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

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**FORM 10-Q**

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(MARK ONE)

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

For the quarter ended March 31, 2024

☐ **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: 001-39139



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**CURIOSITYSTREAM INC.**

(Exact Name of Registrant as Specified in Its Charter)

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Delaware

(State or other jurisdiction of  
incorporation or organization)

84-1797523

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

8484 Georgia Ave ., Suite 700  
Silver Spring , Maryland 20910  
(Address of principal executive offices)

( 301 ) 755-2050  
(Issuer's telephone number)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001	CURI	NASDAQ
Warrants, each exercisable for one share of Common Stock at an exercise price of \$11.50 per share	CURIW	NASDAQ

Check whether the issuer (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the past 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 definitions of “large accelerated filer”, “accelerated filer”, “smaller reporting company”, and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of May 3, 2024, 53,598,489 shares of Common Stock of the registrant were issued and outstanding.

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CURIOSITYSTREAM INC.  
QUARTERLY REPORT ON FORM 10-Q

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# PART I. FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

### CURIOSIITYSTREAM INC. CONSOLIDATED BALANCE SHEETS

	March 31, 2024	December 31, 2023
	(Unaudited)	
(In thousands, except par value)		
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 38,750	\$ 37,715
Restricted cash	125	500
Accounts receivable	4,876	4,760
Other current assets	1,831	2,315
Total current assets	45,582	45,290
Investments in equity method investees	4,598	6,354
Property and equipment, net	639	727
Content assets, net	40,154	44,943
Operating lease right-of-use assets	3,279	3,350
Other assets	311	358
<b>Total assets</b>	<b>\$ 94,563</b>	<b>\$ 101,022</b>
<b>Liabilities and stockholders' equity</b>		
Current liabilities		
Content liabilities	\$ 74	\$ 407
Accounts payable	3,288	4,765
Accrued expenses and other liabilities	4,766	3,705
Deferred revenue	14,651	14,521
Total current liabilities	22,779	23,398
Warrant liability	74	44
Non-current operating lease liabilities	4,187	4,283
Other liabilities	562	651
<b>Total liabilities</b>	<b>27,602</b>	<b>28,376</b>
<b>Stockholders' equity</b>		
Common stock, \$ 0.0001 par value – 125,000 shares authorized as of March 31, 2024, and December 31, 2023; 53,306 shares issued and outstanding as of March 31, 2024; 53,286 issued and outstanding as of December 31, 2023	5	5
Additional paid-in capital	363,319	362,636
Accumulated other comprehensive loss	—	—
Accumulated deficit	( 296,363 )	( 289,995 )
Total stockholders' equity	66,961	72,646
<b>Total liabilities and stockholders' equity</b>	<b>\$ 94,563</b>	<b>\$ 101,022</b>

The accompanying notes are an integral part of these consolidated financial statements.

**CURIOSITYSTREAM INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

	Three Months Ended March 31,	
	2024	2023
(Unaudited and in thousands except per share amounts)		
<b>Revenues</b>	\$ 12,001	\$ 12,387
<b>Operating expenses</b>		
Cost of revenues	6,748	9,001
Advertising and marketing	3,105	3,115
General and administrative	5,802	8,059
	15,655	20,175
<b>Operating loss</b>	( 3,654 )	( 7,788 )
Change in fair value of warrant liability	( 30 )	( 74 )
Interest and other income (expense)	439	388
Equity method investment loss	( 1,756 )	( 219 )
<b>Loss before income taxes</b>	( 5,001 )	( 7,693 )
Provision for income taxes	34	58
<b>Net loss</b>	\$ ( 5,035 )	\$ ( 7,751 )
<b>Net loss per share</b>		
Basic	\$ ( 0.09 )	\$ ( 0.15 )
Diluted	\$ ( 0.09 )	\$ ( 0.15 )
<b>Weighted average number of common shares outstanding</b>		
Basic	53,301	52,950
Diluted	53,301	52,950

The accompanying notes are an integral part of these consolidated financial statements.

**CURIOSITYSTREAM INC.**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**

	Three Months Ended	
	March 31,	
(Unaudited and in thousands)	2024	2023
<b>Net loss</b>	\$ ( 5,035 )	\$ ( 7,751 )
Other comprehensive income (loss):		
Unrealized gain on available for sale securities	—	40
<b>Total comprehensive loss</b>	<u>\$ ( 5,035 )</u>	<u>\$ ( 7,711 )</u>

The accompanying notes are an integral part of these consolidated financial statements.

