market reaction to any additional equity, debt or other securities that we may issue in the future, and which may or may not dilute the holdings of our existing stockholders;
- additions or departures of key personnel;
- actions by institutional or significant stockholders;
- short interest in our stock and the market response to such short interest;
- the dramatic increase in the number of individual holders of our stock and their participation in social media platforms targeted at speculative investing;
- speculation in the press or investment community about our company or industry;
- strategic actions by us or our competitors, such as acquisitions or other investments;
- legislative, administrative, regulatory or other actions affecting our business, our industry, including positions taken by the Internal Revenue Service (“IRS”);
- investigations, proceedings, or litigation that involve or affect us;
- the occurrence of any of the other risk factors included in this Registration Statement on Form S-1; and
- general market and economic conditions.

***The price of our securities may fluctuate substantially.***

You should consider an investment in our securities to be risky, and you should invest in our securities only if you can withstand a significant loss and wide fluctuations in the market value of your investment. Some factors that may cause the market price of our Common Stock to fluctuate, in addition to the other risks mentioned in this “*Risk Factors*” section and elsewhere in this Annual Report on Form 10-K, are:

- sale of our Common Stock by our shareholders, executives, and directors;
- volatility and limitations in trading volumes of our shares of Common Stock;
- our ability to obtain financing;
- the timing and success of introductions of new products by us or our competitors or any other change in the competitive dynamics of our industry, including consolidation among competitors;
- our ability to attract new customers;
- changes in our capital structure or dividend policy, future issuances of securities, sales of large blocks of Common Stock by our shareholders;
- our cash position;
- announcements and events surrounding financing efforts, including debt and equity securities;
- our inability to enter into new markets or develop new products;

- reputational issues;
- announcements of acquisitions, partnerships, collaborations, joint ventures, new products, capital commitments, or other events by us or our competitors;
- changes in general economic, political and market conditions in or any of the regions in which we conduct our business;
- changes in industry conditions or perceptions;
- analyst research reports, recommendation and changes in recommendations, price targets, and withdrawals of coverage;
- departures and additions of key personnel;
- disputes and litigations related to intellectual properties, proprietary rights, and contractual obligations;
- changes in applicable laws, rules, regulations, or accounting practices and other dynamics; and
- other events or factors, many of which may be out of our control.

In addition, if the market for stocks in our industry or industries related to our industry, or the stock market in general, experiences a loss of investor confidence, the trading price of our Common Stock could decline for reasons unrelated to our business, financial condition and results of operations. If any of the foregoing occurs, it could cause our stock price to fall and may expose us to lawsuits that, even if unsuccessful, could be costly to defend and a distraction to management.

***Our ability to have our securities traded on the NASDAQ is subject to us meeting applicable listing criteria.***

Our common stock is publicly traded and listed on the Nasdaq Capital Market under the trading symbol “GXAI.” To maintain our listing, we must comply with the continued listing requirements of the Nasdaq Capital Market, which include a minimum bid price requirement of \$1.00 per share. The NASDAQ requires companies desiring to list their common stock to meet certain listing criteria including total number of shareholders, minimum stock price, total value of public float, and in some cases total shareholders’ equity and market capitalization. Our failure to meet such applicable listing criteria could prevent us from maintaining the listing of our Common Stock on the NASDAQ. In the event we are unable to have our shares traded on NASDAQ, our Common Stock could potentially trade on the OTCQX or the OTCQB, each of which is generally considered less liquid and more volatile than the NASDAQ. Our failure to maintain a listing on the NASDAQ could make it more difficult for you to trade our shares, could prevent our Common Stock trading on a frequent and liquid basis and could result in the value of our Common Stock being less than it would be if we were able to list our shares on the NASDAQ.

On July 10, 2023, the Nasdaq Listing Qualifications Staff (the “Staff”) notified the Company that the bid price of our listed security had closed at less than \$1 per share over the previous 30 consecutive business days, and, as a result, did not comply with Listing Rule 5550(a)(2). In accordance with Listing Rule 5810(c)(3)(A), the Company was provided 180 calendar days, or until January 8, 2024, to regain compliance with Listing Rule 5550(a)(2).

In early January 2024, we submitted a request to the Panel to appeal the Delisting Determination, and on January 16, 2024, we were notified by the Panel that it received the request which stayed the suspension of our securities and the filing of the Form 25-NSE, pending the Hearing Panel’s final written decision.

On March 22, 2024, we received written notice from the Panel that we regained compliance with the minimum bid price requirement under NASDAQ Listing Rule 5550(a)(2) for continued listing on the Nasdaq Capital Market.

No assurance can be given that we will continue to meet NASDAQ’s continued listing standards. If we fail to comply with Nasdaq’s continued listing standards, we may be delisted and our common stock will trade, if at all, only on the over-the-counter market, such as the OTC Bulletin Board, or OTCQX market, and then only if one or more registered broker-dealer market makers comply with quotation requirements. In addition, delisting of our common stock could depress our stock price, substantially limit liquidity of our common stock and materially adversely affect our ability to raise capital on terms acceptable to us, or at all. Finally, delisting of our common stock could result in our common stock becoming a “penny stock” under the Exchange Act.

***We may acquire other companies or technologies, which could divert our management’s attention, result in dilution to our stockholders and otherwise disrupt our operations and adversely affect our operating results.***

We may in the future seek to acquire or invest in businesses, applications and services or technologies that we believe could complement or expand our services, enhance our technical capabilities or otherwise offer growth opportunities. The pursuit of potential acquisitions may divert the attention of management and cause us to incur various expenses in identifying, investigating and pursuing suitable acquisitions, whether or not they are consummated.

In addition, we do not have any experience in acquiring other businesses. If we acquire additional businesses, we may not be able to integrate the acquired personnel, operations and technologies successfully, or effectively manage the combined business following the acquisition. We also may not achieve the anticipated benefits from the acquired business due to a number of factors, including:

- inability to integrate or benefit from acquired technologies or services in a profitable manner;
- unanticipated costs or liabilities associated with the acquisition;
- difficulty integrating the accounting systems, operations, and personnel of the acquired business;
- difficulties and additional expenses associated with supporting legacy products and hosting infrastructure of the acquired business;
- difficulty converting the customers of the acquired business onto the Platform and contract terms, including disparities in the revenue, licensing, support, or professional services model of the acquired company;
- diversion of management’s attention from other business concerns;
- adverse effects to our existing business relationships with business partners and customers as a result of the acquisition;
- the potential loss of key employees;
- use of resources that are needed in other parts of our business; and
- use of substantial portions of our available cash to consummate the acquisition.

In addition, a significant portion of the purchase price of companies we acquire may be allocated to acquired goodwill and other intangible assets, which must be assessed for impairment at least annually. In the future, if our acquisitions do not yield expected returns, we may be required to take charges to our operating results based on this impairment assessment process, which could adversely affect our results of operations.

Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, which could adversely affect our operating results. In addition, if an acquired business fails to meet our expectations, our operating results, business and financial position may suffer.

***If research analysts do not publish research about our business or if they issue unfavorable commentary or downgrade our Common Stock, our securities’ price and trading volume could decline.***

The trading market for our securities may depend in part on the research and reports that research analysts publish about us and our business. If we do not maintain adequate research coverage, or if any of the analysts who cover us downgrade our stock or publish inaccurate or unfavorable research about our business, the price of our Common Stock could decline. If one or more of our research analysts ceases to cover our business or fails to publish reports on us regularly, demand for our securities could decrease, which could cause the price of our Common Stock or trading volume to decline.

***Market and economic conditions may negatively impact our business, financial condition and share price.***

Concerns over inflation, energy costs, geopolitical issues, the U.S. mortgage market and a declining real estate market, unstable global credit markets and financial conditions, and volatile oil prices have led to periods of significant economic instability, diminished liquidity and credit availability, declines in consumer confidence and discretionary spending, diminished expectations for the global economy and expectations of slower global economic growth going forward, increased unemployment rates, and increased credit defaults in recent years. Our general business strategy may be adversely affected by any such economic downturns, volatile business environments and continued unstable or unpredictable economic and market conditions. If these conditions continue to deteriorate or do not improve, it may make any necessary debt or equity financing more difficult to complete, more costly, and more dilutive. Failure to secure any necessary financing in a timely manner and on favorable terms could have a material adverse effect on our growth strategy, financial performance, and share price and could require us to delay or abandon development or commercialization plans.

***The ability of a stockholder to recover all or any portion of such stockholder’s investment in the event of a dissolution or termination may be limited.***

In the event of a dissolution or termination of the Company, the proceeds realized from the liquidation of the assets of the Company, or such subsidiaries will be distributed among the stockholders, but only after the satisfaction of the claims of third-party creditors of the Company. The ability of a stockholder to recover all or any portion of such stockholder’s investment under such circumstances will, accordingly, depend on the amount of net proceeds realized from such liquidation and the amount of claims to be satisfied therefrom. There can be no assurance that the Company will recognize gains on such liquidation, nor is there any assurance that Common Stockholders will receive a distribution in such a case.

***We do not intend to pay cash dividends on our shares of Common Stock so any returns will be limited to the value of our shares.***

We currently anticipate that we will retain future earnings for the development, operation and expansion of our business and do not anticipate declaring or paying any cash dividends for the foreseeable future. Any return to shareholders will therefore be limited to the increase, if any, of our share price.

***Our Certificate of Incorporation provides that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for substantially all disputes between the Company and its stockholders, which could limit stockholders' ability to obtain a favorable judicial forum for disputes with the Company or its directors, officers or employees.***

Our Certificate of Incorporation provides that unless the Company consents in writing to the selection of an alternative forum, the State of Delaware is the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's stockholders, (iii) any action asserting a claim against the Company, its directors, officers or employees arising pursuant to any provision of the Delaware General Corporation Law (the "DGCL") or our Certificate of Incorporation or the Company's Bylaws, or (iv) any action asserting a claim against the Company, its directors, officers, employees or agents governed by the internal affairs doctrine, including, without limitation, any action to interpret, apply, enforce or determine the validity of the Company's Certificate of Incorporation or Bylaws. This exclusive forum provision would not apply to suits brought to enforce any liability or duty created by the Securities Act or the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. To the extent that any such claims may be based upon federal law claims, Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder.

Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. However, our Certificate of Incorporation contain a federal forum provision which provides that unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation are deemed to have notice of and consented to this provision. As this provision applies to Securities Act claims, there may be uncertainty whether a court would enforce such a provision.

These choice of forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with the Company or its directors, officers or other employees, which may discourage such lawsuits against the Company and its directors, officers and other employees. Alternatively, if a court were to find our choice of forum provisions contained in either our Certificate of Incorporation or Bylaws to be inapplicable or unenforceable in an action, the Company may incur additional costs associated with resolving such action in other jurisdictions, which could harm its business, results of operations, and financial condition.

***We are an "emerging growth company" and are able to avail ourselves of reduced disclosure requirements applicable to emerging growth companies, which could make our Common Stock less attractive to investors.***

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"), and we have elected to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "emerging growth companies" including not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and shareholder approval of any golden parachute payments not previously approved. In addition, pursuant to Section 107 of the JOBS Act, as an "emerging growth company" we have elected to take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act, for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. As such, our financial statements may not be comparable to companies that comply with public company effective dates.

We cannot predict if investors will find our Common Stock less attractive because we may rely on these exemptions. If some investors find our Common Stock less attractive as a result, there may be a less active trading market for our Common Stock and our stock price may be more volatile. We may take advantage of these reporting exemptions until we are no longer an "emerging growth company." We will remain an "emerging growth company" until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of \$1.07 billion or more; (ii) the last day of our fiscal year following the fifth anniversary of the date of the completion of our initial public offering; (iii) the date on which we have issued more than \$1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

***Financial reporting obligations of being a public company in the United States are expensive and time-consuming, and our management will be required to devote substantial time to compliance matters.***

As a publicly traded company, we will incur significant additional legal, accounting and other expenses that we did not incur as a private company. The obligations of being a public company in the United States require significant expenditures and will place significant demands on our management and other personnel, including costs resulting from public company reporting obligations under the Exchange Act and the rules and regulations regarding corporate governance practices, including those under the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley"), the Dodd-Frank Wall Street Reform and Consumer Protection Act, and the listing requirements of the stock exchange on which our securities are listed. These rules require the establishment and

maintenance of effective disclosure and financial controls and procedures, internal control over financial reporting and changes in corporate governance practices, among many other complex rules that are often difficult to implement, monitor and maintain compliance with. Moreover, despite recent reforms made possible by the JOBS Act, the reporting requirements, rules, and regulations will make some activities more time-consuming and costly, particularly after we are no longer an “emerging growth company.” In addition, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance. Our management and other personnel will need to devote a substantial amount of time to ensure that we comply with all of these requirements and to keep pace with new regulations, otherwise we may fall out of compliance and risk becoming subject to litigation or being delisted, among other potential problems.

***If we fail to comply with the rules under Sarbanes-Oxley related to accounting controls and procedures in the future, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult.***

Section 404 of Sarbanes-Oxley requires annual management assessments of the effectiveness of our internal control over financial reporting. If we fail to comply with the rules under Sarbanes-Oxley related to disclosure controls and procedures in the future, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult. If material weaknesses or significant deficiencies are discovered or if we otherwise fail to achieve and maintain the adequacy of our internal control, we may not be able to ensure that we can conclude on an ongoing basis that we have effective internal controls over financial reporting in accordance with Section 404 of Sarbanes-Oxley. Moreover, effective internal controls are necessary for us to produce reliable financial reports and are important to helping prevent financial fraud. If we cannot provide reliable financial reports or prevent fraud, our business and operating results could be harmed, investors could lose confidence in our reported financial information, and the trading price of our Common Stock could drop significantly.

***Changes in our tax rates or exposure to additional tax liabilities, and changes to tax laws and interpretations of tax laws could adversely affect our earnings and financial condition.***

We are subject to taxes in the United States and in various foreign jurisdictions. Significant judgment will be required to determine our worldwide income tax provision, tax assets, and accruals for other taxes, and there are many transactions and calculations where the ultimate tax determination is uncertain. Our effective income tax rate is based in part on our corporate operating structure and the manner in which we operate our business and develop, value and use our intellectual property. Taxing authorities in jurisdictions in which we operate may challenge and audit our methodologies for calculating our income taxes, which could increase our effective income tax rate and have an adverse impact on our results of operations and cash flows. In addition, our provision for income taxes is materially affected by our profit levels, changes in our business, changes in the mix of earnings in countries with differing statutory tax rates, changes in the elections we make, changes in the valuation of our deferred tax assets and liabilities, or changes in applicable tax laws or interpretations of existing income and withholding tax laws, as well as other factors. For example, the outcome of future guidance related to the U.S. Tax Act could cause us to change our analysis and materially impact our previous estimates and financial statements.

In addition, changes to U.S. federal, state, or international tax laws or their applicability to corporate multinationals in the countries in which we do business may affect our effective tax rates and cash taxes, cause us to change the way in which we structure our business and resulted in other costs. Our effective tax rate also could be adversely affected by changes in our valuation allowances for deferred tax assets. Actual financial results also may differ materially from our current estimates and could have a material impact on our assessment of the valuation allowance.

***Our principal stockholders and management own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.***

Our directors, executive officers, and each of our stockholders who owned greater than 5% of our outstanding Common Stock beneficially, as of March 27, 2024, own approximately 32.41% of our Common Stock. Accordingly, these stockholders have and will continue to have significant influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, a merger, the consolidation or sale of all or substantially all of our assets or any other significant corporate transaction. The interests of these stockholders may not be the same as or may even conflict with our other investors’ interests.

***Our Certificate of Incorporation, our Bylaws, and Delaware law may have anti-takeover effects that could discourage, delay or prevent a change in control, which may cause our stock price to decline.***

Anti-takeover provisions may limit the ability of another party to acquire us, which could cause our stock price to decline. Our Certificate of Incorporation, Bylaws and Delaware law contain provisions that could discourage, delay or prevent a third party from acquiring us, even if doing so may be beneficial to our stockholders. In addition, these provisions could limit the price investors would be willing to pay in the future for shares of our Common Stock.

***Certain provisions of our certificate of incorporation and Delaware law make it more difficult for a third party to acquire us and make a takeover more difficult to complete, even if such a transaction were in stockholders’ interest.***

Our certificate of incorporation and the Delaware General Corporation Law contain certain provisions that may have the effect of making it more difficult or delaying attempts by others to obtain control of our Company, even when these attempts may be in the best interests of our stockholders. We also are subject to the anti-takeover provisions of the Delaware General Corporation Law, which prohibits us from engaging in a “business combination” with an “interested stockholder” unless the business combination

is approved in a prescribed manner and prohibits the voting of shares held by persons acquiring certain numbers of shares without obtaining requisite approval. The statutes and our certificate of incorporation have the effect of making it more difficult to effect a change in control of our Company. On January 10, 2024, the board of directors (the “Board”) of the Company approved an amendment (the “Amendment”) to the bylaws (the “Bylaws”), effective as of January 10, 2024. The Amendment amends and restates Article 2, Section 2.4 in its entirety to lower quorum requirement for shareholder meetings from requiring the holders of a majority in voting power of the stock issued and outstanding and entitled to vote, present in person, or by remote communication, if applicable, or represented by proxy to one-third in voting power of the stock issued and outstanding and entitled to vote, present in person, or by remote communication, if applicable, or represented by proxy.

***If our shares become subject to the penny stock rules, it would become more difficult to trade our shares.***

The SEC has adopted rules that regulate broker-dealer practices in connection with transactions in penny stocks. Penny stocks are generally equity securities with a price of less than \$5.00, other than securities registered on certain national securities exchanges or authorized for quotation on certain automated quotation systems, provided that current price and volume information with respect to transactions in such securities is provided by the exchange or system. If we do not obtain or retain a listing on the Nasdaq Capital Market or if the price of our Common Stock falls below \$5.00, our Common Stock will be deemed a penny stock. The penny stock rules require a broker-dealer, before a transaction in a penny stock not otherwise exempt from those rules, to deliver a standardized risk disclosure document containing specified information. In addition, the penny stock rules require that before effecting any transaction in a penny stock not otherwise exempt from those rules, a broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive (i) the purchaser’s written acknowledgment of the receipt of a risk disclosure statement; (ii) a written agreement to transactions involving penny stocks; and (iii) a signed and dated copy of a written suitability statement. These disclosure requirements would likely have the effect of reducing the trading activity in the secondary market for our Common Stock, and therefore stockholders may have difficulty selling their shares.

***FINRA sales practice requirements may limit a stockholder’s ability to buy and sell our stock.***

In addition to the “penny stock” rules described above, the Financial Industry Regulatory Authority, Inc. (“FINRA”), has adopted rules that require that in recommending an investment to a customer, a broker-dealer must have reasonable grounds for believing that the investment is suitable for that customer. Prior to recommending speculative, low-priced securities to their non-institutional customers, broker-dealers must make reasonable efforts to obtain information about the customer’s financial status, tax status, investment objectives and other information. The FINRA requirements may make it more difficult for broker-dealers to recommend that their customers buy our Common Stock, which may have the effect of reducing the level of trading activity in our Common Stock. As a result, fewer broker-dealers may be willing to make a market in our Common Stock, reducing a stockholder’s ability to resell shares, as well as overall liquidity, of our Common Stock.