**CURIOSITYSTREAM INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

(Unaudited and in thousands)	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount				
<b>Balance at December 31, 2022</b>	<b>52,853</b>	<b>\$ 5</b>	<b>\$ 358,760</b>	<b>\$ ( 40 )</b>	<b>\$ ( 241,099 )</b>	<b>\$ 117,626</b>
Net loss			—	—	( 7,751 )	( 7,751 )
Stock-based compensation, net	108	—	1,242	—	—	1,242
Other comprehensive income	—	—	—	40	—	40
<b>Balance at March 31, 2023</b>	<b>52,961</b>	<b>\$ 5</b>	<b>\$ 360,002</b>	<b>\$ —</b>	<b>\$ ( 248,850 )</b>	<b>\$ 111,157</b>
<b>Balance at December 31, 2023</b>	<b>53,287</b>	<b>\$ 5</b>	<b>\$ 362,636</b>	<b>\$ —</b>	<b>\$ ( 289,995 )</b>	<b>\$ 72,646</b>
Net loss	—	—	—	—	( 5,035 )	( 5,035 )
Dividends declared	—	—	—	—	( 1,333 )	( 1,333 )
Stock-based compensation, net	19	—	683	—	—	683
<b>Balance at March 31, 2024</b>	<b>53,306</b>	<b>\$ 5</b>	<b>\$ 363,319</b>	<b>\$ —</b>	<b>\$ ( 296,363 )</b>	<b>\$ 66,961</b>

The accompanying notes are an integral part of these consolidated financial statements.

**CURIOSITYSTREAM INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Unaudited and in thousands)	Three Months Ended March 31,	
	2024	2023
<b>Cash flows from operating activities</b>		
Net loss	\$ ( 5,035 )	\$ ( 7,751 )
Adjustments to reconcile net loss to net cash provided by (used in) operating activities		
Change in fair value of warrant liability	30	74
Additions to content assets	( 426 )	( 3,723 )
Change in content liabilities	( 333 )	( 1,206 )
Amortization of content assets	5,215	5,852
Depreciation and amortization expenses	117	127
Amortization of premiums and accretion of discounts associated with investments in debt securities, net	—	26
Stock-based compensation	689	1,267
Equity method investment loss	1,756	219
Other non-cash items	122	121
Changes in operating assets and liabilities		
Accounts receivable	( 116 )	1,200
Other assets	502	944
Accounts payable	( 1,477 )	1,440
Accrued expenses and other liabilities	( 419 )	( 4,514 )
Deferred revenue	41	( 384 )
Net cash provided by (used in) operating activities	666	( 6,308 )
<b>Cash flows from investing activities</b>		
Purchases of property and equipment	—	( 5 )
Maturities of investments in debt securities	—	15,000
Net cash provided by investing activities	—	14,995
<b>Cash flows from financing activities</b>		
Payments related to tax withholding	( 6 )	( 26 )
Net cash used in financing activities	( 6 )	( 26 )
<b>Net increase in cash, cash equivalents and restricted cash</b>	660	8,661
Cash, cash equivalents and restricted cash, beginning of period	38,215	40,507
Cash, cash equivalents and restricted cash, end of period	\$ 38,875	\$ 49,168
<b>Supplemental disclosure:</b>		
Cash refund for taxes	\$ ( 2 )	\$ —
Cash paid for operating leases	\$ 138	\$ 134

The accompanying notes are an integral part of these consolidated financial statements.



**CURIOSITYSTREAM INC.**  
**UNAUDITED NOTES TO INTERIM CONSOLIDATED FINANCIAL STATEMENTS**

**NOTE 1 - ORGANIZATION AND BUSINESS**

On October 14, 2020, Software Acquisition Group Inc., a special purpose acquisition company and a Delaware corporation ("SAQN"), consummated a reverse merger pursuant to that certain Agreement and Plan of Merger, dated August 10, 2020 (the "Business Combination"). Upon the consummation of the Business Combination, CuriosityStream Operating Inc., a Delaware corporation ("Legacy CuriosityStream") became a wholly owned subsidiary of SAQN, and the registrant changed its name from "Software Acquisition Group Inc." to "CuriosityStream Inc." Following the consummation of the Business Combination, Legacy CuriosityStream changed its name from "CuriosityStream Operating Inc." to "Curiosity Inc."