***We may be considered a smaller reporting company and will be exempt from certain disclosure requirements, which could make our Common Stock less attractive to potential investors.***

Rule 12b-2 of the Exchange Act, defines a “smaller reporting company” as an issuer that is not an investment company, an asset-backed issuer, or a majority-owned subsidiary of a parent that is not a smaller reporting company and that:

- had a public float of less than \$250 million as of the last business day of its most recently completed second fiscal quarter, computed by multiplying the aggregate worldwide number of shares of its voting and non-voting common equity held by non-affiliates by the price at which the common equity was last sold, or the average of the bid and asked prices of common equity, in the principal market for the common equity; or
- in the case of an initial registration statement under the Securities Act of 1933, as amended (“Securities Act”), or the Exchange Act for shares of its common equity, had a public float of less than \$250 million as of a date within 30 days of the date of the filing of the registration statement, computed by multiplying the aggregate worldwide number of such shares held by non-affiliates before the registration plus, in the case of a Securities Act registration statement, the number of such shares included in the registration statement by the estimated public offering price of the shares; or
- in the case of an issuer whose public float was zero, had annual revenues of less than \$100.0 million during the most recently completed fiscal year for which audited financial statements are available.

As a smaller reporting company, we would not be required and may not include a Compensation Discussion and Analysis section in our proxy statements; we would provide only two years of financial statements; and we would not need to provide the table of selected financial data. We also would have other “scaled” disclosure requirements that are less comprehensive than issuers that are not smaller reporting companies which could make our Common Stock less attractive to potential investors, and also could make it more difficult for our stockholders to sell their shares.

## ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

## ITEM 1C. CYBERSECURITY

Cybersecurity is critical to advancing our overall objectives and enabling our digital efforts. As a company operating in the technology and software sectors, we face a wide variety of cybersecurity threats that range from common attacks such as ransomware and denial-of-service, to more advanced attacks. Our customers, suppliers and other partners face similar cybersecurity threats, and a cybersecurity incident impacting these entities could materially adversely affect our operations, performance and results. These cybersecurity threats and related risks make it imperative that we maintain focus on cybersecurity and systematic risks. Below is a discussion of our risk management and approach to governance as it relates to cybersecurity. For additional information on the impact of cyber risks, refer to Part I, Item 1A. “*Risk Factors*”, of this Form 10-K.

### Risk Management and Strategy

Cybersecurity risk management is a core tenet of our information technology security program. We have implemented various cybersecurity technologies, controls, and processes to ensure the integrity and availability of our infrastructure, data, and operations. We periodically review and modify these technologies and processes to align with the latest in industry best practices and an ever-changing threat landscape.

As part of our cybersecurity risk management program, we perform the following:

- Cybersecurity risk assessment is performed on all new products and product updates;
- Employ internal staff with security certifications, and we work with third parties to perform security vulnerability testing;
- Changes to data protection laws are closely monitored and necessary changes are implemented;
- Provide routine security training to employees and communicate any emerging threats;
- Review the security posture of all third parties that we engage;
- Maintain a comprehensive incident response plan;
- Carry cybersecurity insurance to help mitigate any potential losses arising from cybersecurity incidents.

While we face a number of ongoing cybersecurity risks in connection with our business, such risks have not materially affected us to date, including our business strategy, results of operations, or financial condition.

### Governance

Our team responsible for monitoring and assessing cybersecurity threats, who reports directly to the Chief Executive Officer, manages and monitors our cybersecurity. Our board of directors, as a whole, has oversight for the most significant risks facing us and for our processes to identify, prioritize, assess, manage and mitigate those risks, including cybersecurity risks. The board of directors receives regular updates on cybersecurity and information technology matters and related risk exposures from our executive team.

## ITEM 2. PROPERTIES

Our principal executive offices are located at 101 Eisenhower Parkway, Suite 300, Roseland, New Jersey 07068. We pay \$58 per month to rent such space on a month-to-month lease basis. We believe that our current office space will be adequate for the foreseeable future.

## ITEM 3. LEGAL PROCEEDINGS

From time to time, we may become involved in various lawsuits and legal proceedings, which arise in the ordinary course of business. Litigation is subject to inherent uncertainties, and an adverse result in these or other matters may arise from time to time that may harm our business. We are currently not aware of any such legal proceedings or claims that will have, individually or in the aggregate, a material adverse effect on our business, financial condition or operating results.

## ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

## PART II

### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

#### Market Information

Our common stock is listed on the Nasdaq Capital Market under the symbol "GXAI." Prior to the change of our symbol to GXAI on January 19, 2024, our common stock was listed on the Nasdaq Capital Market under the symbol "NFTG."

#### Shareholders

As of March 27, 2024, we had 10 shareholders of record of our common stock. The actual number of holders of our common stock is greater than this number of record holders, and includes shareholders who are beneficial owners, but whose shares are held in street name by brokers or held by other nominees. This number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

#### Use of Proceeds from Registered Offering

On February 17, 2023, we completed the initial public offering, or IPO, of our common stock pursuant to which we issued and sold 1,686,747 shares of our common stock at a price to the public of \$4.15 per share. All of the shares of common stock issued and sold in our IPO were registered under the Securities Act pursuant to a registration statement on Form S-1 (Registration No. 333-267879), which was declared effective by the SEC on February 14, 2023. We received net proceeds of approximately \$5.9 million, after deducting underwriting discounts and commissions and offering expenses borne by us. None of the expenses incurred by us were direct or indirect payments to any of (i) our directors or officers or their associates, (ii) persons owning 10% or more of our common stock, or (iii) our affiliates. There has been no material change in the planned use of proceeds from our IPO as described in our final prospectus filed with the SEC on February 14, 2023 pursuant to Rule 424(b)(4). Laidlaw & Co. (UK) Ltd. ("Laidlaw") acted as sole book-running manager for the offering. The offering commenced on February 14, 2023 and did not terminate before all securities registered in the registration statement were sold.

#### Purchases of Equity Securities by the Issuer and Affiliated Purchasers

On March 20, 2023, the Board of Directors authorized a stock repurchase program to purchase of up to \$500,000 of the Company's issued and outstanding common stock, from time to time, with such plan to be in place until December 31, 2023 (the "2023 Stock Repurchase Program"). In connection with the 2023 Stock Repurchase Program, during the year ended December 31, 2023, we purchased and cancelled 20,349 shares of our common stock for a cost of \$99,736, or at an average price of \$4.90 per share.

The following is a summary of our common stock repurchases during the quarterly period ended December 31, 2023:

Period	Total number of shares purchased	Average price paid per share	Total number of shares purchased as part of publicly announced program	Maximum number (or approximate dollar value) of shares that may yet be purchased under the program
October 1, 2023 through October 31, 2023	-	\$ -	-	
November 1, 2023 through November 30, 2023	11,521	\$ 4.34	11,521	
December 1, 2023 through December 31, 2023	-	\$ -	-	
Total	<u>11,521</u>	<u>\$ 4.34</u>	<u>11,521</u>	<u>\$ 400,264</u>

#### Dividend Policy

We have never paid or declared any cash dividends on our common stock, and we do not anticipate paying any cash dividends on our common stock in the foreseeable future. We intend to retain all available funds and any future earnings to fund the development and expansion of our business. Any future determination to pay dividends will be at the discretion of our board of directors and will depend upon a number of factors, including our results of operations, financial condition, future prospects, contractual restrictions, restrictions imposed by applicable law and other factors our board of directors deems relevant.

#### Unregistered Sales of Equity Securities

None.

### ITEM 6. [RESERVED]

## ITEM 7. MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITIONS AND RESULTS OF OPERATIONS.

*You should read the following discussion and analysis of our financial condition and plan of operations together with “Summary Financial Data” and our financial statements and the related notes appearing elsewhere in this Annual Report on Form 10-K. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those discussed below. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed in the section titled “Risk Factors” included elsewhere in this Annual Report on Form 10-K. All amounts in this report are in U.S. dollars, unless otherwise noted.*

### Overview

We are a technology based company that is developing applications aimed at redefining the way we utilize artificial intelligence (“AI”) to optimize the user experience. We are committed to addressing the need for AI solutions in both health and entertainment.

#### *Gaxos Gaming*

Our flagship product is our gaming platform called “Gaxos” (the “Platform” or “Gaxos Gaming”), created with a vision to develop, design, acquire, and manage conventional games and to combine these games with unconventional game mechanisms, such as the ability for gamers and developers to utilize artificial intelligence to create and design in-game features, as well as to mint unique in-game features, such as skins, characters, weapons, gear, levels, and virtual lands, in the form of non-fungible tokens, or “NFTs,” that will allow users to have unique experiences and more control over in-game assets.

In 2023, we launched our own proprietary games that are simple and fun to play, and that offer gamers the ability to utilize AI to personalize their gaming experience as well as to mint their own affordable NFTs, with unique and exclusive features, that can be utilized across the network of games and platform that we intend to build. As of December 31, 2023, we have launched four games, Space Striker AI, Brawl Bots, BattleFleet AI, and Jigsaw Puzzle AI. Space Striker AI allows players to engage in a captivating storyline and exciting retro shooting space action in the players AI-generated spaceship. Players can fuse crystals to upgrade their ship parts to craft, clash and conquer the galaxy all within a dynamic free-to-play economy. Brawl Bots immerses users in high-octane battles in real time against other players, in solo play or teams. Each player gets to control their own exclusive Bot character, ensuring a personalized gaming experience. BattleFleet AI is a take on the classic Battleship game with AI elements that allow gamers to design their ships. Jigsaw Puzzle AI lets gamers solve preloaded jigsaw puzzles as well as design and solve new jigsaw puzzles using AI.

We expect to launch more games in 2024. We have a pipeline of games in various stages of development. We plan to methodically launch games based on research and market data.

In addition to launching our own proprietary games, Gaxos Gaming is developing an artificial intelligence solution for game developers and studios. The solution is intended to offer a transformative generative AI service that empowers the gaming industry to create without limits through dynamic content generation, seamless integration, and personalized solutions. Key features of the product will be:

- **AI-Powered Creativity:** Reduces creative asset development time from hours to minutes, transforming artistic visions into reality with ease.
- **Seamless Integration:** With plug-and-play functionality for Unity and upcoming support for Unreal Engine, integration is effortless into existing workflows.
- **Dynamic Content Generation:** User-Generated-Ai-Content (“UGAiC”) feature offers new experiences with each playthrough by letting gamers use AI in real time, fostering a dynamic gaming environment.
- **Customized Solutions:** From personalized AI models and templates to expert consulting services, offering to include custom solutions to meet unique needs of each developer.

We expect to launch the artificial intelligence solution in Q2 of 2024.

#### *Gaxos Health*

Recently, we launched a new initiative, Gaxos Health, which is dedicated to revolutionizing personal health and wellness by developing a suite of innovative AI-powered health optimization solutions. Gaxos Health will integrate AI-driven insights with individual biometric data and health goals to create web and application based personalized wellness strategies to users. We believe that this cutting-edge approach will redefine preventative medicine, offering unparalleled personalization in health and wellness. Gaxos Health solutions will analyze a wide range of health data to provide tailored wellness plans and address the growing demand for personalized health solutions. We believe that this technology is not just a step but a leap forward in empowering individuals to take control of their health and longevity with AI’s precision and intelligence.

We expect to launch the AI-powered health optimization product in the second half of 2024.

### ***Basis of Presentation***

The financial statements contained herein have been prepared in accordance with U.S. Generally Accepted Accounting Principles (“US GAAP”) and the requirements of the Securities and Exchange Commission (“SEC”).

### ***Use of Estimates***

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates in the accompanying financial statements include valuation of intangible assets and other long-lived assets, estimates of deferred tax valuation allowances and the fair value of stock options issued for services.

### ***Critical Accounting Estimates***

Critical accounting estimates are those estimates made in accordance with generally accepted accounting principles that involve a significant level of estimation uncertainty and have had or are reasonably likely to have a material impact on our financial condition or results of operations. We consider the following to be critical accounting estimates.

#### ***Intangible assets***

Intangible assets, consisting of software licenses and technology licenses, are carried at cost less accumulated amortization, computed using the straight-line method over the estimated useful life of 5 years, less any impairment charges. During the years ended December 31, 2023 and 2022, the Company recorded an impairment loss of \$52,363 and \$0, respectively.

#### ***Stock-based compensation***

Stock-based compensation is accounted for based on the requirements of ASC 718 – “*Compensation–Stock Compensation*”, which requires recognition in the financial statements of the cost of employee, non-employee and director services received in exchange for an award of equity instruments over the period the employee or director is required to perform the services in exchange for the award (presumptively, the vesting period). The ASC also requires measurement of the cost of employee and director services received in exchange for an award based on the grant-date fair value of the award. The Company has elected to account for forfeitures as they occur.

#### ***Capital Expenditures***

We do not have any contractual obligations for ongoing capital expenditures at this time. We do, however, purchase equipment and software necessary to conduct our operations on an as needed basis.

### ***Results of Operations***

#### **Comparison of Our Results of Operations for the Year Ended December 31, 2023 and 2022.**

##### ***Revenue***

During the year ended December 31, 2023, we generated revenue of \$256. During the year ended December 31, 2022, we did not generate any revenues from operations. Once we achieve a critical mass of users, we plan to offer new features and to charge fees in order to generate revenues from these added features.

##### ***Operating Expenses***

During the years ended December 31, 2023 and 2022, we incurred operating expenses of \$4,015,541 and \$1,424,096, respectively, an increase of \$2,591,445, or 182.0%. Operating consisted of the following:

##### ***Research and development fees***

We enter into agreements with third-party developers that require us to make payments for game and software development services upon reaching the application development stage. In exchange for our payments, we receive the exclusive publishing and distribution rights to the finished game title and software. During the preliminary project stage and prior to the application development stage of the product, we record any costs incurred by third-party developers as research and development expenses.

We capitalize all development and production service payments to third-party developers as internal-use software development costs and licenses once we reach the application development stage. During the years ended December 31, 2023 and 2022, we reported research and development fees of \$915,818 and \$824,523, respectively, an increase of \$91,295, or 11.1%, primarily due to an increase in labor and outside development costs incurred in connection with the development of games and our platform. We expect research and development fees to increase in the future as development of games accelerates.

### **General and administrative expenses**

For the years ended December 31, 2023 and 2022, general and administrative expenses consisted of the following:

	<b>For the Year Ended December 31, 2023</b>	<b>For the Year Ended December 31, 2022</b>
Compensation and related benefit	\$ 1,432,427	\$ 369,914
Professional fees	1,066,969	164,495
Other general and administrative expenses	547,964	65,164
Total general and administrative expenses	<u>\$ 3,047,360</u>	<u>\$ 599,573</u>

### **Compensation and related benefits**

During the years ended December 31, 2023 and 2022, compensation and related benefits amounted to \$1,432,427 and \$369,914, respectively, an increase of \$1,062,513, or 287.2%. The increase during the year ended December 31, 2023 compared to the year ended December 31, 2022 was primarily attributable to the accretion of stock-based compensation related to issuance of stock options to executive officers, directors and employees of \$722,079 and the hiring of executive officers and employees beginning in February 2023, which increased wages by approximately \$274,000 over fiscal 2022.

### **Professional fees**

During the years ended December 31, 2023 and 2022, we incurred professional fees of \$1,066,969 and \$164,495, respectively, an increase of \$902,474, or 548.6%, attributable to an increase in stock-based consulting fees attributable to the accretion of stock-based consulting fees related to issuance of stock options to consultants of \$214,275, an increase in investor relations fees of \$374,970, an increase in legal fees of \$138,912, an increase in accounting fees of \$24,688, an increase in advisory fees of \$147,500, and an increase in director fees of \$39,375, offset by a decrease in other professional fees of \$37,246.

### **Other general and administrative expenses**

General and administrative expenses consist of advertising and marketing expenses, office expenses, insurance, listing fees, computer and interest expenses, travel expenses, amortization expense, and other general business expenses. During the years ended December 31, 2023 and 2022, we incurred general and administrative expenses of \$547,964 and \$65,164, respectively, an increase of \$482,800, or 741.0%. Generally, the increase in other general and administrative expenses during the year ended December 31, 2023 as compared to the year ended December 31, 2022 was attributable to a ramp up of operations which began in February 2023 following the Company's IPO.

### **Impairment loss**

On August 9, 2023 and effective August 1, 2023, the Company and Columbia University agreed to the termination of the Software and Patent License Agreement between the Company and The Trustees of Columbia University in the City of New York, dated August 29, 2022. Accordingly, as of December 31, 2023, we wrote off the remaining unamortized book value of the intangible asset of \$52,363, and during the year ended December 31, 2023, we recorded an impairment loss of \$52,363, which is included in operating expenses on the accompanying statement of operations and comprehensive loss.

### **Loss from operations**

During the years ended December 31, 2023 and 2022, we reported a loss from operations of \$4,015,285 and \$1,424,096, respectively, an increase of \$2,591,189, or 182.0%. The increase in loss from operations was due to the increases in research and development and general and administrative expenses discussed above.

### **Other income**

During the years ended December 31, 2023 and 2022, we reported other income of \$67,188 and \$2,924, respectively, which consisted of interest income in both years and a realized gain on short-term investments in 2023. The increase is primarily due to the short-term investments acquired by the Company during the year ended December 31, 2023.

### **Net loss**

During the years ended December 31, 2023 and 2022, our net loss amounted to \$3,948,097 and \$1,421,172, respectively, an increase of \$2,526,925, OR 177.8%. During the years ended December 31, 2023 and 2022, our comprehensive loss amounted to \$3,852,312, or a net loss per common share of \$0.33 (basic and diluted) and \$1,421,172, or a net loss per common share of \$0.14 (basic and diluted), respectively, an increase of \$2,431,140, or 171.1%.

## **Liquidity, Capital Resources and Plan of Operations**

Liquidity is the ability of a company to generate funds to support its current and future operations, satisfy its obligations, and otherwise operate on an ongoing basis. On December 31, 2023, we had a cash balance of \$1,024,710, had short-term investments of \$2,592,689, and had working capital of \$3,372,503. On February 17, 2023, we completed an initial public offering (“IPO”) and sold 140,563 shares of its common stock at a price to the public of \$49.80 per share for gross proceeds of \$7,000,000. We received net proceeds of \$5,958,470 which is net of offering related expenses paid with proceeds of \$1,041,530. We also reclassified \$202,559 of deferred offering costs as of December 31, 2022 to additional paid in capital upon completing the IPO which resulted in total net proceeds, after equity issuance costs, of \$5,755,871. During the year ended December 31, 2023, we used net cash in operations of \$2,980,592 and purchased liquid short-term investments of \$3,491,242.

On March 13, 2024, we entered into a securities purchase agreement with an institutional investor for the issuance and sale in a private placement of (i) 108,000 shares of the Company’s common stock (the “Common Stock”), (ii) pre-funded warrants to purchase 520,367 shares of Common Stock, (iii) series A warrants to purchase up to 628,367 shares of Common Stock, and (iv) series B warrants to purchase up to 628,367 shares Common Stock. The purchase price of each share of Common Stock and associated warrants was \$5.57 and the purchase price of each pre-funded warrant and associated warrants was \$5.569. The private placement closed on March 15, 2024 and the aggregate gross proceeds of \$3,499,484, before deducting placement agent fees and expenses and estimated offering expenses payable by the Company. The Company intends to use the net proceeds received from the Private Placement for general corporate purposes and working capital.

Until such time that the Company implements its growth strategy, we expect to continue to generate operating losses in the foreseeable future, mostly due to corporate overhead, research and development, and costs of being a public company. We believe that our existing working capital and cash on hand will provide sufficient cash to enable the Company to meet its operating needs and debt requirements for the next twelve months from the issuance date of this report.

### ***Cash Flows from Operating Activities***

For the year ended December 31, 2023, net cash used in operations was \$2,980,592, which primarily resulted from our net loss of \$3,948,097, adjusted for the add back of amortization expense of \$10,649, stock-based compensation to employees and consultants of \$936,354, a realized gain on short-term investments of \$(20,662), and impairment loss of \$52,363, and changes in operating asset and liabilities such as an increase in prepaid expenses and other current assets of \$24,732, a decrease in accounts payable of \$29,930, and an increase in accrued expenses of \$43,471.

For the year ended December 31, 2022, net cash used in operations was \$1,260,425, which primarily resulted from our net loss of \$1,421,172, adjusted for the add back of amortization expense of \$4,189 and changes in operating asset and liabilities such as an increase in accounts payable of \$148,761 and an increase in accrued expenses of \$8,197, offset by a decrease of \$400 in prepaid expenses and other current assets.

### ***Cash Flows from Investing Activities***

For the year ended December 31, 2023, net cash used in investing activities was \$2,533,213, which resulted from the purchase of short-term investments of \$3,491,242 and an increase in capitalized internal-use software development costs of \$56,971, offset by proceeds received from the sale of short-term investments of \$1,015,000.

For the year ended December 31, 2022, net cash used in investing activities was \$62,836, which resulted from the execution of a software and patent license agreement.

### ***Cash Flows from Financing Activities***

For the year ended December 31, 2023, net cash provided by financing activities was \$5,858,734. On February 17, 2023, we closed an IPO pursuant to which we issued 1,686,755 of our common stock for gross proceeds of approximately \$7 million and net proceeds of \$5,958,470, after deducting underwriting discounts and commissions, and offering expenses. Additionally, during the year ended December 31, 2023, we purchased and cancelled 244,184 treasury shares for \$99,736, or at an average price of \$0.408 per share.

For the year ended December 31, 2022, net cash used in financing activities was \$75,099 and consisted of the payment of deferred offering costs, offset by proceeds from subscriptions receivable of \$37,500.

Our ultimate success is dependent on our ability to obtain additional financing and generate sufficient cash flow to meet our obligations on a timely basis. We will require significant amounts of capital to sustain operations, and we will need to make the investments we need to execute our longer-term business plan to support new technologies and help advance innovation. Absent generation of sufficient revenue from the execution of our long-term business plan, we will need to obtain debt or equity financing, especially if we experience downturns in our business that are more severe or longer than anticipated, or if we experience significant increases in expense levels resulting from being a publicly-traded company or from operations. Such additional debt or equity financing may not be available to us on favorable terms, if at all. We plan to pursue our plans with respect to the research and development of our products which will require resources beyond those that we currently have, ultimately requiring additional capital from third party sources. However, we believe the net proceeds received in the IPO that closed in February 2023 will be sufficient to meet our financial obligations for at least the next 12 months.

### **Off-Balance Sheet Arrangements**

For the years ended December 31, 2023 and 2022, we did not have any off-balance sheet arrangements as defined in Item 303(a)(4)(ii) of Regulation S-K and did not have any commitments or contractual obligations.

### **JOBS Act**

On April 5, 2012, the JOBS Act was enacted. Section 107 of the JOBS Act provides that an “emerging growth company” can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act, for complying with new or revised accounting standards. In other words, an “emerging growth company” can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies.

We have chosen to take advantage of the extended transition periods available to emerging growth companies under the JOBS Act for complying with new or revised accounting standards until those standards would otherwise apply to private companies provided under the JOBS Act. As a result, our financial statements may not be comparable to those of companies that comply with public company effective dates for complying with new or revised accounting standards.

Subject to certain conditions set forth in the JOBS Act, as an “emerging growth company,” we intend to rely on certain of these exemptions, including, without limitation, (i) providing an auditor’s attestation report on our system of internal controls over financial reporting pursuant to Section 404(b) of Sarbanes-Oxley and (ii) complying with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements, known as the auditor discussion and analysis. We will remain an “emerging growth company” until the earliest of (i) the last day of the fiscal year in which we have total annual gross revenues of \$1.07 billion or more; (ii) the last day of our fiscal year following the fifth anniversary of the date of our initial public offering; (iii) the date on which we have issued more than \$1 billion in nonconvertible debt during the previous three years; or (iv) the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

### **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

As a smaller reporting company, we are not required to provide the information required by this item.

### **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

Our financial statements are contained in pages F-1 through F-17, which appear at the end of this Annual Report on Form 10-K.

### **ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS AND FINANCIAL DISCLOSURE.**

None.

## **ITEM 9A. CONTROLS AND PROCEDURES.**

### **Evaluation of Disclosure Controls**

Our principal executive officer and principal financial officer evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2023. The term “disclosure controls and procedures,” as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission’s rules and forms. Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company’s management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Based on that evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Annual Report on Form 10-K.

### **Management’s Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as such term is defined in Exchange Act Rule 13a-15(f). Internal control over financial reporting is a process designed under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

As of December 31, 2023, under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework - 2013. Based on this assessment, our management concluded that, as of December 31, 2023, our internal control over financial reporting was effective based on such criteria.

This Annual Report on Form 10-K does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. Management’s report was not subject to attestation by the Company’s independent registered public accounting firm pursuant to the exemption provided to issuers that are not “large accelerated filers” nor “accelerated filers” under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

### **Changes in Internal Control Over Financial Reporting**

There have been no changes in our internal control over financial reporting that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **ITEM 9B. OTHER INFORMATION.**

During our last fiscal quarter ended December 31, 2023, none of our directors or executive officers adopted, modified or terminated a “Rule 10b5-1 trading arrangement” or a “non-Rule 10b5-1 trading arrangement” as such terms are defined under Item 408 of Regulation S K.

## **ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS.**

Not applicable.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

#### Executive Officers and Directors

The following table sets forth the names, positions and ages of our directors and executive officers as of the date of this annual report on Form 10-K.

Name	Age	Position(s)
Vadim Mats	39	Chief Executive Officer and Chairman
Steven A. Shorr	55	Chief Financial Officer
Adam Holzer	55	Director
Alex Kisin	35	Director
Scott Grayson	65	Director

The business background and certain other information about our directors and executive officers is set forth below.

#### **Vadim Mats — Chief Executive Officer and Chairman**

Vadim Mats has served as Chief Executive Officer and Chairman since October 2021. Mr. Mats was previously Chief Financial Officer of DatChat, Inc. (NASDAQ: DATS) from July 2021 to January 2022 and supported the company's successful IPO on the NASDAQ. From March 2018 to June 2021, Mr. Mats served as the Chief Financial Officer of Grand Private Equity, a fintech-focused family office. Mr. Mats is also the Founder and Partner of BespokeCFO, a finance and accounting advisory practice. From June 2010 to December 2016, Mr. Mats was Chief Financial Officer of a hedge fund based in New Jersey. Mr. Mats also served as the Assistant Controller at Eton Park Capital Management, LP, a multi-strategy fund, from July 2007 to December 2009. From June 2006 to July 2007, Mr. Mats was a Senior Fund Accountant at The Bank of New York Mellon. Mr. Mats holds a Master of Science degree in accounting and finance and a Bachelor's Degree in Business Administration specializing in finance and investments from the Zicklin School of Business at Bernard Baruch College. Further, Mr. Mats is a CAIA © Charterholder and a Certified Public Accountant in the State of New York.

We believe that Mr. Mats is qualified to serve as a member of our board of directors due the perspective and experience he brings as our founder and Chief Executive Officer, his extensive experience in technology and finance companies and in the management of public companies.

#### **Steven A. Shorr — Chief Financial Officer**

Steven Shorr has served as our Chief Financial Officer since March 2022. Mr. Shorr is an accomplished accounting professional with over 30 years of experience. Since 2006, he has been Partner of Jubran, Shorr & Company, a tax, accounting, and advisory firm. In 2001, Mr. Shorr founded Steven Shorr CPA, an accounting and tax practice, operating until 2006. Prior to 2001, he served as the Controller of CounterPoint Capital Management, a New York-based hedge fund. Mr. Shorr has also previously worked for public accounting firms, Kenneth Leventhal & Company and Cavalcante & Company. Mr. Shorr earned his Bachelor of Arts degree in Accounting from Queens College and is a Certified Public Accountant in the State of New York.

#### **Adam Holzer — Director**

Adam Holzer has served as a director since March 2022. Mr. Holzer is an accomplished sales and marketing executive with leadership experience at large media and marketing organizations. Since 2019, he has served as Chief Executive Order of AJH Media & Sponsorship Consulting, an advisory media and sponsorship company for entertainment and sports companies. From 2017 to 2019, Mr. Holzer was Vice President of National Sales at Learfield, a collegiate sports marketing company. Prior to December 2017, he served as Senior Vice President of Media in the Americas at Lagardere Sports & Entertainment and as Sales Executive at FOX Sports Media Group. Mr. Holzer earned his Bachelor of Science in Marketing from the University of Maryland.

We believe that Mr. Holzer is qualified to serve as a member of our board of directors because of his extensive professional experience in senior leadership positions and marketing.

#### **Alex Kisin — Director**

Alex Kisin has served as a director since February 2023. Mr. Kisin is an experienced Account Executive with a demonstrated history of working in tech and startups. Since 2017, he has been the Regional Sales Manager at OwnBackup, an enterprise software company. Mr. Kisin earned his Bachelor of Arts degree in Sociology from Rutgers University and is skilled in sales, management, SaaS, business analytics, and business development.

We believe that Mr. Kisin is qualified to serve as a member of our board of directors because of his extensive professional experience in tech, startups and business development.

## **Scott A. Grayson — Director**

Scott Grayson has served as a director since February 2023. Mr. Grayson is an accomplished senior sales executive with over 25 years of experience in establishing the vision and strategies necessary to be successful in the Financial Services software industry. Since November 2019, he has worked for Luxoft USA, Inc., a digital transformation services and software engineering firm providing bespoke IT solutions, as the Head of Alliances for North America then moved to the Head of Revenue for the banking, capital markets & insurance divisions at Luxoft USA, Inc in 2020. In 2019, Mr. Grayson was Head of Sales at AlphaPoint, a software company powering crypto exchanges worldwide. Prior to 2019, he served as Chief Sales Officer for R3, a leading provider of enterprise technology and services. Mr. Grayson has significant expertise in both on-premise and SaaS delivery models and is specially skilled at building sales organizations in both direct sales and partnership models while maintaining an entrepreneurial environment to creatively close business. Mr. Grayson earned his Bachelor of Science degree in Accounting from Lehigh University.

We believe that Mr. Grayson is qualified to serve as a member of our board of directors because of his extensive professional experience in technology and financial services.

## **Family Relationships**

There are no family relationships among any of our executive officers and directors.

## **Arrangements between Officers and Directors**

Except as set forth herein, to our knowledge, there is no arrangement or understanding between any of our officers or directors and any other person pursuant to which the officer or director was selected to serve as an officer or director.

## **Involvement in Certain Legal Proceedings**

We are not aware of any of our directors or officers being involved in any legal proceedings in the past ten years relating to any matters in bankruptcy, insolvency, criminal proceedings (other than traffic and other minor offenses), or being subject to any of the items set forth under Item 401(f) of Regulation S-K.

## **Board Committees**

Our board of directors directs the management of our business and affairs, as provided by Delaware law, and conducts its business through meetings of the board of directors and its standing committees. We have a standing audit committee, compensation committee, and nominating and corporate governance committee. In addition, from time to time, special committees may be established under the direction of the board of directors when necessary to address specific issues.

*Audit Committee.* The audit committee is appointed by the Board to assist the Board in its duty to oversee the Company's accounting, financial reporting, and internal control functions and the audit of the Company's financial statements. The role of the audit committee is to oversee management in the performance of its responsibility for the integrity of the Company's accounting and financial reporting and its systems of internal controls, the performance and qualifications of the Company's independent auditor, including the independent auditor's independence, the performance of the Company's internal audit function; and the Company's compliance with legal and regulatory requirements.

Our audit committee consists of Scott A. Grayson, Alex Kisin, and Adam Holzer, with Mr. Grayson serving as chair. Our board of directors has affirmatively determined that each meets the definition of "independent director" under the rules of The Nasdaq Capital Market, and that they meet the independence standards under Rule 10A-3. Each member of our audit committee meets the financial literacy requirements of Nasdaq rules. In addition, our board of directors has determined that Scott A. Grayson will qualify as an "audit committee financial expert," as such term is defined in Item 407(d)(5) of Regulation S-K. Our board of directors have adopted a written charter for the audit committee, which is available on our principal corporate website at <https://gaxos.ai>.

*Compensation Committee.* The compensation committee is responsible for reviewing and recommending, among other things:

- the adequacy and form of compensation of the board;
- the compensation of Chief Executive Officer, including base salary, incentive bonus, stock option and other grant, award and benefits upon hiring and on an annual basis;
- the compensation of other senior management upon hiring and on an annual basis; and
- the Company's incentive compensation and other equity-based plans and recommending changes to such plans to our board of directors, when necessary.

Our compensation committee consists of Adam Holzer, Scott A. Grayson, and Alex Kisin, with Mr. Holzer serving as chair. Our board of directors have adopted a written charter for the compensation committee, which is available on our principal corporate website at <https://gaxos.ai>.

*Nominating and Corporate Governance Committee.* The nominating and corporate governance committee is responsible for, among other things:

- developing criteria for membership on the board of directors and committees;
- identifying individuals qualified to become members of the board of directors;
- recommending persons to be nominated for election as directors and to each committee of the board of directors;
- annually reviewing our corporate governance guidelines; and
- monitoring and evaluating the performance of the board of directors and leading the board in an annual self-assessment of its practices and effectiveness.

Our nominating and corporate governance committee consists of Alex Kisin, Adam Holzer, and Scott A. Grayson, with Mr. Kisin serving as chair. Our board of directors will adopt a written charter for the nominating and corporate governance committee, which is available on our principal corporate website at <https://gaxos.ai>.

### **Scientific Advisory Board**

We are supported by members of our Medical Advisory Board who provides advice and guidance. Our Medical Advisory Board is currently composed of the following members who receive options to purchase shares of our common stock:

#### **Jeff R. Pavell, M.D.**

Dr. Jeff R. Pavell has served as a member of our Medical Advisory Board since March 2024. Since December 2022, Dr. Pavell has served as a director of Hoth Therapeutics, Inc. (NASDAQ: HOTH), a clinical stage biopharmaceutical company. Since September 2022, Dr. Pavell has served as a director of Silo Pharma, Inc. (NASDAQ: SILO), developmental stage biopharmaceutical company. Since January 2017, Dr. Pavell has served as Chief of Rehabilitation Medicine at Englewood Health, and since November 2005, he has been on the teaching staff at New York-Presbyterian Columbia University Irving Medical Center. In addition, since December 2020 he has been on the teaching staff at Hackensack Meridian School of Medicine at Seton Hall. Furthermore, since 2010, Dr. Pavell has served as a partner at Patient Care Associates, an outpatient surgical center, and since 2002, he has served as a Partner at the Physical Medicine and Rehabilitation Center, a private medical practice serving patients with spine, sports and occupational injuries. Dr. Pavell is a Board Certified physician specializing in the field of physical medicine and rehabilitation. Dr. Pavell is also certified in pain medicine and specializes in the most advanced non-operative treatments for spine, sports and interventional pain medicines. Dr. Pavell received his bachelor of arts from Johns Hopkins University and his D.O. degree with honors from the New York College of Osteopathic Medicine. Dr. Pavell holds a Doctor of Medicine degree from the New York College of Osteopathic Medicine and a Bachelor of Art degree in Political Science from John Hopkins University.

#### **Eric J. Margolis, M.D.**

Dr. Eric J. Margolis has served as a member of our Medical Advisory Board since March 2024. Dr. Margolis, is a Board-Certified Urologic surgeon with over 25 years of experience in private practice in Northern New Jersey. Dr. Margolis recently served as Chief of the Department of Urology at Englewood Hospital and Medical Center and currently is a director of clinical research for Summit/New Jersey Urology. Dr. Margolis has published numerous peer reviewed journal articles and abstracts and has served as principal investigator on over thirty clinical trials with an emphasis on early detection of prostate cancer using molecular and genomic testing. Dr. Margolis is an expert in the field of men's health focusing on innovative regenerative therapies for sexual dysfunction. Currently, he is pioneering the use of platelet rich plasma ("PRP") and low intensity shockwave therapy for the treatment of erectile dysfunction. Additionally, Dr. Margolis has treated thousands of men with low testosterone using hormone replacement therapy. He has been recognized by numerous top doctors lists including Castle Connolly, New York Magazine and New Jersey Monthly. Dr. Margolis received his undergraduate degree from Cornell University, his Medical Degree from Upstate Medical school in Syracuse, N.Y. and completed his urology residency at The Mount Sinai Hospital in New York City.

#### **Nathaniel E. Lebowitz, M.D.**

Dr. Nathaniel E. Lebowitz has served as a member of our Medical Advisory Board since March 2024. Dr. Lebowitz is a leading cardiologist at Hackensack University Medical Center in New Jersey. Dr. Lebowitz is an attending cardiologist at Hackensack University Medical Center's Heart and Vascular Hospital where he is director of lipids and preventive cardiology. He is also an attending cardiologist at Englewood Hospital and Medical Center. Dr. Lebowitz received his Medical Degree from Cornell University Medical College (now Weill-Cornell Medical College) in New York. He completed his residency in internal medicine at Yale – New Haven Hospital in New Haven, Connecticut, and a fellowship in cardiology at the New York Hospital – Cornell Medical Center in New York, New York. He is board certified in cardiology.

### **Code of Business Code and Ethics Conduct**

We have adopted a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A copy of the code posted on our website, <https://gaxos.ai>. In addition, we intend to post on our website all disclosures that are required by law or rules concerning any amendments to, or waivers from, any provision of the code.

## Changes in Nominating Procedures

None.