The principal business of CuriosityStream Inc. (the "Company" or "CuriosityStream") is providing customers with access to high quality factual content via a direct subscription video on-demand (SVOD) platform accessible by internet connected devices, or indirectly via distribution partners who deliver CuriosityStream content via the distributor's platform or system. The Company's online library available for streaming spans the entire category of factual entertainment including science, history, society, nature, lifestyle, and technology. The library is composed of thousands of accessible on-demand and ad-free productions and includes shows and series from leading nonfiction producers.

The Company's content assets are available for consuming directly through its owned and operated website ("O&O Consumer Service"), mobile applications developed for iOS and Android operating systems ("App Services"), and via the platforms and systems of third-party partners in exchange for license fees. The Company offers subscribers a monthly or annual subscription. The price for a subscription varies depending on the location of the subscriber, the content included (e.g., Direct Service or Smart Bundle service) and the length of the subscription (e.g., monthly or annual) selected by the customer. As an additional part of the Company's App Services, it has built applications to make its service accessible on almost every major customer device, including streaming media players like Roku, Apple TV and Amazon Fire TV, major smart TV brands (e.g., LG, Vizio, Samsung) and gaming consoles. In addition, CuriosityStream has affiliate agreement relationships with, and its content assets are available through, certain multichannel video programming distributors ("MVPDs") and virtual MVPDs ("vMVPDs"). The Company also has distribution agreements which grant other media companies certain distribution rights to the Company's programs, referred to as content licensing arrangements. The Company also sells selected rights to content created before production begins.

**NOTE 2 - BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***BASIS OF PRESENTATION***

The accompanying unaudited consolidated financial statements are prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") and are consistent in all material respects with those applied in the Company's consolidated financial statements as of and for the year ended December 31, 2023.

In the opinion of management, the unaudited consolidated financial statements include all adjustments of a normal recurring nature necessary for the fair presentation of the Company's financial position, results of operations, and cash flows. The unaudited consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related notes and Management's Discussion and Analysis of Financial Condition, and Results of Operations included in the Annual Report on Form 10-K for the year ended December 31, 2023. The results of operations for the three months ended March 31, 2024, are not necessarily indicative of the results to be expected for the year ending December 31, 2024.

***USE OF ESTIMATES***

The preparation of consolidated financial statements in conformity with U.S. GAAP and the rules and regulations of the U.S. Securities and Exchange Commission (the "SEC") requires management to make estimates and assumptions that affect amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates. Significant items subject to such estimates include the content asset amortization, the assessment of the recoverability of content assets and equity method investments, and the determination of fair value estimates related to non-monetary transactions, share-based awards and liability classified warrants.

### **Concentration of Risk**

Financial instruments that potentially subject the Company to concentration of credit risk consist principally of cash, cash equivalents, investments, and accounts receivable. The Company maintains its cash, cash equivalents, and investments with high credit quality financial institutions; at times, such balances with the financial institutions may exceed the applicable FDIC-insured limits.

Accounts receivable, net are typically unsecured and are derived from revenues earned from customers primarily located in the United States.

### **Fair Value Measurement of Financial Instruments**

Fair value is defined as the exit price, or the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants as of the measurement date. The applicable accounting guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are those that market participants would use in valuing the asset or liability and are developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the factors market participants would use in valuing the asset or liability. The accounting guidance establishes three levels of inputs that may be used to measure fair value:

- **Level 1:** Quoted prices in active markets for identical assets or liabilities.
- **Level 2:** Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- **Level 3:** Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurements. The Company reviews the fair value hierarchy classification at each reporting period. Changes in the observability of valuation inputs may result in a reclassification of levels for certain securities within the fair value hierarchy.

The Company's assets measured at fair value on a recurring basis have included its investments in money market funds and corporate debt securities (at December 31, 2022). Level 1 inputs were derived by using unadjusted quoted prices for identical assets in active markets and were used to value the Company's investments in money market funds and U.S. government debt securities. Level 2 inputs were derived using prices for similar investments and were used to value the Company's investments in corporate and municipal debt securities.