## Board Diversity

### Board Diversity Matrix (As of March 27, 2024)

Board Diversity Matrix (As of March 27, 2024)				4
				Did Not Disclose Gender
Total Number of Directors				4
<b>Part I: Gender Identity</b>	<b>Female</b>	<b>Male</b>	<b>Non-Binary</b>	
Directors		4		
<b>Part II: Demographic Background</b>				
African American or Black				
Alaskan Native or Native America				
Asian				
Hispanic or Latinx				
Native Hawaiian or Pacific Islander				
White				
Two or More Races or Ethnicities				
LGBTQ+				
Did Not Disclose Demographic Background				

## ITEM 11. EXECUTIVE COMPENSATION

### Summary Compensation Table

The following table sets forth for the year ended December 31, 2023 and 2022, the compensation awarded to, paid to, or earned by, our Chief Executive Officer and Chief Financial Officer (collectively, the “named executive officers”):

- Vadim Mats, Chief Executive Officer; and
- Steven Shorr, Chief Financial Officer.

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$)	Option Awards (\$) <sup>(1)</sup>	Non-Equity Incentive Plan Compensation (\$)	Nonqualified Deferred Compensation Earnings (\$)	All Other Compensation (\$)	Total (\$)
Vadim Mats, Chief Executive Officer	2023	\$ 357,692	\$ 0	\$ 0	\$ 504,177	\$ 0	\$ 0	\$ 0	\$ 861,869
	2022	\$ 158,654	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 158,654
Steven Shorr, Chief Financial Officer	2023	\$ 55,385	\$ 0	\$ 0	\$ 63,022	\$ 0	\$ 0	\$ 0	\$ 118,407
	2022	\$ 30,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 30,000

- (1) As required by SEC rules, the amounts in this column reflect the grant date or modification date fair value as required by FASB ASC Topic 718. A discussion of the assumptions and methodologies used to calculate these amounts is contained in the notes to our financial statements under “Shareholders’ Equity”. In February 2023, Mr. Mats received 16,667 stock options to purchase 16,667 shares of restricted stock at \$49.80 per share. In February 2023, Mr. Shorr received 2,083 stock options to purchase 2,083 shares of restricted stock at \$49.80 per share.

## Outstanding Equity Awards at 2023 Fiscal Year-End

The following table sets forth information as options outstanding on December 31, 2023.

OPTION AWARDS										
Name	Number of Securities Underlying Unexercised options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)		Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock that have not Vested (#)	Market Value of Shares or Units of Stock that Have not Vested (\$)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights that have not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or other Rights that have not Vested (\$)
			Options (#)	Options (#)						
Vadim Mats	16,667	-	—	—	49.80	2/14/2033	—	—	—	—
Steven Shorr	2,083	-	—	—	49.80	2/14/2033	—	—	—	—

## Director Compensation

The following table sets forth compensation paid, earned or awarded during 2023 to each of our directors, other than Vadim Mats, whose compensation is described above in the “2023 Summary Compensation Table”.

### 2023 Director Compensation

Name	Fees Earned or Paid in Cash (\$)	Option Awards (\$ (1))	All Other Compensation (\$)	Total (\$)
Adam Holzer	13,125	11,324	-	24,449
Alex Kisin	13,125	11,324	-	24,449
Scott Grayson	13,125	11,324	-	24,449

(1) As required by SEC rules, the amounts in this column reflect the grant date or modification date fair value as required by FASB ASC Topic 718. A discussion of the assumptions and methodologies used to calculate these amounts is contained in the notes to our financial statements under “Shareholders’ Deficit”. In February 2023, each director listed above received 1,667 stock options to purchase 1,667 shares of restricted stock at \$49.80 per share.

## Employment Agreements

Other than as set forth below, we do not currently have employment agreements with any of our officers or employees.

### Vadim Mats Employment Agreement

On February 17, 2023, upon the consummation of the IPO, we entered into an employment agreement with Vadim Mats (the “Mats Employment Agreement”), pursuant to which he shall receive a base salary at the annual rate of \$400,000 payable in equal installments in accordance with the Company’s standard payroll policies. Mr. Mats shall also receive stock options to purchase up to 16,667 shares of Common Stock under our 2022 Equity Incentive Plan. Mr. Mats shall also be eligible to receive an annual cash bonus in an amount up to 2x his then-current base salary. On February 17, 2023, and in connection with the consummation of the IPO, the Company issued 16,667 stock options to Mr. Mats.

### Steven Shorr Employment Agreement

On March 23, 2022, we entered into an employment agreement with Steven Shorr, (the “Shorr Employment Agreement”), pursuant to which he shall receive a base salary at the annual rate of \$60,000 payable in equal installments in accordance with the Company’s standard payroll policies. Mr. Shorr is also entitled to receive stock options to purchase up to 2,083 shares of Common Stock under our 2022 Equity Incentive Plan. On February 17, 2023, and in connection with the consummation of the IPO, the Company issued 2,083 stock options to Mr. Shorr.

## **2022 Equity Incentive Plan**

The following is a summary of the material features of our 2022 Equity Incentive Plan (the “2022 Plan”). This summary is qualified in its entirety by the full text of the 2022 Plan, a copy of which has been filed as an exhibit to the Company’s registration statement on Form S-1 filed on February 8, 2023.

### ***Authorized Shares***

A total of 208,333 million shares of our Common Stock were originally reserved for issuance pursuant to the 2022 Plan. Our board of directors adopted the 2022 Plan on March 30, 2022.

### ***Types of Awards***

The 2022 Plan provides for the issuance of incentive stock options, non-statutory stock options, stock appreciation rights (“SARs”), restricted stock, restricted stock units (“RSUs”), and other stock-based awards. Items described above in the Section called “Shares Available” are incorporated herein by reference.

### ***Administration***

The 2022 Plan will be administered by our board of directors, or if our board of directors does not administer the 2022 Plan, a committee or subcommittee of our board of directors that complies with the applicable requirements of Section 16 of the Exchange Act and any other applicable legal or stock exchange listing requirements (each of our board of directors or such committee or subcommittee, the “plan administrator”). The plan administrator may interpret the 2022 Plan and may prescribe, amend and rescind rules and make all other determinations necessary or desirable for the administration of the 2022 Plan, provided that, subject to the equitable adjustment provisions described below, the plan administrator will not have the authority to reprice or cancel and re-grant any award at a lower exercise, base or purchase price or cancel any award with an exercise, base or purchase price in exchange for cash, property or other awards without first obtaining the approval of our stockholders.

The 2022 Plan permits the plan administrator to select the eligible recipients who will receive awards, to determine the terms and conditions of those awards, including but not limited to the exercise price or other purchase price of an award, the number of shares of Common Stock or cash or other property subject to an award, the term of an award and the vesting schedule applicable to an award, and to amend the terms and conditions of outstanding awards.

### ***Restricted Stock and Restricted Stock Units***

Restricted stock and RSUs may be granted under the 2022 Plan. The plan administrator will determine the purchase price, vesting schedule and performance goals, if any, and any other conditions that apply to a grant of restricted stock and RSUs. If the restrictions, performance goals or other conditions determined by the plan administrator are not satisfied, the restricted stock and RSUs will be forfeited. Subject to the provisions of the 2022 Plan and the applicable award agreement, the plan administrator has the sole discretion to provide for the lapse of restrictions in instalments.

Unless the applicable award agreement provides otherwise, participants with restricted stock will generally have all of the rights of a stockholder; provided that dividends will only be paid if and when the underlying restricted stock vests. RSUs will not be entitled to dividends prior to vesting but may be entitled to receive dividend equivalents if the award agreement provides for them. The rights of participants granted restricted stock or RSUs upon the termination of employment or service to us will be set forth in the award agreement.

### ***Options***

Incentive stock options and non-statutory stock options may be granted under the 2022 Plan. An “incentive stock option” means an option intended to qualify for tax treatment applicable to incentive stock options under Section 422 of the Internal Revenue Code. A “non-statutory stock option” is an option that is not subject to statutory requirements and limitations required for certain tax advantages that are allowed under specific provisions of the Internal Revenue Code. A non-statutory stock option under the 2022 Plan is referred to for federal income tax purposes as a “non-qualified” stock option. Each option granted under the Plan will be designated as a non-qualified stock option or an incentive stock option. At the discretion of the administrator, incentive stock options may be granted only to our employees, employees of our “parent corporation” (as such term is defined in Section 424(e) of the Code) or employees of our subsidiaries.

The exercise period of an option may not exceed ten years from the date of grant and the exercise price may not be less than 100% of the fair market value of a share of Common Stock on the date the option is granted (110% of fair market value in the case of incentive stock options granted to ten percent stockholders). The exercise price for shares of Common Stock subject to an option may be paid in cash, or as determined by the administrator in its sole discretion, (i) through any cashless exercise procedure approved by the administrator (including the withholding of shares of Common Stock otherwise issuable upon exercise), (ii) by tendering unrestricted shares of Common Stock owned by the participant, (iii) with any other form of consideration approved by the administrator and permitted by applicable law or (iv) by any combination of these methods. The option holder will have no rights to dividends or distributions or other rights of a stockholder with respect to the shares of Common Stock subject to an option until the option holder has given written notice of exercise and paid the exercise price and applicable withholding taxes.

In the event of a participant's termination of employment or service, the participant may exercise his or her option (to the extent vested as of such date of termination) for such period of time as specified in his or her option agreement.

### **Stock Appreciation Rights**

SARs may be granted either alone (a "free-standing SAR") or in conjunction with all or part of any option granted under the 2022 Plan (a "tandem SAR"). A free-standing SAR will entitle its holder to receive, at the time of exercise, an amount per share up to the excess of the fair market value (at the date of exercise) of a share of Common Stock over the base price of the free-standing SAR (which shall be no less than 100% of the fair market value of the related shares of Common Stock on the date of grant) multiplied by the number of shares in respect of which the SAR is being exercised. A tandem SAR will entitle its holder to receive, at the time of exercise of the SAR and surrender of the applicable portion of the related option, an amount per share up to the excess of the fair market value (at the date of exercise) of a share of Common Stock over the exercise price of the related option multiplied by the number of shares in respect of which the SAR is being exercised. The exercise period of a free-standing SAR may not exceed ten years from the date of grant. The exercise period of a tandem SAR will also expire upon the expiration of its related option.

The holder of a SAR will have no rights to dividends or any other rights of a stockholder with respect to the shares of Common Stock subject to the SAR until the holder has given written notice of exercise and paid the exercise price and applicable withholding taxes.

In the event of an participant's termination of employment or service, the holder of a SAR may exercise his or her SAR (to the extent vested as of such date of termination) for such period of time as specified in his or her SAR agreement.

### **Other Stock-Based Awards**

The administrator may grant other stock-based awards under the 2022 Plan, valued in whole or in part by reference to, or otherwise based on, shares of Common Stock. The administrator will determine the terms and conditions of these awards, including the number of shares of Common Stock to be granted pursuant to each award, the manner in which the award will be settled, and the conditions to the vesting and payment of the award (including the achievement of performance goals). The rights of participants granted other stock-based awards upon the termination of employment or service to us will be set forth in the applicable award agreement. In the event that a bonus is granted in the form of shares of Common Stock, the shares of Common Stock constituting such bonus shall, as determined by the administrator, be evidenced in uncertificated form or by a book entry record or a certificate issued in the name of the participant to whom such grant was made and delivered to such participant as soon as practicable after the date on which such bonus is payable. Any dividend or dividend equivalent award issued hereunder shall be subject to the same restrictions, conditions and risks of forfeiture as apply to the underlying award.

### **Equitable Adjustment and Treatment of Outstanding Awards Upon a Change in Control**

*Equitable Adjustments.* In the event of a merger, consolidation, reclassification, recapitalization, spin-off, spin-out, repurchase, reorganization, special or extraordinary dividend or other extraordinary distribution (whether in the form of common shares, cash or other property), combination, exchange of shares, or other change in corporate structure affecting our Common Stock, an equitable substitution or proportionate adjustment shall be made in (i) the aggregate number and kind of securities reserved for issuance under the 2022 Plan, (ii) the kind and number of securities subject to, and the exercise price of, any outstanding options and SARs granted under the 2022 Plan, (iii) the kind, number and purchase price of shares of Common Stock, or the amount of cash or amount or type of property, subject to outstanding restricted stock, RSUs and other stock-based awards granted under the 2022 Plan and (iv) the terms and conditions of any outstanding awards (including any applicable performance targets). Equitable substitutions or adjustments other than those listed above may also be made as determined by the plan administrator. In addition, the plan administrator may terminate all outstanding awards for the payment of cash or in-kind consideration having an aggregate fair market value equal to the excess of the fair market value of the shares of Common Stock, cash or other property covered by such awards over the aggregate exercise price, if any, of such awards, but if the exercise price of any outstanding award is equal to or greater than the fair market value of the shares of Common Stock, cash or other property covered by such award, the plan administrator may cancel the award without the payment of any consideration to the participant. With respect to awards subject to foreign laws, adjustments will be made in compliance with applicable requirements. Except to the extent determined by the plan administrator, adjustments to incentive stock options will be made only to the extent not constituting a "modification" within the meaning of Section 424(h)(3) of the Code.

*Change in Control.* The 2022 Plan provides that, unless otherwise determined by the plan administrator and evidenced in an award agreement, if a "change in control" (as defined below) occurs and a participant is employed by us or any of our affiliates immediately prior to the consummation of the change in control, then the plan administrator, in its sole and absolute discretion, may (i) provide that any unvested or unexercisable portion of an award carrying a right to exercise will become fully vested and exercisable; and (ii) cause the restrictions, deferral limitations, payment conditions and forfeiture conditions applicable to any award granted under the 2022 Plan to lapse, and the awards will be deemed fully vested and any performance conditions imposed with respect to such awards will be deemed to be fully achieved at target performance levels. The administrator shall have discretion in connection with such change in control to provide that all outstanding and unexercised options and SARs shall expire upon the consummation of such change in control.

For purposes of the 2022 Plan, a "change in control" means, in summary, the first to occur of the following events: (i) a person or entity becomes the beneficial owner of more than 50% of our voting power; (ii) an unapproved change in the majority membership of our board of directors; (iii) a merger or consolidation of us or any of our subsidiaries, other than (A) a merger or consolidation that results in our voting securities continuing to represent 50% or more of the combined voting power of the surviving entity or its

parent and our board of directors immediately prior to the merger or consolidation continuing to represent at least a majority of the board of directors of the surviving entity or its parent or (B) a merger or consolidation effected to implement a recapitalization in which no person is or becomes the beneficial owner of our voting securities representing more than 50% of our combined voting power; or (iv) stockholder approval of a plan of our complete liquidation or dissolution or the consummation of an agreement for the sale or disposition of substantially all of our assets, other than (A) a sale or disposition to an entity, more than 50% of the combined voting power of which is owned by our stockholders in substantially the same proportions as their ownership of us immediately prior to such sale or (B) a sale or disposition to an entity controlled by our board of directors. However, a change in control will not be deemed to have occurred as a result of any transaction or series of integrated transactions following which our stockholders, immediately prior thereto, hold immediately afterward the same proportionate equity interests in the entity that owns all or substantially all of our assets.

### **Tax Withholding**

Each participant will be required to make arrangements satisfactory to the plan administrator regarding payment of up to the maximum statutory tax rates in the participant's applicable jurisdiction with respect to any award granted under the 2022 Plan, as determined by us. We have the right, to the extent permitted by applicable law, to deduct any such taxes from any payment of any kind otherwise due to the participant. With the approval of the plan administrator, the participant may satisfy the foregoing requirement by either electing to have us withhold from delivery of shares of Common Stock, cash or other property, as applicable, or by delivering already owned unrestricted shares of Common Stock, in each case, having a value not exceeding the applicable taxes to be withheld and applied to the tax obligations. We may also use any other method of obtaining the necessary payment or proceeds, as permitted by applicable law, to satisfy our withholding obligation with respect to any award.

### **ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The following table sets forth certain information regarding beneficial ownership of shares of our common stock as of March 27, 2024 by (i) each person known to beneficially own more than 5% of our outstanding common stock, (ii) each of our directors, (iii) each of our named executive officers and (iv) all of our directors and named executive officers as a group. Except as otherwise indicated, the persons named in the table below have sole voting and investment power with respect to all shares beneficially owned, subject to community property laws, where applicable.

<b>Beneficial Owner<sup>(1)(6)</sup></b>	<b>Shares of common stock beneficially owned<sup>(6)</sup></b>	<b>Percentage of shares beneficially owned</b>
<b>Directors and Named Executive Officers</b>		
Vadim Mats <sup>(2)</sup>	239,537	21.57%
Alex Kisin <sup>(3)</sup>	4,800	*
Steven A. Shorr <sup>(4)</sup>	2,083	*
Adam Holzer <sup>(3)</sup>	1,667	*
Scott Grayson <sup>(3)</sup>	1,667	*
All Directors and Officers as a group (5 persons)	<u>249,754</u>	<u>22.51%</u>
<b>5% Stockholders</b>		
Armistice Capital Master Fund Ltd. <sup>(7)(8)</sup>	628,367	9.99%

\* Represents beneficial ownership of less than 1%.

(1) Percent of beneficial ownership is based on shares of common stock outstanding as of March 27, 2024. Beneficial ownership information has been determined in accordance with Rule 13d-3 under the Exchange Act. The information is not necessarily indicative of beneficial ownership for any other purpose. Under Rule 13d-3, certain shares may be deemed to be beneficially owned by more than one person (if, for example, persons share the power to vote or the power to dispose of the shares). In addition, shares are deemed to be beneficially owned by a person if the person has the right to acquire shares (for example, upon exercise of an option or warrant or upon vesting of RSUs or restricted stock or upon conversion of a convertible security) within 60 days of the date as of which the information is provided. In computing the percentage beneficial ownership of any person, the amount of shares is deemed to include the amount of shares beneficially owned by such person by reason of such acquisition rights. As a result, the percentage of outstanding shares of any person as shown in the table does not necessarily reflect the person's actual voting power as of the date the information is provided, or any particular date.

(2) Includes 16,667 shares of common stock subject to stock options that are exercisable within 60 days of March 27, 2024

(3) Includes 1,667 shares of common stock subject to stock options that are exercisable within 60 days of March 27, 2024.

(4) Includes 2,083 shares of common stock subject to stock options that are exercisable within 60 days of March 27, 2024.

(5) The address of each holder listed above, except as otherwise indicated, is 101 Eisenhower Parkway, Suite 300, Roseland, NJ, 07068.

- (6) The calculation in this column is based upon shares of common stock outstanding on March 27, 2024. Beneficial ownership is determined in accordance with the rules of the SEC and generally includes voting or investment power with respect to the subject securities. Shares of common stock that are currently exercisable or convertible within 60 days of March 27, 2024 are deemed to be beneficially owned by the person holding such securities for the purpose of computing the percentage beneficial ownership of such person, but are not treated as outstanding for the purpose of computing the percentage beneficial ownership of any other person.
- (7) The ability to exercise the pre-funded warrants is subject to a beneficial ownership limitation that, at the time of initial issuance of the pre-funded warrants, was capped at 9.99% beneficial ownership of the Company’s issued and outstanding common stock (post-exercise). Beneficial ownership as reflected in the beneficial ownership table reflects (i) 108,000 shares of common stock, and (ii) pre-funded warrants to purchase an aggregate of up to 520,367 shares of common stock that are exercisable within 60 days of March 27, 2024, and does not give effect to the beneficial ownership limitations. Accordingly, actual beneficial ownership, as calculated in accordance with Section 13(d) and Rule 13d-3 thereunder may be lower than as reflected in the table.
- (8) The securities are directly held by Armistice Capital Master Fund Ltd., a Cayman Islands exempted company (the “Master Fund”), and may be deemed to be beneficially owned by: (i) Armistice Capital, LLC (“Armistice Capital”), as the investment manager of the Master Fund; and (ii) Steven Boyd, as the Managing Member of Armistice Capital. The pre-funded warrants are subject to a beneficial ownership limitation of 9.99%, which such limitation restricts the holder from exercising that portion of the pre-warrants that would result in the holder and its affiliates owning, after exercise, a number of shares of common stock in excess of the beneficial ownership limitation. The address of Armistice Capital Master Fund Ltd. is c/o Armistice Capital, LLC, 510 Madison Avenue, 7th Floor, New York, NY 10022.