The Company's liabilities measured at fair value on a recurring basis include its private placement warrants issued to Software Acquisition Holdings LLC, the Company's former Sponsor, in a private placement offering (the "Private Placement Warrants"). The fair value of the Private Placement Warrants is considered a Level 3 valuation and is determined using the Black-Scholes valuation model. Refer to *Note 6 - Stockholders' Equity* for significant assumptions which the Company used in the fair value model for the Private Placement Warrants.

Certain assets are measured at fair value on a nonrecurring basis and are subject to fair value adjustments only in certain circumstances, e.g., when there is evidence of impairment indicators.

The Company's remaining financial instruments, including cash and cash equivalents, accounts receivable, accounts payable, and accrued expenses and other liabilities are carried at cost, which approximates fair value because of the short-term maturity of these instruments.

### **RECENT ACCOUNTING PRONOUNCEMENTS**

The Jumpstart Our Business Startups Act ("JOBS Act") allows the Company, as an emerging growth company ("EGC"), to delay adoption of new or revised accounting pronouncements applicable to public companies until

such pronouncements are applicable to private companies. The Company has elected to use this extended transition period under the JOBS Act until such time as the Company is no longer considered to be an EGC.

In November 2023, the FASB issued ASU No. 2023-07 ("ASU 2023-07"), *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, which requires public entities to disclose information about their reportable segments' significant expenses and other segment items on an interim and annual basis. Public entities with a single reportable segment are required to apply the disclosure requirements in ASU 2023-07, as well as all existing segment disclosures and reconciliation requirements in ASC 280 on an interim and annual basis. ASU 2023-07 is effective for fiscal years beginning after December 15, 2023, and for interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of adopting ASU 2023-07.

In December 2023, the FASB issued ASU No. 2023-09 ("ASU 2023-09"), *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, which requires public entities, on an annual basis, to provide disclosure of specific categories in the rate reconciliation, as well as disclosure of income taxes paid disaggregated by jurisdiction. ASU 2023-09 is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating the impact of adopting ASU 2023-09.

### NOTE 3 - EQUITY INVESTMENTS

The Company holds equity investments in Spiegel TV Geschichte und Wissen GmbH & Co. KG (the "Spiegel Venture") and Watch Nebula LLC ("Nebula"). The Company accounts for these investments under the equity method of accounting. The Company's carrying values for its equity method investments as of March 31, 2024, and December 31, 2023, were as follows:

(In thousands)	Spiegel Venture	Nebula	Total
Balance at December 31, 2023	\$ 1,736	\$ 4,618	\$ 6,354
Equity method investment loss	( 1,519 )	( 237 )	( 1,756 )
Balance at March 31, 2024	\$ 217	\$ 4,381	\$ 4,598

#### SPIEGEL VENTURE

In July 2021, the Company acquired a 32 % ownership in the Spiegel Venture for an initial investment of \$ 3.3 million. The Spiegel Venture, which prior to the Company's equity purchase, was jointly owned and operated by Spiegel TV GmbH ("Spiegel TV") and Autentic GmbH ("Autentic"), operates two documentary channels, together with an SVOD service as well as a free advertising-supported streaming television (FAST) channel, which provide factual content to pay television audiences in Germany and certain German-speaking regions of other countries. The Company has not received any dividends from the Spiegel Venture as of March 31, 2024.

Per the Share Purchase Agreement (as amended in early 2023, the "SPA"), in the event the Spiegel Venture achieved certain financial targets during its 2022 fiscal period, the Company is required to make an additional payment related to its 32 % equity ownership to both Spiegel TV and Autentic (the "Holdback Payment"). During the three months ended June 30, 2023, the Company determined the Spiegel Venture had achieved such financial targets, resulting in the Company paying a Holdback Payment in the amount of \$ 0.9 million to the Spiegel Venture during July 2023.

The Company has a call option that permits it to require Spiegel TV and Autentic to sell their respective ownership interests in the Spiegel Venture ("Call Option") to the Company. The Call Option, exercisable at a value based on a determinable calculation in the SPA, is initially exercisable only during the period that is the later of (i) 30 business days following the adoption of the Spiegel Venture's audited financial statements for the fiscal year 2025, and (ii) the period between March 1, 2026, and March 31, 2026.

Together with the Call Option, each of Spiegel TV and Autentic has a put option that permits it to require the Company to purchase their interest ("Put Option") at a value based on a determinable calculation outlined in the SPA. The Put Option is only exercisable upon the achievement of certain defined conditions, as outlined in the SPA, and is initially exercisable only during the period that is the later of (i) 60 business days following the adoption of the Spiegel Venture's audited financial statements for the fiscal year 2025, and (ii) the period between April 1, 2026, and April 30, 2026.

In the event the Call Option or Put Option is not exercised, both options will continue to be available to each respective party in the following year through perpetuity, with its exercise limited to the same date range as outlined above. The Put Option is not currently considered to be probable of becoming exercisable based on the defined conditions in the SPA.

#### **NEBULA**

Nebula is an SVOD technology platform built for and by a group of independent content creators. Prior to the Company's investment, Nebula was a 100 % wholly owned subsidiary of Standard Broadcast LLC ("Standard"). On August 23, 2021, the Company purchased a 12 % ownership interest in Nebula for \$ 6.0 million. Upon its initial investment, the Company obtained 25 % representation on Nebula's Board of Directors, providing the Company with significant influence, but not a controlling interest.

Since the time of its original investment, the Company has been obligated to purchase additional incremental ownership interests, each for a payment of \$ 0.8 million and representing 1.625 % of equity ownership, if Nebula meets certain quarterly targets. The Company has made three subsequent incremental purchases, bringing its total ownership interest in Nebula to 16.875 % as of March 31, 2024. The Company did not make further investments in Nebula during the three months ended March 31, 2024, and the obligation to make additional purchases ended as of September 30, 2023. The Company has not received dividends from Nebula as of March 31, 2024.

Since August 2021, the Company has included access to Nebula's SVOD service as a part of a combined *CuriosityStream / Watch Nebula* subscription offer and as part of the Company's *Smart Bundle* subscription package. As part of this arrangement, the Company has shared revenue with Nebula, based on certain metrics, and paid monthly. On September 26, 2023, Nebula provided the Company with a notice of non-renewal (the "Nebula Non-Renewal"), which resulted in the expiration of the revenue share at the end of 2023. Nebula is still required to make its service available to subscribers to either of these offerings through the end of the term of any such subscription that exists as of December 31, 2023.

#### NOTE 4 - BALANCE SHEET COMPONENTS

##### CASH, CASH EQUIVALENTS, RESTRICTED CASH AND SHORT-TERM INVESTMENTS

A reconciliation of the Company's cash and cash equivalents in the consolidated balance sheets to cash, cash equivalents and restricted cash in the consolidated statements of cash flows is as follows:

(In thousands)	March 31, 2024	December 31, 2023
Cash and cash equivalents	\$ 38,750	\$ 37,715
Restricted cash <sup>1</sup>	125	500
Cash and cash equivalents and restricted cash	<u>\$ 38,875</u>	<u>\$ 38,215</u>

<sup>1</sup> Restricted cash included cash deposits required by a bank as collateral related to corporate credit card agreements.

To determine the fair value of its investments in money market funds securities, the Company uses unadjusted quoted market prices (Level 1 inputs). As of March 31, 2024, and December 31, 2023, the fair values of the Company's securities investments was as follows:

(In thousands)	Cash and Cash Equivalents	
	March 31, 2024	December 31, 2023
Level 1 securities:		
Money market funds	\$ 36,544	\$ 36,072
Total Level 1 securities	<u>\$ 36,544</u>	<u>\$ 36,072</u>

The Company recorded no material realized gains or losses during the three months ended March 31, 2024, and 2023.

##### CONTENT ASSETS

Content assets consisted of the following as of the dates indicated:

(in thousands)	March 31, 2024	December 31, 2023
Licensed content, net:		
Released, less amortization and impairment <sup>1</sup>	\$ 10,221	\$ 8,271
Prepaid and unreleased	4,966	8,357
Total Licensed content, net	<u>15,187</u>	<u>16,628</u>
Produced content, net:		
Released, less amortization and impairment <sup>2</sup>	23,425	22,880
In production	1,542	5,435
Total produced content, net	<u>24,967</u>	<u>28,315</u>
Total content assets	<u>\$ 40,154</u>	<u>\$ 44,943</u>

Of the \$ 10.2 million unamortized cost of licensed content that had been released as of March 31, 2024, the Company expects that \$ 4.7 million, \$ 3.1 million and \$ 1.4 million will be amortized in each of the next three years. Of the \$ 23.4 million unamortized cost of produced content that had been released as of March 31, 2024, the Company expects that \$ 8.6 million, \$ 6.4 million and \$ 5.1 million will be amortized in each of the next three years.