### Securities Authorized for Issuance Under Equity Compensation Plans

The following table summarizes information about our equity compensation plans as of December 31, 2023.

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holder	38,333	\$ 49.80	170,000
Equity compensation plans not approved by security holder	-	-	-
<b>Total</b>	<b>38,333</b>	<b>\$ 49.80</b>	<b>170,000</b>

## ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

### Transactions with Related Persons

Except as described below and except for employment arrangements which are described under “Executive Compensation,” during the fiscal years ended December 31, 2023 and 2022, there have not been, nor are there currently proposed, any transaction in which we are or were a participant, the amount involved exceeds the lesser of \$120,000 or 1% of the average of the total assets at December 31, 2023, and any of our directors, executive officers, holders of more than 5% of our Common Stock, or any immediate family member of any of the foregoing had or will have a direct or indirect material interest.

### Related Person Transaction Policy

We have adopted a related person transaction policy that sets forth our procedures for the identification, review, consideration and approval or ratification of related person transactions. For purposes of our policy only, a related person transaction is a transaction, arrangement or relationship, or any series of similar transactions, arrangements or relationships, in which we and any related person are, were or will be participants in which the amount involved exceeds the lesser of \$120,000 or 1% of our total assets at year-end for our last two completed fiscal years. Transactions involving compensation for services provided to us as an employee or director are not covered by this policy. A related person is any executive officer, director or beneficial owner of more than 5% of any class of our voting securities, including any of their immediate family members and any entity owned or controlled by such persons.

Under the policy, if a transaction has been identified as a related person transaction, including any transaction that was not a related person transaction when originally consummated or any transaction that was not initially identified as a related person

transaction prior to consummation, our management must present information regarding the related person transaction to our audit committee, or, if audit committee approval would be inappropriate, to another independent body of our board of directors, for review, consideration and approval or ratification. The presentation must include a description of, among other things, the material facts, the interests, direct and indirect, of the related persons, the benefits to us of the transaction and whether the transaction is on terms that are comparable to the terms available to or from, as the case may be, an unrelated third party or to or from employees generally. Under the policy, we will collect information that we deem reasonably necessary from each director, executive officer and, to the extent feasible, significant shareholder to enable us to identify any existing or potential related-person transactions and to effectuate the terms of the policy. In addition, under our code of business conduct and ethics, our employees and directors will have an affirmative responsibility to disclose any transaction or relationship that reasonably could be expected to give rise to a conflict of interest. In considering related person transactions, our audit committee, or other independent body of our board of directors, will take into account the relevant available facts and circumstances including, but not limited to:

- the risks, costs and benefits to us;
- the impact on a director’s independence in the event that the related person is a director, immediate family member of a director or an entity with which a director is affiliated;
- the availability of other sources for comparable services or products; and
- the terms available to or from, as the case may be, unrelated third parties or to or from employees generally.

The policy requires that, in determining whether to approve, ratify or reject a related person transaction, our audit committee, or other independent body of our board of directors, must consider, in light of known circumstances, whether the transaction is in, or is not inconsistent with, our best interests and those of our shareholders, as our audit committee, or other independent body of our board of directors, determines in the good faith exercise of its discretion.

#### Independence of the Board of Directors

Our board of directors undertook a review of the independence of our directors and considered whether any director has a relationship with us that could compromise that director’s ability to exercise independent judgment in carrying out that director’s responsibilities. Our board of directors has affirmatively determined that Adam Holzer, Alex Kisin and Scott Grayson are each an “independent director,” as defined under Nasdaq rules.

#### ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The following table sets forth the aggregate fees billed by Salberg & Company, P.A. and aggregate fees billed by D. Brooks and Associates CPAs, P.A. as described below:

	<b>Salberg &amp; Company, P.A.</b>	<b>D. Brooks and Associates CPAs, P.A.</b>	
	<b>2023</b>	<b>2023</b>	<b>2022</b>
Audit Fees <sup>(1)</sup>	\$ 50,800	\$ 5,000	\$ 49,888
Audit Related Fees <sup>(2)</sup>	\$ -	\$ 6,400	\$ -
Tax Fees	\$ -	\$ -	\$ -
All Other Fees	\$ -	\$ -	\$ -
Total	<u>\$ 50,800</u>	<u>\$ 11,400</u>	<u>\$ 49,888</u>

(1) Audit Fees are paid for professional services rendered for the audit of the Company’s annual financial statements and reviews of the Company’s unaudited condensed financial statements.

(2) Audit-related fees may consist of fees billed by our independent registered public accounting firm for audit-related consulting services related to registration statements.

#### Pre-Approval Policies and Procedures

In accordance with Sarbanes-Oxley, our audit committee charter requires the audit committee to pre-approve all audit and permitted non-audit services provided by our independent registered public accounting firm, including the review and approval in advance of our independent registered public accounting firm’s annual engagement letter and the proposed fees contained therein. The audit committee has the ability to delegate the authority to pre-approve non-audit services to one or more designated members of the audit committee. If such authority is delegated, such delegated members of the audit committee must report to the full audit committee at the next audit committee meeting all items pre-approved by such delegated members. In the fiscal years ended December 31, 2023 and 2022 all of the services performed by our independent registered public accounting firm were pre-approved by the audit committee.

**PART IV**

**ITEM 15. EXHIBIT AND FINANCIAL STATEMENT SCHEDULES**

**(a) The following documents are filed as part of this report:**

(1) Financial Statements:

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Report of Independent Registered Public Accounting Firm (PCAOB Firm ID: 106)	F-2
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The financial statements required by this Item are included beginning at page F-1.

(1) Financial Statement Schedules:

All financial statement schedules have been omitted because they are not applicable, not required or the information required is shown in the financial statements or the notes thereto.

**(b) Exhibits**

The following documents are included as exhibits to this report.

<b>Exhibit Number</b>	<b>Title of Document</b>
3.1	Articles of Incorporation (Incorporated by reference to Exhibit 3.1 to the Company's Form S-1/A Filed on February 8, 2023).
3.2	Certificate of Conversion (Incorporated by reference to Exhibit 3.2 to the Company's S-1/A filed on February 8, 2023).
3.3	Certificate of Incorporation (Incorporated by reference to Exhibit 3.2 to the Company's Form S-1/A Filed on February 8, 2023).
3.4	Certificate of Amendment to Articles of Incorporation (Incorporated by reference to Exhibit 10.1 to the Company's Annual Report on Form 10-K filed on March 31, 2023.)
3.5	Bylaws (Incorporated by reference to Exhibit 3.3 to the Company's Form S-1/A filed on February 8, 2023).
3.6	Second Amendment to the Certificate of Incorporation of Gaxos.ai Inc. (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on January 10, 2024.)
3.7	Amendment to the Bylaws of Gaxos.ai Inc. (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on January 10, 2024.)
3.8	Third Amendment to the Certificate of Incorporation of Gaxos.ai Inc. (Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed on March 11, 2024.)
4.1*	Description of the Registrant's Securities.
4.2	Form of Underwriting Agreement (Incorporated by reference to Exhibit 1.1 to the Company's S-1/A filed on February 8, 2023).
4.3	Form of Representatives Warrant (Incorporated by reference to Exhibit 4.4 to the Company's Form S-1/A filed on February 8, 2023).
4.4	Form of Stock Certificate (Incorporated by reference to Exhibit 4.2 to the Company's Form S-1/A filed on February 8, 2023.)
4.5	Form of Subscription Agreement (Incorporated by reference to Exhibit 4.3 to the Company's Form S-1/A filed on February 8, 2023.)
10.1+	Executive Employment Agreement dated February 17, 2023, by and between the Company and Vadim Mats (Incorporated by reference to Exhibit 10.1 to the Company Current Report on Form 8-K filed on February 17, 2023.)
10.2+	Employment Agreement dated March 23, 2022, by and between the Company and Steven Shorr (Incorporated by reference to Exhibit 10.2 to the Company's Form S-1/A filed on February 8, 2023.)
10.3+	2022 Omnibus Equity Incentive Plan (Incorporated by reference to Exhibit 10.3 to the Company's S-1/A filed on February 8, 2023.)
10.4#	Software and License Agreement dated August 29, 2022, by and between the Company and Columbia University (Incorporated by reference to Exhibit 10.4 to the Company's S-1/A filed on February 8, 2023.)
23.1*	Consent of Independent Registered Public Accounting Firm – Salberg & Company PA
23.2*	Consent of Independent Registered Public Accounting Firm – D, Brooks and Associates CPA's P.A.
31.1*	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) of the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) of the Exchange Act, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of the Chief Executive Officer and Chief Financial Officer pursuant to Rule 13a-14(b) of the Exchange Act and 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
97.1*	Gaxos.ai Inc. Clawback Policy
101.INS*	Inline XBRL Instance Document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
104*	Cover Page Interactive Data File - the cover page of the Registrant's Annual Report on Form 10-K for the year ended December 31, 2023 is formatted in Inline XBRL

\* Filed herewith.

+ Indicates a management contract or any compensatory plan, contract or arrangement.

# Pursuant to Item 601(b)(10) of Regulation S-K, certain confidential portions of this exhibit were omitted by means of marking such portions with an asterisk because the identified confidential portions (i) are not material and (ii) would be competitively harmful if publicly disclosed.

## ITEM 16. FORM 10-K SUMMARY

Not applicable.

### SIGNATURES

Pursuant to the requirements of the Securities Act of 1934, this Annual Report on Form 10-K has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Vadim Mats</u> Vadim Mats	Chief Executive Officer and Director (Principal Executive Officer)	March 27, 2024
<u>/s/ Steven Shorr</u> Steven Shorr	Chief Financial Officer (Principal Financial and Accounting Officer)	March 27, 2024
<u>/s/ Adam Holzer</u> Adam Holzer	Director	March 27, 2024
<u>/s/ Alex Kisin</u> Alex Kisin	Director	March 27, 2024
<u>/s/ Scott Grayson</u> Scott Grayson	Director	March 27, 2024

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
**FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023 and 2022**

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
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**Report of Independent Registered Public Accounting Firm**

To the Stockholders and the Board of Directors of:  
Gaxos.AI Inc. (formerly The NFT Gaming Company, Inc.)

Opinion on the Financial Statements

We have audited the accompanying balance sheet of Gaxos.AI Inc. (formerly The NFT Gaming Company, Inc.) (the “Company”) as of December 31, 2023, the related statements of operations, changes in stockholders’ equity and cash flows for the year then ended, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on the Company’s financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (“PCAOB”) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of internal control over financial reporting. As part of our audit, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company’s internal control over financial reporting. Accordingly, we express no such opinion.

Our audit included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audit provides a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. We determined that there are no critical audit matters.

/s/ Salberg & Company, P.A.

SALBERG & COMPANY, P.A.  
We have served as the Company’s auditor since 2023.  
Boca Raton, Florida  
March 27, 2024



## Report of Independent Registered Public Accounting Firm

To the Board of Directors and  
Stockholders of Gaxos.AI Inc. (formerly The NFT Gaming Company, Inc.)

### Opinion on the Financial Statements

We have audited the accompanying balance sheets of Gaxos.AI Inc. (formerly The NFT Gaming Company, Inc.) (the Company) as of December 31, 2022 and the related statements of operations, stockholders' equity, and cash flows for year ended December 31, 2022 and the related notes (collectively referred to as the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and the results of its operations and its cash flows for the year ended December 31, 2022 in conformity with accounting principles generally accepted in the United States of America.

### Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

We served as the Company's auditor since 2021

A handwritten signature in blue ink that reads 'D. Brooks and Associates CPAs, P.A.'.

Palm Beach Gardens, FL

March 31, 2023, except for the evaluation of the retroactive effect of the reverse stock split described in Note 1, which is as of March 27, 2024

4440 PGA Blvd, Suite 104 ■ Palm Beach Gardens, Florida 33410 ■ Main Office: 561.429.6225 ■ Fax: 561.282.3444

[dbrookscpa.com](http://dbrookscpa.com)

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
**BALANCE SHEETS**

	<u>December 31,</u> <u>2023</u>	<u>December 31,</u> <u>2022</u>
<b>ASSETS</b>		
<b>CURRENT ASSETS:</b>		
Cash	\$ 1,024,710	\$ 679,781
Short-term investments, at fair value	2,592,689	-
Accounts receivable	8	-
Prepaid expenses and other current assets	25,132	400
Deferred offering costs	-	202,599
<b>Total Current Assets</b>	<u>3,642,539</u>	<u>882,780</u>
<b>LONG-TERM ASSETS:</b>		
Property and equipment, net	52,606	-
Digital currencies	801	-
Intangible asset, net	-	58,647
<b>Total Long-Term Assets</b>	<u>53,407</u>	<u>58,647</u>
<b>TOTAL ASSETS</b>	<u>\$ 3,695,946</u>	<u>\$ 941,427</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 215,882	\$ 245,011
Accrued expenses	54,154	10,683
<b>Total Current Liabilities</b>	<u>270,036</u>	<u>255,694</u>
<b>Total Liabilities</b>	<u>270,036</u>	<u>255,694</u>
Commitments and Contingencies (See Note 7)		
<b>STOCKHOLDERS' EQUITY:</b>		
Preferred stock; par value \$0.0001; 5,000,000 shares authorized; No shares issued and outstanding on December 31, 2023 and 2022	-	-
Common stock; par value \$0.0001; 50,000,000 shares authorized; 988,368 and 868,154 share issued and outstanding on December 31, 2023 and 2022, respectively	99	87
Additional paid-in capital	8,711,550	2,119,073
Accumulated other comprehensive income	95,785	-
Accumulated deficit	(5,381,524)	(1,433,427)
<b>Total Stockholders' Equity</b>	<u>3,425,910</u>	<u>685,733</u>
<b>Total Liabilities and Stockholders' Equity</b>	<u>\$ 3,695,946</u>	<u>\$ 941,427</u>

See accompanying notes to financial statements.

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
**STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**

	<b>For the Year Ended December 31,</b>	
	<b>2023</b>	<b>2022</b>
REVENUES	\$ 256	\$ -
OPERATING EXPENSES:		
Research and development	915,818	824,523
General and administrative	3,047,360	599,573
Impairment loss	52,363	-
Total Operating Expenses	<u>4,015,541</u>	<u>1,424,096</u>
LOSS FROM OPERATIONS	<u>(4,015,285)</u>	<u>(1,424,096)</u>
OTHER INCOME:		
Interest income	46,526	2,924
Realized gain on short-term investments	20,662	-
Total other income	<u>67,188</u>	<u>2,924</u>
NET LOSS	<u>\$ (3,948,097)</u>	<u>\$ (1,421,172)</u>
COMPREHENSIVE LOSS:		
Net loss	\$ (3,948,097)	\$ (1,421,172)
Other comprehensive gain:		
Unrealized gain on short-term investments	95,785	-
Comprehensive loss	<u>\$ (3,852,312)</u>	<u>\$ (1,421,172)</u>
NET LOSS PER COMMON SHARE:		
Basic and diluted	<u>\$ (4.00)</u>	<u>\$ (1.64)</u>
WEIGHTED AVERAGE COMMON SHARE OUTSTANDING:		
Basic and diluted	<u>987,938</u>	<u>868,154</u>

See accompanying notes to financial statements.

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
**STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**  
**FOR THE YEARS ENDED DECEMBER 31, 2023 AND 2022**

	Preferred Stock		Common Stock		Additional Paid-in Capital	Subscription Receivable	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders' Equity
	# of Shares	Amount	# of Shares	Amount					
Balance, December 31, 2021	-	\$ -	868,154	\$ 87	\$ 2,119,073	\$ (37,500)	-	\$ (12,255)	\$ 2,069,405
Proceeds from subscriptions receivable	-	-	-	-	-	37,500	-	-	37,500
Net loss	-	-	-	-	-	-	-	(1,421,172)	(1,421,172)
Balance, December 31, 2022	-	-	868,154	87	2,119,073	-	-	(1,433,427)	685,733
Common shares issued for cash	-	-	140,563	14	5,755,857	-	-	-	5,755,871
Purchase and cancellation of treasury stock	-	-	(20,349)	(2)	(99,734)	-	-	-	(99,736)
Accretion of stock option expense	-	-	-	-	936,354	-	-	-	936,354
Accumulated other comprehensive gain - short-term investments	-	-	-	-	-	-	95,785	-	95,785
Net loss	-	-	-	-	-	-	-	(3,948,097)	(3,948,097)
Balance, December 31, 2023	-	\$ -	988,368	\$ 99	\$ 8,711,550	\$ -	\$ 95,785	\$ (5,381,524)	\$ 3,425,910

See accompanying notes to financial statements.

**GAXOS.AI INC.**  
**(FORMERLY THE NFT GAMING COMPANY, INC.)**  
**STATEMENTS OF CASH FLOWS**

	<b>For the Years Ended December 31,</b>	
	<b>2023</b>	<b>2022</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net loss	\$ (3,948,097)	\$ (1,421,172)
Adjustments to reconcile net loss to net cash used in operating activities:		
Amortization expense	10,649	4,189
Stock-based compensation	936,354	-
Realized gain on short-term investments	(20,662)	-
Impairment loss	52,363	-
Change in operating assets and liabilities:		
Accounts receivable	(8)	-
Prepaid expenses and other current assets	(24,732)	(400)
Accounts payable	(29,930)	148,761
Accrued expenses	43,471	8,197
<b>NET CASH USED IN OPERATING ACTIVITIES</b>	<b>(2,980,592)</b>	<b>(1,260,425)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of short-term investments	(3,491,242)	-
Proceeds from sale of short-term investments	1,015,000	-
Increase in capitalized internal-use software development costs	(56,971)	-
Purchase of intangible asset	-	(62,836)
<b>NET CASH USED IN INVESTING ACTIVITIES</b>	<b>(2,533,213)</b>	<b>(62,836)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Proceeds from the sale of common stock	5,958,470	-
Proceeds from subscriptions receivable	-	37,500
Payment of deferred offering costs	-	(112,599)
Purchase and cancellation of treasury shares	(99,736)	-
<b>NET CASH PROVIDED BY (USED IN) FINANCING ACTIVITIES</b>	<b>5,858,734</b>	<b>(75,099)</b>
<b>NET INCREASE (DECREASE) IN CASH</b>	<b>344,929</b>	<b>(1,398,360)</b>
CASH, beginning of year	679,781	2,078,141
CASH, end of year	<u>\$ 1,024,710</u>	<u>\$ 679,781</u>
<b>SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION</b>		
Cash paid for:		
Interest	\$ -	\$ -
Income taxes	\$ -	\$ -
<b>SUPPLEMENTAL DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES:</b>		
Reclassification of deferred offering costs to equity	\$ 202,599	\$ -
Unrealized gain on short-term investments	\$ 95,785	\$ -
Increase in digital currency and accounts payable	\$ 801	\$ -
Deferred offering costs in accounts payable	\$ -	\$ 90,000

See accompanying notes to financial statements.