### Impairment Assessment

The Company's primary business model is subscription-based as opposed to a model based on generating revenues at a specific title level. Content assets are predominantly monetized as a group and therefore are reviewed in aggregate at a group level when an event or change in circumstances indicates a change in the expected usefulness of the content or that the fair value may be less than unamortized cost. If such changes are identified, the aggregated content library will be stated at the lower of unamortized cost or fair value. In addition, unamortized costs are written off for content assets that have been, or are expected to be abandoned.

### Amortization

In accordance with its accounting policy for content assets, the Company amortizes licensed content costs and produced content costs, which is included within cost of revenues in the Company's unaudited consolidated statements of operations. For the three months ended March 31, 2024, and 2023, content amortization was as follows:

(in thousands)	Three Months Ended March 31,	
	2024	2023
Licensed content	\$ 1,698	\$ 1,945
Produced content	3,517	3,907
Total	<u>\$ 5,215</u>	<u>\$ 5,852</u>

### WARRANT LIABILITY

As described in Note 6 - *Stockholders' Equity*, the Private Placement Warrants are classified as a non-current liability and reported at fair value at each reporting period. As of March 31, 2024, and December 31, 2023, the fair value of the Private Placement Warrants, as determined using Level 3 inputs, was as follows:

(in thousands)	March 31, 2024	December 31, 2023
Private Placement Warrants	\$ 74	\$ 44

### NOTE 5 - REVENUE

The following table sets forth the Company's disaggregated revenues for the three months ended March 31, 2024, and 2023, as well as the relative percentage to total revenue:

(in thousands)	Three Months Ended March 31,			
	2024		2023	
Direct Business:				
Direct-to-Consumer	8,068	67 %	7,480	60 %
Partner Direct Business	1,462	12 %	1,102	9 %
Total Direct Business	9,530	79 %	8,582	69 %
Content Licensing:				
Library sales	868	7 %	817	7 %
Presales	296	2 %	1,201	10 %
Total Content Licensing	1,164	10 %	2,018	16 %
Bundled Distribution	1,142	10 %	1,416	11 %
Enterprise	68	1 %	97	1 %
Other	97	1 %	274	2 %
Total revenues	<u>\$ 12,001</u>		<u>\$ 12,387</u>	

## REMAINING PERFORMANCE OBLIGATIONS

As of March 31, 2024, the Company expects to recognize revenues in the future related to performance obligations that were unsatisfied as follows:

	Remainder of Year Ending December 31,	Year Ended December 31,				
(in thousands)	2024	2025	2026	2027	Thereafter	Total
Remaining performance obligations	\$ 1,192	\$ 613	\$ 92	\$ 46	\$ 20	\$ 1,963

These amounts include only fixed consideration or minimum guarantees and do not include amounts related to (a) contracts with an original expected term of one year or less or (b) licenses of content that are solely based on sales or usage-based royalties.

## DEFERRED REVENUE

Contract liabilities (i.e., deferred revenue) consist of subscriber and affiliate license fees billed that have not been recognized, amounts contractually billed or collected for content licensing sales in advance of the related content being made available to the customer, and unredeemed gift cards and other prepaid subscriptions that have not been redeemed. Total deferred revenues were \$ 15.2 million as of March 31, 2024, and December 31, 2023, with the non-current portions of \$ 0.6 million as of March 31, 2024, and December 31, 2023, included in other liabilities on the consolidated balance sheets.

For the three months ended March 31, 2024, the Company recognized revenues of \$ 6.3 million related to amounts deferred as of December 31, 2023 .

## NOTE 6 - STOCKHOLDERS' EQUITY

### COMMON STOCK

As of March 31, 2024, and December 31, 2023, the Company had authorized the issuance of 126,000,000 shares of capital stock, par value of \$ 0.0001 per share, consisting of (a) 125,000,000 shares of common stock, and (b) 1,000,000 shares of preferred stock.