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**NOTES TO FINANCIAL STATEMENTS**  
**December 31, 2023 and 2022**

**NOTE 1 – NATURE OF OPERATIONS**

Gaxos.ai Inc. (formerly The NFT Gaming Company, Inc.) (the “Company”) was incorporated in the state of Wyoming on October 27, 2021 (“Inception”). On March 30, 2022, the Company reincorporated to the State of Delaware pursuant to a Plan of Conversion approved by the Board of Directors and a majority of the shareholders. On January 5, 2024, the Company changed its name from The NFT Gaming Company, Inc. to Gaxos.ai Inc. The Company develops, designs, acquires, and manages games that offer affordable non-fungible tokens (NFTs) for unique and exclusive features, rewards, and opportunities. In addition to developing proprietary games, the Company’s platform will onboard third-party game publishers and provide access to blockchain and NFT architecture, product experiences, exclusive content, and revenue opportunities.

On November 4, 2022, the Company filed a Certificate of Amendment to the Amended and Restated Articles of Incorporation (the “Certificate of Amendment”) with the Secretary of State of the State of Delaware to effect a 1-for-1.33 reverse stock split with respect to the outstanding shares of the Company’s common stock. The Certificate of Amendment and the reverse stock split became effective on November 4, 2022.

Additionally, on February 28, 2024, a majority of the Company shareholders granted discretionary authority to the Company’s Board of Directors to amend the Company’s Certificate of Incorporation to effect one or more consolidations of the Company’s issued and outstanding shares of common stock, pursuant to which the shares of common stock would be combined and reclassified into on the basis of one share of common stock for each 12 shares of the Company’s common stock then issued and outstanding (the “Reverse Stock Split”). On March 7, 2024, the Company filed a Certificate of Amendment to the Amended and Restated Articles of Incorporation (the “Certificate of Amendment”) with the Secretary of State of the State of Delaware to effect a 1-for-12 reverse stock split with respect to the outstanding shares of the Company’s common stock. The Certificate of Amendment and the reverse stock split became effective on March 7, 2024. All share and per share data in the accompanying financial statements have been retroactively adjusted to reflect the effect of the Reverse Stock Split.

On January 9, 2024, the Staff notified the Company that it has not regained compliance with Listing Rule 5550(a)(2) and was not eligible for a second 180-day period (the “Delisting Determination”). Further, unless the Company requested an appeal of the Delisting Determination to a Hearings Panel (the “Panel”), the Company’s securities would be scheduled for delisting from The Nasdaq Capital Market.

In early January 2024, the Company submitted a request to the Panel to appeal the Delisting Determination, and on January 16, 2024, the Panel notified the Company that it received the request which stayed the suspension of the Company’s securities and the filing of the Form 25-NSE, pending the Hearing Panel’s final written decision.

On March 22, 2024, the Company received written notice from the Panel that the Company regained compliance with the minimum bid price requirement under NASDAQ Listing Rule 5550(a)(2) for continued listing on the Nasdaq Capital Market.

**NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***Basis of Presentation***

This summary of significant account policies of the Company is presented to assist in understanding the Company’s financial statements. The financial statements and the notes are the representation of the Company’s management, who are responsible for their integrity and objectivity. These accounting policies conform to U.S. generally accepted accounting principles (“US GAAP”) and have been consistently applied in the preparation of the financial statements.

The accompanying financial statements have been prepared on the basis of continuity of operations, realization of assets and the satisfaction of liabilities and commitments in the ordinary course of business.

Liquidity is the ability of a company to generate funds to support its current and future operations, satisfy its obligations, and otherwise operate on an ongoing basis. On December 31, 2023, the Company had a cash balance of \$1,024,710, had short-term investments of \$2,592,689, and had working capital of \$3,372,503. On February 17, 2023, the Company completed an initial public offering (“IPO”) and sold 140,563 shares of its common stock at a price to the public of \$49.80 per share for gross proceeds of \$7,000,000. The Company received net proceeds of \$5,958,470 which is net of offering related expenses paid with proceeds of \$1,041,530. The Company also reclassified \$202,559 of deferred offering costs as of December 31, 2022 to additional paid in capital upon completing the IPO which resulted in total net proceeds, after equity issuance costs, of \$5,755,871. During the year ended December 31, 2023, the Company used net cash in operations of \$2,980,592 and purchased liquid short-term investments of \$3,491,242. On March 13, 2024, the Company entered into a securities purchase agreement (the “Purchase Agreement”) with an institutional investor (“the “Purchaser”) for the issuance and sale in a private placement (the “Private Placement”). In connection with this Private Placement, the Company raised aggregate gross proceeds of \$3,499,484 and received net proceeds of \$3,056,984, net of offering costs of \$382,500 and legal fees of \$60,000 (See Note 9).

Until such time that the Company implements its growth strategy, it expects to continue to generate operating losses in the foreseeable future, mostly due to corporate overhead, research and development, and costs of being a public company. The

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Company believes that its existing working capital and cash on hand will provide sufficient cash to enable the Company to meet its operating needs and debt requirements for the next twelve months from the issuance date of this report.

**Use of Estimates**

The preparation of financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Significant estimates in the accompanying financial statements include valuation of intangible assets and other long-lived assets, estimates of deferred tax valuation allowances and the fair value of stock options issued for services.

**Fair Value Measurements and Fair Value of Financial Instruments**

The Company analyzes all financial instruments with features of both liabilities and equity under the Financial Accounting Standard Board's (the "FASB") accounting standard for such instruments. Under this standard, financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company identified the following assets or liabilities that are required to be presented on the balance sheet at fair value in accordance with Accounting Standards Codification ("ASC") Topic 820.

The three levels of the fair value hierarchy are as follows:

- Level 1 - Inputs are unadjusted quoted prices in active markets for identical assets or liabilities available at the measurement date.
- Level 2 - Inputs are unadjusted quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets and liabilities in markets that are not active, inputs other than quoted prices that are observable, and inputs derived from or corroborated by observable market data.
- Level 3 - Inputs are unobservable inputs which reflect the reporting entity's own assumptions on what assumptions the market participants would use in pricing the asset or liability based on the best available information.

The following table represents the Company's fair value hierarchy of its financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2023 and 2022.

Description	December 31, 2023			December 31, 2022		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Short-term investments	\$ 2,592,689	\$ -	\$ -	\$ -	\$ -	\$ -

The Company's short-term investments are level 1 measurements and are based on the quoted fair value at each date.

The carrying amounts reported in the balance sheets for cash, accounts receivable, prepaid expenses and other current assets, deferred offering costs, accounts payable, and accrued expenses approximate their fair market value based on the short-term maturity of these instruments.

**Cash and Cash Equivalents**

For purposes of the statements of cash flows, the Company considers all highly liquid instruments with a maturity of three months or less at the purchase date and money market accounts to be cash equivalents. The Company has no cash equivalents as of December 31, 2023 and 2022.

The Company's cash is held at major commercial banks, which may at times exceed the Federal Deposit Insurance Corporation ("FDIC") limit. To date, the Company has not experienced any losses on its invested cash. Any loss incurred or a lack of access to such funds could have a significant adverse impact on the Company's financial condition, results of operations, and cash flows.

On December 31, 2023, the Company had approximately \$507,000 of cash in excess of FDIC limits of \$250,000.

**Accounts receivable**

The Company adopted ASC 326, "Financial Instruments - Credit Losses" on January 1, 2023 and recognizes an allowance for losses on accounts receivable in an amount equal to the estimated probable losses net of recoveries under the current expected credit loss method. The allowance is based on an analysis of historical bad debt experience, current receivables aging, and expected future write-offs, as well as an assessment of specific identifiable customer accounts considered at risk or uncollectible. The bad debt expense associated with the allowance for doubtful accounts related to accounts receivable is recognized in general and administrative expenses. As of December 31, 2023 and 2022, accounts receivable amounted to \$8 and \$0, respectively, and for the years ended December 31, 2023 and 2022, the Company did not recognize any bad debt expense.

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***Short-Term Investments***

The Company's portfolio of short-term investments consists of marketable debt securities which are comprised solely of rated U.S. government securities with maturities of more than three months, but less than one year. The Company classifies these as available-for-sale at purchase date and will reevaluate such designation at each period end date. The Company may sell these marketable debt securities prior to their stated maturities depending upon changing liquidity requirements. These debt securities are classified as current assets in the balance sheets and recorded at fair value, with unrealized gains or losses included in accumulated other comprehensive income (loss) on the balance sheet and as a component of the statements of comprehensive loss. Gains and losses are recognized when realized. Gains and losses are determined using the specific identification method and are reported in other income (expense), net in the statements of operations.

An impairment loss may be recognized when the decline in fair value of the debt securities is determined to be other-than-temporary. The Company evaluates its investments for other-than-temporary declines in fair value below the cost basis each quarter, or whenever events or changes in circumstances indicate that the cost basis of the short-term investments may not be recoverable. The evaluation is based on a number of factors, including the length of time and the extent to which the fair value has been below the cost basis, as well as adverse conditions related specifically to the security, such as any changes to the credit rating of the security and the intent to sell or whether the Company will more likely than not be required to sell the security before recovery of its amortized cost basis.

The Company recorded \$95,785 and \$0 of unrealized gains as a component of other comprehensive loss for the years ended December 31, 2023 and 2022, respectively. During the years ended December 31, 2023 and 2022, the Company recognized a gain on sale of short-term investments of \$20,662 and \$0, respectively.

***Accounting for Digital Currencies and Other Digital Assets***

The Company accounts for digital currencies and other digital assets as indefinite-lived intangible assets and accounts for them at historical cost in accordance with ASC 350, Intangibles - Goodwill and Other Indefinite-lived intangible assets are not subject to amortization but rather evaluated for impairment annually and more frequently, if events or circumstances change that indicate that it is more likely than not that the asset is impaired (i.e., if an impairment indicator exists). As a result, the Company only recognizes decreases in the value of its digital currencies and other digital assets, and any increase in value will be recognized only upon disposition. The Company plans to dispose of cryptocurrency received as a form of payment into fiat currency and anticipates ownership of cryptocurrency to be minimal. As of December 31, 2023, the Company's digital currencies consisted of 1,553.37 units of Polygon (MATIC), an Ethereum token. The Company held no such digital currencies as of December 31, 2022.

***Property and Equipment***

Property and equipment are stated at cost and are depreciated using the straight-line method over their estimated useful lives. Maintenance and repairs are charged to expense as incurred. When assets are retired or disposed of, the cost and accumulated depreciation are removed from the accounts, and any resulting gains or losses are included in income in the year of disposition. The Company examines the possibility of decreases in the value of these assets when events or changes in circumstances reflect the fact that their recorded value may not be recoverable.

Property and equipment includes capitalized internal-use software development costs. Costs incurred to develop internal-use software, including game development, are expensed as incurred during the preliminary project stage. Internal-use software development costs are capitalized during the application development stage, which is after: (i) the preliminary project stage is completed; and (ii) management authorizes and commits to funding the project and it is probable the project will be completed and used to perform the function intended. Capitalization ceases at the point the software project is substantially complete and ready for its intended use, and after all substantial testing is completed. Upgrades and enhancements are capitalized if it is probable that those expenditures will result in additional functionality. Amortization is provided for on a straight-line basis over the expected useful life of the internal-use software development costs and related upgrades and enhancements, which currently is three years. When existing software is replaced with new software, the unamortized costs of the old software are expensed when the new software is ready for its intended use. During the years ended December 31, 2023 and 2022, internal-use software development costs of \$56,971 and \$0 have been capitalized into property and equipment and are being amortized over 36 months, respectively.

***Intangible Assets***

Intangible assets, consisting of software licenses and technology licenses, are carried at cost less accumulated amortization, computed using the straight-line method over the estimated useful life of 5 years, less any impairment charges. During the years ended December 31, 2023 and 2022, the Company recorded an impairment loss of \$52,363 and \$0, respectively (see Note 5).

***Stock-based Compensation***

Stock-based compensation is accounted for based on the requirements of ASC 718 – "Compensation–Stock Compensation", which requires recognition in the financial statements of the cost of employee, non-employee and director services received in

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exchange for an award of equity instruments over the period the employee or director is required to perform the services in exchange for the award (presumptively, the vesting period). The ASC also requires measurement of the cost of employee and director services received in exchange for an award based on the grant-date fair value of the award. The Company has elected to account for forfeitures as they occur.

***Income Taxes***

Deferred income taxes are provided using the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carryforwards, and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax bases. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of the changes in tax laws and rates of the date of enactment.

When tax returns are filed, it is highly certain that some positions taken would be sustained upon examination by the taxing authorities, while others are subject to uncertainty about the merits of the position taken or the amount of the position that would be ultimately sustained. The benefit of a tax position is recognized in the financial statements in the period during which, based on all available evidence, management believes it is more likely than not that the position will be sustained upon examination, including the resolution of appeals or litigation processes, if any. Tax positions taken are not offset or aggregated with other positions. Tax positions that meet the more-likely-than-not recognition threshold are measured as the largest amount of tax benefit that is more than 50 percent likely of being realized upon settlement with the applicable taxing authority. The portion of the benefits associated with tax positions taken that exceeds the amount measured as described above is reflected as a liability for unrecognized tax benefits in the accompanying balance sheets along with any associated interest and penalties that would be payable to the taxing authorities upon examination. Applicable interest and penalties associated with unrecognized tax benefits are classified as additional income taxes in the statements of operations.

***Revenue Recognition***

The Company follows Accounting Standards Codification (“ASC”) Topic 606, Revenue from Contracts with Customers (“ASC 606”). This standard establishes a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. ASC 606 requires an entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services and also requires certain additional disclosures.

In accordance with ASU Topic 606 - *Revenue from Contracts with Customers*, the Company recognizes revenue in accordance with that core principle by applying the following steps:

- Step 1: Identify the contract(s) with a customer.
- Step 2: Identify the performance obligations in the contract.
- Step 3: Determine the transaction price.
- Step 4: Allocate the transaction price to the performance obligations in the contract.
- Step 5: Recognize revenue when (or as) the entity satisfies a performance obligation.

The Company plans to generate revenue from the following sources:

- The Company generates revenue from the sale of our in-game items to our customers. Revenue generated from such sales, primarily through the app stores, such as Google Play Store or Apple App Store, is recognized upon delivery of the in-game items to the customer, which is when the Company completes its sole performance obligation. Fees incurred by the Company, such as commissions to the app stores, are recognized in operating expenses.
- The Company plans to generate revenue from advertising fees paid by game advertisers, developers, hardware companies, or other strategic partners to the Company for promotion on our platform. Revenues from these fees will be recognized ratably over the agreed upon advertising service period and upon delivery of agreed upon advertising services, which constitutes satisfaction of the performance obligation.
- The Company plans to generate royalty revenues when a third party sells one of our NFTs on a third-party platform. We will recognize royalty revenue when it is probable that we will collect the royalty fee owed which is typically when we receive notification from the third-party platform that an NFT has been sold, which constitutes satisfaction of the performance obligation. In the instance where the Company will receive royalty payments when a customer disposes of an in-game NFT in the secondary market on a third-party platform or any other payment that is not in fiat currency, the Company will recognize the revenue in accordance with ASC 606-10-32-21, “Noncash Consideration”. The fair value of the non-cash consideration received shall be determined by using the quoted price for such non-cash consideration on the date of the transaction.

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**Research and Development**

Research and development costs incurred in the development of the Company's products are expensed as incurred and include costs such as labor and outside development costs, software license fees, materials, and other allocated costs incurred.

**Net Loss per Share**

The Company computes net loss per share in accordance with ASC 260-10, "Earnings Per Share." The basic net loss per common share is computed by dividing the net loss by the weighted average number of common shares outstanding. Diluted net loss per share gives effect to all dilutive potential common shares outstanding during the period using the "as if converted" basis.

Pursuant to ASC 260-10-45, basic loss per common share is computed by dividing net loss attributable to common stockholders by the weighted average number of shares of common stock outstanding for the period presented. Diluted loss per share is computed by dividing net loss attributable to common stockholders by the weighted average number of shares of common stock, common stock equivalents and potentially dilutive securities outstanding during the period.

The following were excluded from the computation of diluted shares outstanding as they would have had an anti-dilutive impact on the Company's net loss.

	<b>December 31,</b>	
	<b>2023</b>	<b>2022</b>
Common stock equivalents:		
Warrants	11,245	-
Stock options	38,333	-
<b>Total</b>	<b>49,578</b>	<b>-</b>

**Recent Accounting Pronouncements**

The Company has implemented all new accounting pronouncements that are in effect and that may impact its financial statements and does not believe that there are any other new accounting pronouncements that have been issued that might have a material impact on its financial position or results of operations.

**NOTE 3 – SHORT-TERM INVESTMENTS**

On December 31, 2023, the Company's short-term investments consisted of the following:

	<b>Cost</b>	<b>Unrealized Gain</b>	<b>Fair Value</b>
US Treasury bills	\$ 2,496,904	\$ 95,785	\$ 2,592,689
<b>Total short-term investments</b>	<b>\$ 2,496,904</b>	<b>\$ 95,785</b>	<b>\$ 2,592,689</b>

**NOTE 4 – PROPERTY AND EQUIPMENT**

On December 31, 2023 and 2022, property and equipment consists of the following:

	<b>Useful life</b>	<b>December 31, 2023</b>	<b>December 31, 2022</b>
Capitalized internal-use software development costs	3 years	\$ 56,971	\$ -
Less: accumulated amortization		(4,365)	-
		<b>\$ 52,606</b>	<b>\$ -</b>

For the year ended December 31, 2023, amortization of capitalized internal-use software development costs amounted to \$4,365.

**NOTE 5 – INTANGIBLE ASSET**

On December 31, 2023 and 2022, intangible asset consisted of the following:

	<b>Useful life</b>	<b>December 31, 2023</b>	<b>December 31, 2022</b>
License	5 years	\$ -	\$ 62,836
Less: accumulated amortization		-	(4,189)
		<b>\$ -</b>	<b>\$ 58,647</b>

On August 29, 2022, the Company entered into a Software and Patent License Agreement (the "License Agreement") with Columbia University ("Columbia"), whereby the Company obtained a license from Columbia with respect to software and intellectual property rights and patents. In connection with the License Agreement, Columbia granted to the Company a royalty-bearing, exclusive, worldwide, non-transferable license under the licensed software and licensed patents, as defined in the

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License Agreement, to discover, develop, manufacture, have made, use, sell, offer to sell, have sold, import, export, distribute, rent or lease licensed products and copy, use, modify, and create derivative works from licensed software and technical information during the term of the License Agreement. The licensed documentation, licensed software, and licensed patents will be used facilitate a “certificate of authentication” capability for image and video assets to prevent fraudulent activity. This will allow us to certify the image is unaltered in an externally available and trusted way and for a chain-of-trust architecture to be implemented within our system. The technology will also allow us to add an extra validation layer as well as track manipulation of our NFT assets. This will further provide increased trust in our gaming partners to use our platform and provide additional validation and control of third-party assets integrated into our platform.