### WARRANTS

As of March 31, 2024, the Company had 3,054,203 publicly traded warrants outstanding that were sold as part of the units of Software Acquisition Group Inc. in its initial public offering on November 22, 2019, and that were issued to the PIPE Investors in connection with the Business Combination on October 14, 2020 (the "Public Warrants" and, together with the Private Placement Warrants, the "Warrants") and 3,676,000 Private Placement Warrants outstanding. The Private Placement Warrants are liability-classified, and the Public Warrants are equity-classified.

Each whole warrant entitles the registered holder to purchase one share of the Company's Common Stock at an exercise price of \$ 11.50 per share. All Warrants expire on October 14, 2025.

The Company has the right to redeem the outstanding Public Warrants in whole and not in part at a price of \$ 0.01 per warrant upon a minimum of 30 days' prior written notice of redemption, if and only if the last sale price of the Company's Common Stock matched or exceeded \$ 18.00 per share for any 20 trading days within a 30 -trading day period ending on the third trading day prior to the date on which the Company sent the notice of redemption to the warrant holders.

The Private Placement Warrants are identical to the Public Warrants except that, so long as they are held by Software Acquisition Holdings LLC or its permitted transferees: (i) they will not be redeemable by the Company; (ii) they may be exercised by the holders on a cashless basis; and (iii) they are subject to registration rights.

There were no exercises of warrants during the three months ended March 31, 2024.

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The warrant liability related to the Private Placement Warrants is recorded at fair value as of each reporting date with the change in fair value reported within other income (expense) in the accompanying unaudited consolidated statements of operations as “Change in fair value of warrant liability” until the warrants are exercised, expired or other facts and circumstances lead the warrant liability to be reclassified to stockholders' equity (deficit). The fair value of the warrant liability for the Private Placement Warrants was estimated using a Black-Scholes pricing model using Level 3 inputs. The significant assumptions used in preparing the Black-Scholes option pricing model to determine fair value as of March 31, 2024, and December 31, 2023, were as follows:

	March 31, 2024	December 31, 2023
Exercise price	\$ 11.50	\$ 11.50
Stock price (CURI)	\$ 1.07	\$ 0.54
Expected volatility	90.00 %	100.00 %
Expected warrant term (years)	1.5	1.8
Risk-free interest rate	4.81 %	4.23 %
Dividend yield	2.3 %	0 %
Fair Value per Private Placement Warrant	\$ 0.02	\$ 0.01

The change in fair value of the private placement warrant liability was negligible for the three months ended March 31, 2024 and \$ 0.1 million for the three months ended March 31, 2023.

**NOTE 7 - EARNINGS (LOSS) PER SHARE**

Basic and diluted earnings (loss) per share are calculated on the basis of the weighted average number of shares of the Company's Common Stock outstanding during the respective periods. Diluted earnings (loss) per share give effect to all dilutive potential common shares outstanding during the period using the treasury stock method for stock options and other potentially dilutive securities. In computing diluted earnings (loss) per share, the average fair value of the Company's Common Stock for the period is used to determine the number of shares assumed to be purchased from the exercise price of the options. Purchases of treasury stock reduce the outstanding shares commencing on the date that the stock is purchased. Common stock equivalents are excluded from the calculation when a loss is incurred as their effect would be anti-dilutive.

For the three months ended March 31, 2024, and 2023, the components of basic and diluted net loss per share were as follows:

	Three Months Ended March 31,	
(In thousands except per share amounts)	2024	2023
<b>Numerator — Basic and Diluted EPS:</b>		
Net loss	\$ ( 5,035 )	\$ ( 7,751 )
<b>Denominator — Basic and Diluted EPS:</b>		
Weighted-average shares	53,301	52,950
<b>Net loss per share — Basic and Diluted</b>	<b>\$ ( 0.09 )</b>	<b>\$ ( 0.15 )</b>



Common shares issuable for warrants, options, and restricted stock units ("RSU") represent the total amount of outstanding warrants, stock options, and restricted stock units at March 31, 2024, and 2023. For the three months ended March 31, 2024, and 2023, the following share equivalents were excluded from the calculation of diluted net loss per share as the inclusion of such shares would have been anti-dilutive.