In consideration of the Licenses granted under this License Agreement, the Company paid or was to pay to Columbia fees and royalties as follows:

- 1) License Fee: A non-refundable, non-recoverable and non-creditable license fee in the sum of \$25,000 was paid to Columbia within 30 days of the effective date of August 29, 2022;
- 2) Revenue-based Milestone Payments including non-refundable, nonrecoverable and non-creditable milestone payments;
- 3) Royalties: Non-refundable, non-recoverable and non-creditable running royalty on all Licensed Products that are Sold by Company, its Affiliates and Sublicenses, or as otherwise used in to generate Gross Revenue during the term of this Agreement;
- 4) Fees and expenses: In connection with the License, the Company paid Columbia \$30,704 to cover expenses and paid professional fees of \$7,132. These fees and expenses were capitalized into intangible assets on the accompany balance sheets.
- 5) Win-State Payments: In the event of the Company’s success results in significant shareholder value appreciation after as Initial Financing (“Initial Financing” being the first bona fide equity financing of the Company after the Effective Date that results in gross proceeds to the Company of at least \$500,000), the Company will make a number of valuation dependent Win-State Payments” to Columbia in connection with a financing or sale (each such transaction a “Transaction”).

On August 9, 2023 and effective August 1, 2023, the Company and Columbia University agreed to the termination of the Software and Patent License Agreement between the Company and The Trustees of Columbia University in the City of New York, dated August 29, 2022. Based on management’s analysis, the Company determined the Licenses were not commercially viable in the current competitive landscape. The termination of the Agreement will not have any impact on the Company’s future revenues. Accordingly, as of December 31, 2023, the Company wrote off the remaining unamortized book value of the intangible asset of \$52,363, and during the year ended December 31, 2023, the Company recorded an impairment loss of \$52,363, which is included in operating expenses on the accompanying statement of operations and comprehensive loss.

For the year ended December 31, 2023, amortization of intangible assets, prior to the impairment loss, amounted to \$6,284.

**NOTE 6 – STOCKHOLDERS’ EQUITY**

**Preferred Stock**

The Company is authorized to issue 5,000,000 shares of its \$0.0001 par value preferred stock. The Company’s board of directors will have the authority to fix and determine the relative rights and preferences of preferred shares, as well as the authority to issue such shares, without further stockholder approval. As of December 31, 2023 and 2022, no preferred shares have been designated and no preferred shares were issued and outstanding.

**Common Stock**

In January 2022, subscriptions receivable of \$37,500 were collected.

**2023 Stock Repurchase Plan**

On March 20, 2023, the Board of Directors of the Company approved a stock repurchase program authorizing the purchase of up to \$500,000 of the Company’s common stock until December 31, 2023 (the “2023 Stock Repurchase Program”). In connection with the 2023 Stock Repurchase Program, during the year ended December 31, 2023, the Company purchased and cancelled 20,349 shares of its common stock for \$99,736, or at an average price of \$4.90 per share.

**Initial Public Offering**

On February 17, 2023, the Company completed the IPO and sold 140,563 shares of its common stock at a price to the public of \$49.80 per share for gross proceeds of \$7,000,000. The Company received net proceeds of \$5,958,470 which is net of offering

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expenses of \$1,041,530. Additionally, the Company reclassified deferred offering costs of \$202,599 which were paid and deferred as of December 31, 2022 as a charge to additional paid in capital as equity issuance costs. In connection with the IPO, the Company issued 11,245 warrants to the placement agent. The warrants are exercisable at \$54.78 per share and expire on February 14, 2028. The fair value of these warrant of \$3,657,258 was estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions: dividend yield of 0%; expected volatility of 69.8%; risk-free interest rate of 4.03%; and an estimated holding period of 5 years. These warrants had no financial statement impact as they were considered to be equity issuance costs.

**2022 Equity Incentive Plan**

On March 30, 2022, the Company's Board of Directors authorized and adopted the 2022 Equity Incentive Plan (the "2022 Plan") and reserved 208,333 shares of common stock for issuance thereunder. The 2022 Plan was approved by shareholders on March 30, 2022. The 2022 Plan's purpose is to encourage ownership in the Company by employees, officers, directors and consultants whose long-term service the Company considers essential to its continued progress and, thereby, encourage recipients to act in the stockholders' interest and share in the Company's success. The 2022 Plan provides for the issuance of incentive stock options, non-statutory stock options, stock appreciation rights ("SARs"), restricted stock, restricted stock units ("RSUs"), and other stock-based awards.

**Stock Options**

On February 14, 2023, the Company granted aggregate stock options to purchase 33,333 of the Company's common stock at an exercise price of \$49.80 per share to the Company's chief executive officer, an executive officer, and employee and consultants pursuant to the 2022 Equity Incentive Plan. The grant date of the stock options was February 14, 2023 and the options expire on February 14, 2033. The options vest as to (i) 28,333 of such options on February 14, 2023; and (ii) the remaining 5,000 options vest quarterly (417 each quarter) beginning on May 14, 2023 and each quarter thereafter through February 14, 2026. The stock options were valued at \$1,023,290 on the grant date using a Black-Scholes option pricing model which will be recognized as stock-based compensation expense over the vesting period.

On March 6, 2023, the Company granted stock options to purchase 5,000 of the Company's common stock at an exercise price of \$49.80 per share to the Company's board of directors pursuant to the 2022 Equity Incentive Plan. The grant date of the stock options was March 6, 2023 and the options expire on March 6, 2028. The options vest on the one-year anniversary of the stock option grant on March 6, 2024. The stock options were valued at the grant date using a Black-Scholes option pricing model which will be recognized as stock-based compensation expense over the vesting period. The stock options were valued at \$33,972 on the grant date using a Black-Scholes option pricing model which will be recognized as stock-based compensation expense over the vesting period.

The stock options were valued at the grant date using a Black-Scholes option pricing model with the following assumptions: risk-free interest rates ranging from 3.95% to 4.0%, expected dividend yield of 0%, expected option term of three to six years using the simplified method, and expected volatilities ranging from 68.8% to 71.6% based on the calculated volatility of comparable companies.

During the year ended December 31, 2023, the Company recognized total stock-based expenses related to stock options of \$936,354 which has been reflected in general and administrative expenses on the statements of operations and comprehensive loss. A balance of \$120,908 remains to be expensed over future vesting periods related to unvested stock options issued for services to be expensed over a weighted average period of 2.1 years.

There was no option activity during the year ended December 31, 2022. Option activity for the year ended December 31, 2023 are summarized as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)
Balance on December 31, 2022	-	\$ -	-
Granted	38,333	49.80	-
Balance on December 31, 2023	38,333	\$ 49.80	8.49
Options exercisable on December 31, 2023	29,583	\$ 49.80	9.13
Weighted average fair value of options granted during the period	-	\$ 27.60	-

On December 31, 2023, the aggregate intrinsic value of options outstanding was \$0.

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**Stock Warrants**

In connection with the IPO, the Company issued 11,245 fully vested warrants to the placement agent. The warrants are exercisable at \$54.78 per share and expire on February 14, 2028. The warrants were considered equity issuance costs; therefore, there was no financial statement impact for the grant during the year ended December 31, 2023.

There was no warrant activity during the year ended December 31, 2022. Warrant activity for the year ended December 31, 2023 are summarized as follows:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value
Balance Outstanding, December 31, 2022	-	\$ -	-	-
Granted	11,245	54.78	-	-
Balance Outstanding, December 31, 2023	11,245	\$ 54.78	4.13	-
Exercisable, December 31, 2023	11,245	\$ 54.78	4.13	-

**NOTE 7 – COMMITMENTS AND CONTINGENCIES**

**Employment Agreement**

On February 17, 2023, the Company entered into an executive employment agreement with Vadim Mats, the Company’s Chief Executive Officer (CEO) in connection with the Company’s initial public offering (the “*IPO*”). The term of the agreement will continue for one (1) year from the date of execution and automatically renews for successive one (1) year periods at the end of each term until either party delivers written notice of their intent not to review at least 90 days prior to the expiration of the then effective term. Pursuant to the agreement, Mr. Mats shall receive a base salary at the annual rate of \$400,000 payable in equal installments in accordance with the Company’s standard payroll policies. Additionally, on February 14, 2023, the board of directors approved the issuance of stock options, with immediate vesting, to Mr. Mats to purchase up to 16,667 shares of common stock under the Company’s 2022 Equity Incentive Plan (see Note 6). Mr. Mats shall also be eligible to receive an annual cash bonus in an amount up to 2x his then-current base salary if the Company meets or exceeds criteria to be adopted by the compensation committee annually.

**NOTE 8 – INCOME TAXES**

The Company accounts for income tax using the liability method prescribed by ASC 740, “Income Taxes”. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial reporting and tax bases of assets and liabilities using enacted tax rates that will be in effect in the year in which the differences are expected to reverse. The deferred tax assets on December 31, 2023 and 2022 consist of net operating loss carryforwards and the mandatory capitalization of research and development cost for tax purposes pursuant to Section 174, as revised by the Tax Cuts and Jobs Act (“TCJA”). The TCJA amended Section 174 relating to the federal tax treatment of research or experimental expenditures paid or incurred during the taxable year. The new Section 174 rules require taxpayers to capitalize and amortize specified research and experimental expenditures, including software development, over a period of five years (attributable to domestic research) or 15 years (attributable to foreign research). The net deferred tax asset has been fully offset by a valuation allowance because of the uncertainty of the attainment of future taxable income.

As of December 31, 2023 and 2022, components of deferred tax assets and liabilities are as follows:

	December 31, 2023	December 31, 2022
Net operating loss carryforward	\$ 795,489	\$ 190,123
Research and development	366,256	204,069
Total deferred tax assets	1,161,745	394,192
Valuation allowance	(1,161,745)	(394,192)
Net Deferred Tax Assets	\$ -	\$ -

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A reconciliation of the effective tax rate with the statutory Federal income tax rate was as follows for the years ended December 31, 2023 and 2022:

	For the Year ended December 31, 2023	For the Year ended December 31, 2022
Federal tax benefit at statutory rate	(21.0)%	(21.0)%
State tax benefit, net of Federal tax benefit	(5.1)%	(6.5)%
Non-deductible expenses	6.2%	-%
Change in estimated effective tax rate	(1.4)%	-%
Change in valuation allowance	21.3%	27.5%
Effective tax rate	<u>0%</u>	<u>0%</u>

As of December 31, 2023, the Company had approximately \$3,043,768 in net operating loss carry forwards for federal income tax purposes of which \$3,043,768 may be carried forward indefinitely subject to annual usage limitations of 80% of taxable income. Generally, these can be carried forward and applied against future taxable income at the tax rate applicable at that time. The Company is currently using a 26.135% effective tax rate for its projected available net operating loss carry-forward.

In accordance with FASB ASC 740 “Income Taxes”, valuation allowances are provided against deferred tax assets, if based on the weight of available evidence, some or all of the deferred tax assets may or will not be realized. The Company has evaluated its ability to realize some or all of the deferred tax assets on its balance sheet for the coming year and has established a valuation allowance in the amount of \$1,161,745 as of December 31, 2023 due to the uncertainty of generating taxable income. The valuation allowance increased in 2023 by \$767,553.

The Company does not have any uncertain tax positions or events leading to uncertainty in a tax position. The Company’s 2023, 2022 and 2021 Corporate Income Tax Returns are subject to Internal Revenue Service examination.

**NOTE 9 – SUBSEQUENT EVENTS**

Reverse split

On February 28, 2024, a majority of the Company shareholders granted discretionary authority to the Company’s Board of Directors to amend the Company’s Certificate of Incorporation to effect one or more consolidations of the Company’s issued and outstanding shares of common stock, pursuant to which the shares of common stock would be combined and reclassified into on the basis of one share of common stock for each 12 shares of the Company’s common stock then issued and outstanding (the “Reverse Stock Split”). On March 7, 2024, the Company filed a Certificate of Amendment to the Amended and Restated Articles of Incorporation (the “Certificate of Amendment”) with the Secretary of State of the State of Delaware to effect a 1-for-12 reverse stock split with respect to the outstanding shares of the Company’s common stock. The Certificate of Amendment and the reverse stock split became effective on March 7, 2024. All share and per share data in the accompanying financial statements have been retroactively adjusted to reflect the effect of the Reverse Stock Split.

Technology purchase agreement

On March 4, 2024, the Company entered into a Purchase Agreement with a third party (the “Seller”) to acquire certain technology and computer code. The Purchase Agreement grants the Company a perpetual, worldwide, non-exclusive, non-transferable, royalty free, fully paid license to (a) modify and create derivative works (“Derivative Works”) from certain technology and related codebase including, but not limited to, “Habit-tracking Module,” “Administrative Panel,” and related computer code (the “Code”). The aggregate purchase price shall be \$150,000 (“Purchase Price”) payable in 4 monthly installments of \$37,500 beginning on March 15, 2024.

Stock options

On March 5, 2024, the Company granted stock options to purchase an aggregate of 6,249 (2,083 stock options to each director) shares of the Company’s common stock at an exercise price of \$6.00 per share to the Company’s board of directors pursuant to the 2022 Equity Incentive Plan. The grant date of the stock options was March 5, 2024 and the options expire on March 5, 2029. The options vest on the one-year anniversary of the stock option grant on March 5, 2025. The stock options will be valued on the grant date using a Black-Scholes option pricing model which will be recognized as stock-based compensation expense over the vesting period.

On March 7, 2024, the Company entered into Advisory Board Agreements (the Advisory Agreements”) with three members of the Company’s Medical Advisory Board. In connection with the Advisory Agreements, each medical Board member shall be paid an annual cash fee of \$40,000 paid quarterly, and Company shall grant each Medical Advisory Board member stock options to purchase 4,167 shares of the Company’s common stock. As of the date of this report, the Company has not granted these options.

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The stock options will be valued on the grant date using a Black-Scholes option pricing model which will be recognized as stock-based professional fees over the vesting period.

#### Private Placement

On March 13, 2024, the Company entered into a securities purchase agreement (the “Purchase Agreement”) with an institutional investor (“the “Purchaser”) for the issuance and sale in a private placement (the “Private Placement”) of aggregate Units consisting of (i) 108,000 shares of the Company’s common stock, (ii) series A warrants to purchase up to 628,367 shares of the Company’s common stock (the “Series A Warrants”), and (iii) series B warrants to purchase up to 628,367 shares of the Company’s common stock (the “Series B Warrants” and together with the Series A Warrants, the “Common Warrants”). The purchase price of each Unit consisted of one share of the Company’s common stock and associated Common Warrants, was \$5.57 per Unit for aggregate gross proceeds of \$601,560. Additionally, the Company sold pre-funded warrants to purchase up to 520,367 shares of the Company’s common stock (the “Pre-Funded Warrants”). Pre-funded Warrants are a type of warrant that allows the warrant holder to purchase a specified number of a company’s securities at a nominal exercise price. The purchase price of each Pre-Funded Warrant was \$5.569 for aggregate gross proceeds of \$2,897,924. In connection with this Private Placement, the Company raised aggregate gross proceeds of \$3,499,484 and received net proceeds of \$3,056,984, net of offering costs of \$382,500 and legal fees of \$60,000.

The Common Warrants are exercisable immediately upon issuance at an exercise price of \$5.50 per share. The Series A Warrants will expire five and one-half years from the date of issuance and the Series B Warrants will expire twenty-four months from the date of issuance. The Pre-Funded Warrants are exercisable immediately upon issuance at a nominal exercise price of \$0.001 and may be exercised at any time until the Pre-Funded Warrants are exercised in full. A holder of Pre-Funded Warrants or Common Warrants (together with its affiliates) may not exercise any portion of a warrant to the extent that the holder would own more than 4.99% (or, at the election of the holder 9.99%) of the Company’s outstanding Common Stock immediately after exercise.

In connection with the Private Placement, the Company entered into a registration rights agreement (the “Registration Rights Agreement”), dated as of March 13, 2024, with the Purchaser, pursuant to which the Company agreed to prepare and file a registration statement with the Securities and Exchange Commission (the “SEC”) registering the resale of the securities issued in the Private Placement no later than 30 days after the date of the Registration Rights Agreement, and to use its best efforts to have the registration statement declared effective as promptly as practical thereafter, and in any event no later than 60 days following the date of the Registration Rights Agreement (or 90 days following the date of the Registration Rights Agreement in the event of a “full review” by the SEC).

The Private Placement closed on March 15, 2024. The gross proceeds to the Company from the Private Placement were approximately \$3.5 million, before deducting placement agent fees and expenses and estimated offering expenses payable by the Company. The Company intends to use the net proceeds received from the Private Placement for general corporate purposes and working capital.

H.C. Wainwright & Co., LLC (“Wainwright”) acted as the Company’s exclusive placement agent in connection with the Private Placement, pursuant to that certain engagement letter, dated as of March 7, 2024 and as amended on March 13, 2024, between the Company and Wainwright (the “Engagement Letter”). Pursuant to the Engagement Letter, the Company paid Wainwright (i) a total cash fee equal to 7.5% of the aggregate gross proceeds of the Private Placement and (ii) a management fee of 1.0% of the aggregate gross proceeds of the Private Placement. In addition, the Company agreed to pay Wainwright certain expenses and issued to Wainwright or its designees warrants (the “Placement Agent Warrants”) to purchase up to an aggregate of 47,128 shares of the Company’s common stock at an exercise price equal to \$6.9625 per share. The Placement Agent Warrants are exercisable immediately upon issuance and have a term of exercise equal to five and a half years from the date of issuance. In addition, pursuant to the Engagement Letter, the Company agreed that upon any exercise for cash of any privately placed warrants issued to investors in an offering covered by the Engagement Letter, the Company shall (i) pay Wainwright a cash fee of 7.5% and a management fee of 1.0% of the aggregate gross exercise paid in cash with respect thereto, and (ii) issue warrants to purchase that number of shares of common stock equal to 7.5% of the aggregate number of shares of common stock underlying the warrants that were exercised.

#### Treasury Shares

In connection with the 2023 Stock Repurchase Program, from January 1, 2024 to March 28, 2024, the Company purchased and cancelled 6,846 shares of its common stock for \$19,601, or at an average price of \$2.86 per share.

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**DESCRIPTION OF THE REGISTRANT'S SECURITIES  
REGISTERED PURSUANT TO SECTION 12 OF THE  
SECURITIES EXCHANGE ACT OF 1934**

As of December 31, 2023, Gaxos.ai Inc. (“the Company”) had one class of security registered under Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), its common stock, par value \$0.0001 per share (the “Common Stock”).

**Description of Common Stock**

The following description of the Company’s common stock, par value \$0.0001 per share (“Common Stock”) is a summary and does not purport to be complete. It is subject to and qualified in its entirety by reference to the Company’s Certificate of Incorporation, as amended (the “Certificate of Incorporation”), and the Company’s Bylaws, as amended (the “Bylaws”).

*Authorized Capital Shares*

The Company’s authorized capital shares consist of 50,000,000 shares of Common Stock, and 5,000,000 shares of preferred stock, \$0.0001 par value per share (“Preferred Stock”).

*Voting Rights*

Holders of the Company’s Common Stock are entitled to one vote for each share held on all matters submitted to a vote of the Company’s stockholders. Holders of the Company’s Common Stock have no cumulative voting rights.

*Dividend Rights*

Subject to preferences that may be applicable to any outstanding shares of the Company’s Preferred Stock, holders of the Company’s Common Stock are entitled to receive dividends, if any, as may be declared from time to time by the Company’s board of directors out of the Company’s assets which are legally available.

*Liquidation Rights*

Upon the Company’s liquidation, dissolution or winding-up, holders of the Company’s Common Stock are entitled to share in all assets remaining after payment of all liabilities and the liquidation preferences of any of the Company’s outstanding shares of Preferred Stock.

*Other Rights*

Holders of the Company’s Common Stock have no preemptive or conversion rights or other subscription rights.

**Applicable Anti-Takeover Law**

Set forth below is a summary of the provisions of the Company’s Certificate of Incorporation and Bylaws and the Delaware General Corporation Law that could have the effect of delaying or preventing a change in control of the Company. The following description is only a summary, and it is qualified by reference to the Certificate of Incorporation, Bylaws and relevant provisions of the Delaware General Corporation Law (the “DGCL”).

*Delaware Law*

The Company is governed by the provisions of Section 203 of the DGCL. In general, Section 203 prohibits a publicly traded Delaware corporation from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner. A business combination includes mergers, asset sales or other transactions resulting in a financial benefit to the stockholder. An interested stockholder is a person who, together with affiliates and associates, owns (or within three years, did own) 15% or more of the corporation’s voting stock, subject to certain exceptions. The statute could have the effect of delaying, deferring or preventing a change in control of the Company.

**Board of Directors Vacancies**

Our Bylaws authorize the Company’s board of directors to fill vacant directorships. In addition, the number of directors constituting the Company’s board of directors may be set by resolution of the incumbent directors.

**Special Meeting of Stockholders**

Our Bylaws provide that special meetings of our shareholders may be called by the chief executive officer of the Corporation, the board of directors or a committee of the board of directors that has been duly designated by the board of directors and whose powers and authority include the power to call such meetings.

### ***Advance Notice Requirements for Stockholder Proposals and Director Nominations***

Our Bylaws provide that shareholders seeking to bring business before our annual meeting of shareholders, or to nominate candidates for election as directors at our annual meeting of shareholders, must provide timely notice of their intent in writing. To be timely, a shareholder's notice must be delivered to the secretary at our principal executive offices not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event the date of the annual meeting is not within 25 days before or after such anniversary date, notice by the shareholder to be timely must be so delivered not later than the close of business on the 10th day following the day on which such notice of the date of annual meeting was mailed or public disclosure of the date of the annual meeting was made, whichever occurs first. These provisions may preclude our shareholders from bringing matters before our annual meeting of shareholders or from making nominations for directors at our annual meeting of shareholders.

### ***Authorized but Unissued Shares***

The Company's authorized but unissued shares of Common Stock and Preferred Stock are available for future issuance without stockholder approval and may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved Common Stock and Preferred Stock could render more difficult or discourage an attempt to obtain control of the Company by means of a proxy contest, tender offer, merger or otherwise.

### ***Exclusive Forum***

Our Certificate of Incorporation provides that unless we consent in writing to the selection of an alternative forum, the State of Delaware is the sole and exclusive forum for: (i) any derivative action or proceeding brought on behalf of us, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of our Company to us or our stockholders, (iii) any action asserting a claim against us, our directors, officers or employees arising pursuant to any provision of the DGCL or our Certificate of Incorporation or our Bylaws, or (iv) any action asserting a claim against us, our directors, officers, employees or agents governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction.

Additionally, our Certificate of Incorporation provides that unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock are deemed to have notice of and consented to this provision.

### ***Transfer Agent and Registrar***

The transfer agent and registrar is West Coast Stock Transfer, Inc., whose address is 721 N. Vulcan Ave. Suite 106, Encinitas, CA 92024.

### ***Exchange Listing***

Our common stock is listed on the Nasdaq Capital Market under the symbol "GXAI." Prior to the change of our symbol to GXAI on January 19, 2024, our common stock was listed on the Nasdaq Capital Market under the symbol "NFTG."

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 of Gaxos.AI Inc. (File No. 333-271383) filed on April 21, 2023, of our report dated March 27, 2024 on the financial statements of Gaxos.AI Inc. as of December 31, 2023 and for the year then ended.

/s/ Salberg & Company, P.A.

SALBERG & COMPANY, P.A.  
Boca Raton, Florida  
March 27, 2024

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 of Gaxos.AI Inc. (File No. 333-271383) filed on April 21, 2023, of our report dual dated March 31, 2023 and March 27, 2024 on the financial statements of Gaxos.AI Inc. as of December 31, 2022 and for the year then ended.

/s/ D. Brooks and Associates CPAs, P.A.

D. Brooks and Associates CPAs, P.A.  
Palm Beach, FL  
March 27, 2024

**CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a)  
UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Vadim Mats, certify that:

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

Date: March 27, 2024

/s/ Vadim Mats

Name: Vadim Mats  
Title: Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO RULES 13a-14(a) AND 15d-14(a)  
UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Steven Shorr, certify that:

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

Date: March 27, 2024

/s/ Steven Shorr

Name: Steven Shorr  
Title: Chief Financial Officer  
(Principal Financial and Accounting Officer)

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

In connection with the Annual Report of Gaxos.ai Inc. (the "Company") on Form 10-K for the year ended December 31, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned, Vadim Mats and Steven Shorr, Chief Executive Officer and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

Date: March 27, 2024

/s/ Vadim Mats

Name: Vadim Mats  
Title: Chief Executive Officer  
(Principal Executive Officer)

Date: March 27, 2024

/s/ Steven Shorr

Name: Steven Shorr  
Title: Chief Financial Officer  
(Principal Financial and Accounting  
Officer)

## THE NFT GAMING COMPANY, INC.

## CLAWBACK POLICY

**I. Purpose and Scope**

The Board of Directors (the “**Board**”) of The NFT Gaming Company, Inc. (the “**Company**”) believes that it is in the best interests of the Company and its shareholders to create and maintain a culture that emphasizes integrity and accountability and that reinforces the Company’s pay-for-performance compensation philosophy. The Board has therefore adopted this Clawback Policy (this “**Policy**”), which provides for the recovery of erroneously awarded Compensation in the event of a Triggering Event (as defined below). Unless otherwise defined herein, the capitalized terms have the meanings set forth under “XIII. Definitions.”

**II. Administration**

This Policy is designed to comply with, and shall be interpreted to be consistent with, Section 10D of the Exchange Act, Rule 10D-1 of the Exchange Act, Nasdaq Listing Rule 5608 and other regulations, rules and guidance of the Securities and Exchange Commission (the “**SEC**”) thereunder, and related securities regulations and regulations of the stock exchange or association on which Company’s common shares are listed (collectively, the “**Listing Standards**”). This Policy shall be administered by the Compensation Committee of the Board (the “**Committee**”).

Any determinations made by the Committee shall be final and binding. In addition, the Company shall file all disclosures with respect to this Policy in accordance with the Listing Standards. The Committee hereby has the power and authority to enforce the terms and conditions of this Policy and to use any and all of the Company’s resources it deems appropriate to recoup any excess Compensation subject to this Policy.

**III. Covered Executives**

This Policy applies to the Company’s current and former Covered Executives, as determined by the Committee in accordance with the Listing Standards.

**IV. Events That Trigger Recoupment Under This Policy**

The Board or Committee will be required to recoup any excess Compensation received by any Covered Executive during the three (3) completed fiscal years (together with any interim stub fiscal year period(s) of less than nine (9) months resulting from the Company’s transition to different fiscal year measurement dates) immediately preceding the date the Company is deemed (as determined pursuant to the immediately following sentence) to be required to prepare a Covered Accounting Restatement (the “**Three-Year Recovery Period**”) irrespective of any fault, misconduct or responsibility of such Covered Executive for the Covered Accounting Restatement. For purposes of the immediately preceding sentence, the Company is deemed to be required to prepare a Covered Accounting Restatement on the earlier of (A) the date upon which the Board or applicable committee of the Board, or the officer or officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare a Covered Accounting Restatement; or (B) the date a court, regulator, or other legally authorized body directs the Company to prepare a Covered Accounting Restatement (each a “**Triggering Event**”).

**V. Excess Compensation: Amount Subject to Recovery**

The amount of Compensation to be recovered shall be the excess of the Compensation received by the Covered Executive over the amount of Compensation which would have been received by the Covered Executive had the amount of such Compensation been calculated based on the restated amounts, as determined by the Committee. For purposes of this Policy, Compensation shall be deemed “received”, either wholly or in part, in the fiscal year during which any applicable Financial Reporting Measure is attained, even if the payment, vesting or grant of such Compensation occurs after the end of such fiscal year. Amounts required to be recouped under this Policy shall be calculated on a pre-tax basis. The date of receipt of the Compensation depends upon the terms of the award of such Compensation. For example:

- a. If the *grant* of an award of Compensation is based, either wholly or in part, on the satisfaction of a Financial Reporting Measure performance goal, then the award would be deemed received in the fiscal period when that measure was *satisfied*;
- b. If the *vesting* of an equity award of Compensation occurs *only* upon the satisfaction of a Financial Reporting Measure performance condition, then the award would be deemed received in the fiscal period when it vests;
- c. If the *earning* of a non-equity incentive plan award of Compensation is based on the satisfaction of the relevant Financial Reporting Measure performance goal, then the non-equity incentive plan award will be deemed received in the fiscal year in which that performance goal is *satisfied*; and
- d. If the *earning* of a cash award of Compensation is based on the satisfaction of a Financial Reporting Measure performance goal, then the cash award will be deemed received in the fiscal period when that measure is *satisfied*.

It is specifically understood that, to the extent that the impact of the Covered Accounting Restatement on the amount of Compensation received cannot be calculated directly from the information in the Covered Accounting Restatement (e.g., if such restatement's impact on the Company's share price is not clear), then such excess amount of Compensation shall be determined based on the Committee's reasonable estimate of the effect of the Covered Accounting Restatement on the share price or total shareholder return upon which the Compensation was received. The Company shall maintain documentation for the determination of such excess amount and provide such documentation to the Nasdaq Stock Market ("**Nasdaq**").

#### **VI. Method of Recovery**

The Committee shall determine, in its sole discretion, the methods for recovering excess Compensation hereunder, which methods may include, without limitation:

- e. requiring reimbursement of cash Compensation previously paid;
- f. seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer, or other disposition of any equity-based awards;
- g. offsetting the recouped amount from any compensation otherwise owed by the Company to the Covered Executive;
- h. cancelling outstanding vested or unvested equity awards; and/or
- i. taking any other remedial and recovery action permitted by law, as determined by the Committee.

Notwithstanding anything in this Section VI, and subject to applicable law, the Committee may cause recoupment under this Policy from any amount of Compensation approved, awarded, granted, paid, or payable to any Covered Executive prior to, on, or following the Effective Date (as defined below).

#### **VII. Impracticability**

The Committee shall recover any excess Compensation in accordance with this Policy unless such recovery would be impracticable, as determined by the Committee in accordance with the Listing Standards. It is specifically understood that recovery shall only be deemed impractical if (A) the direct expense paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered (before concluding that it would be impracticable to recover any amount of erroneously awarded Compensation based on the expense of enforcement, the Committee shall make a reasonable attempt to recover such erroneously awarded Compensation, document such reasonable attempt(s) to recover, and provide that documentation to Nasdaq); (B) recovery would violate home country law where that law was adopted prior to the November 28, 2022 (before concluding that it would be impracticable to recover any amount of erroneously awarded Compensation based on violation of home country law, the Committee shall obtain an opinion of home country counsel, acceptable to the applicable national securities exchange or association on which Company's common shares are trading, that recovery would result in such a violation, and must provide such opinion to the exchange or association); or (C) recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the registrant, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a), and the regulations promulgated thereunder.

#### **VIII. Other Recoupment Rights; Acknowledgement**

The Committee may require that any employment agreement, equity award agreement, or similar agreement entered into on or after the Effective Date shall, as a condition to the grant of any benefit thereunder, require a Covered Executive to agree to abide by the terms of this Policy. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar policy in any employment agreement, equity award agreement, or similar agreement and any other legal remedies available to the Company. The Company shall provide notice and seek written acknowledgement of this Policy from each Covered Executive; *provided*, that the failure to provide such notice or obtain such acknowledgement shall have no impact on the applicability or enforceability of this Policy to, or against, any Covered Executive.

#### **IX. No Indemnification of Covered Executives**

Notwithstanding any right to indemnification under any plan, policy or agreement of the Company or any of its affiliates, the Company shall not indemnify any Covered Executives against the loss of any excess Compensation. In addition, the Company shall be prohibited from paying or reimbursing a Covered Executive for premiums of any third-party insurance purchased to fund any potential recovery obligations.

#### **X. Indemnification**

To the extent allowable pursuant to applicable law, each member of the Board or the Committee and any officer or other employee to whom authority to administer any component of this Policy is designated shall be indemnified and held harmless by the Company from any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by such member in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be a party or in which he or she may be involved by reason of any action or failure to act pursuant to this Policy and against and from any and all amounts paid by him or her in satisfaction of judgment in such action, suit, or proceeding against him or

her; *provided, however*, that he or she gives the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such individuals may be entitled pursuant to the Company's Articles of Incorporation or Bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

#### **XI. Effective Date**

This Policy shall be effective as of the date the Policy is adopted by the Board (the "**Board Adoption Date**"). This Policy shall apply to any Compensation that is received by Covered Executives on or after the October 2, 2023 (the "**Effective Date**"), even if such Compensation was approved, awarded, granted, or paid to Covered Executives prior to the Effective Date or the Board Adoption Date.

#### **XII. Amendment and Termination; Interpretation**

The Board may amend this Policy from time to time in its sole discretion and shall amend this Policy as it deems necessary to reflect and comply with further regulations, rules and guidance of the SEC and Listing Standards. The Board may terminate this Policy at any time.

The Committee is authorized to interpret and construe this Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Policy. This Policy is designed and intended to be interpreted in a manner that is consistent with the requirements of the Listing Standards. To the extent there is any inconsistency between this Policy and such regulations, rules and guidance, such regulations, rules and guidance shall control, and this Policy shall be deemed amended to incorporate such regulations, rules and guidance until or unless the Board or the Committee expressly determine otherwise.

This Policy shall be applicable, binding and enforceable against all Covered Executives and their beneficiaries, heirs, executors, administrators or other legal representatives to the fullest extent of the law. For the avoidance of doubt, this Policy shall be in addition to (and not in substitution of) any other clawback policy of the Company in effect from time to time or applicable to any Covered Executive.

#### **XIII. Definitions**

For purposes of this Policy, the following terms shall have the following meanings:

1. "**Board**" means the Board of Directors of the Company.
2. "**Company**" means The NFT Gaming Company, Inc., a Delaware corporation, and its successors.
3. "**Compensation**" means any compensation which was approved, awarded or granted to, or earned by a Covered Executive (A) while the Company had a class of securities listed on a national securities exchange or a national securities association, and (B) following on or after the Effective Date (including any award under any short-term or long-term incentive compensation plan of the Company, including any other short-term or long-term cash or equity incentive award or any other payment) that, in each case, is granted, earned, or vested based wholly or in part upon the attainment of any Financial Reporting Measure (i.e., any measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measure that is derived wholly or in part from such measures, including share price and total shareholder return). Compensation may include (but is not limited to) any of the following:
  - a. Annual bonuses and other short- and long-term cash incentives;
  - b. Stock options;
  - c. Stock appreciation rights;
  - d. Restricted shares;
  - e. Restricted share units;
  - f. Performance shares; and
  - g. Performance units.
4. "**Covered Accounting Restatement**" means any accounting restatement of the Company's financial statements due to the Company's material noncompliance with any financial reporting requirement under U.S. securities laws. A Covered Accounting Restatement includes any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements (commonly referred to as "Big R" restatements) or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the

current period (commonly referred to as “little r” restatements). A Covered Accounting Restatement does not include (A) an out-of-period adjustment when the error is immaterial to the previously issued financial statements, and the correction of the error is also immaterial to the current period; (B) a retrospective application of a change in accounting principle; (C) a retrospective revision to reportable segment information due to a change in the structure of an issuer’s internal organization; (D) retrospective reclassification due to a discontinued operation; (E) a retrospective application of a change in reporting entity, such as from a reorganization of entities under common control; or (F) a retrospective revision for stock splits, reverse stock splits, stock dividends or other changes in capital structure.

5. **“Covered Executive”** means any person who:
  - a. Has received applicable Compensation:
    - i. During the Three-Year Recovery Period; and
    - ii. After beginning service as an Executive Officer; and
  - b. Has served as an Executive Officer at any time during the performance period for such Compensation.
6. **“Exchange Act”** means the Securities Exchange Act of 1934, as amended.
7. **“Executive Officer(s)”** means an “executive officer” as defined in Exchange Act Rule 10D-1(d) and the Listing Standards and includes any person who is the Company’s president, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), any vice president of the issuer in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the Company (with any executive officers of the Company’s parent(s) or subsidiaries being deemed Covered Executives of the Company if they perform such policy making functions for the Company), and such other senior executives or employees who may from time to time be deemed subject to the Policy by the Board in its sole discretion. All executive officers of the Company identified by the Board pursuant to 17 CFR 229.401(b) shall be deemed “Executive Officers.”
8. **“Financial Reporting Measure(s)”** means any measures that are determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measure that is derived wholly or in part from such measures, including share price and total shareholder return, including, but not limited to, financial reporting measures including “non-GAAP financial measures” for purposes of Exchange Act Regulation G and 17 CFR 229.10, as well other measures, metrics and ratios that are not non-GAAP measures, like same store sales. Financial Reporting Measures may or may not be included in a filing with the SEC and may be presented outside the Company’s financial statements, such as in Management’s Discussion and Analysis of Financial Conditions and Results of Operations or the performance graph. Financial Reporting Measures include, without limitation, any of the following:
  - a. Company share price;
  - b. Total shareholder return;
  - c. Revenues;
  - d. Net income;
  - e. Earnings before interest, taxes, depreciation, and amortization (EBITDA);
  - f. Funds from operations;
  - g. Liquidity measures such as working capital or operating cash flow;
  - h. Return measures such as return on invested capital or return on assets; and
  - i. Earnings measures such as earnings per share.



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