(in thousands)	Three Months Ended March 31,	
	2024	2023
Options	31	4,630
Restricted stock units	2,478	1,030
Warrants	6,730	6,730
Total	9,239	12,390

#### NOTE 8 - STOCK-BASED COMPENSATION

The Company measures the cost of employee services received in exchange for an award of equity instruments based on the grant date fair value of the award. The fair value is recognized in earnings over the period during which an employee is required to provide the service. The Company accounts for forfeitures as they occur.

In October 2020, the Company's Board of Directors adopted the CuriosityStream 2020 Omnibus Plan (the "2020 Plan"). The 2020 Plan became effective upon consummation of the Business Combination and succeeds the Legacy CuriosityStream Stock Option Plan. Upon adoption of the 2020 Plan, a total of 7,725,000 shares were approved to be issued as stock options, share appreciation rights, restricted stock units and restricted stock.

The following table summarizes stock option and RSU activity, prices, and values for the three months ended March 31, 2024:

(in thousands except share price and fair value amounts)	Number of Shares Available for Issuance Under the Plan	Stock Options		Restricted Stock Units	
		Number of Shares	Weighted- Average Exercise Price	Number of Shares	Weighted- Average Grant Date Fair Value
Balance at December 31, 2023	4,762	32	\$ 5.79	2,058	\$ 2.57
Granted	( 469 )	—	—	469	0.54
RSUs vested	12	—	—	( 31 )	12.98
Forfeited or expired	20	( 2 )	5.88	( 18 )	10.61
Balance at March 31, 2024	4,325	31	\$ 5.30	2,478	\$ 1.95

There were no options exercised during the three months ended March 31, 2024, and 2023.

Stock options and RSU awards generally vest on a monthly, quarterly, or annual basis over a period of one to four years from the grant date. When options are exercised, the Company issues previously unissued shares of Common Stock to satisfy share option exercises. Upon vesting and distribution of RSUs, the Company issues previously unissued shares of Common Stock to satisfy restricted stock units vested, net of shares withheld for taxes if elected by the RSU holder.

The fair value of stock option awards is estimated using the Black-Scholes option pricing model, which includes a number of assumptions including Company's estimates of stock price volatility, employee stock option exercise behaviors, future dividend payments, and risk-free interest rates.

The expected term of options granted is the estimated period of time from the beginning of the vesting period to the date of expected exercise or other settlement, based on historical exercises and post-vesting terminations. The Company generally estimates expected term based on the midpoint between the vesting date and the end of the contractual term, also known as the simplified method, given the lack of historical exercise behavior.

On April 28, 2023, the Company's Board of Directors authorized, and on June 14, 2023, the Company's shareholders approved, a stock option exchange program (the "Exchange") that permitted certain current employees and executive officers to exchange certain outstanding stock options with exercise prices substantially above the current market price of the Company's Common Stock for RSUs of an equivalent fair value. The Exchange was completed in July 2023. For options that had already vested at the time of the Exchange, the resulting RSUs will vest in July 2024. Otherwise, the vesting schedules for unvested options at the time of the Exchange will remain the same for the resulting RSUs. As a result of the Exchange, 4.6 million of outstanding eligible stock options were exchanged for 1.6 million new RSUs, with a fair value of \$ 0.99 per share on the date of the Exchange. There was no incremental compensation expense recorded by the Company as a result of the Exchange.

The Company uses its own historical volatility as well as the historical volatility of similar public companies for estimating volatility. The risk-free interest rate is estimated using the rate of return on U.S. Treasury securities with maturities that approximate to the expected term of the option..

For the three months ended March 31, 2024, and 2023, stock-based compensation expense was as follows:

	Three Months Ended March 31,	
	2024	2023
(stock-based compensation in thousands)		
Stock-based compensation — Options	\$ 5	\$ 777
Stock-based compensation — RSUs	\$ 684	\$ 490
Total stock-based compensation	\$ 689	\$ 1,267

Stock-based compensation cost is measured at the grant date, based on the fair value of the award, and is recognized on a straight-line basis over the requisite service period.

#### NOTE 9 - SEGMENT AND GEOGRAPHIC INFORMATION

The Company operates as one reporting segment. The Company's chief operating decision maker is its chief executive officer, who reviews financial information presented on an entity-wide basis for purposes of making operating decisions, assessing financial performance and allocating resources.

All long-lived tangible assets are located in the United States. For the three months ended March 31, 2024, and 2023, revenue by geographic location based on customer location was as follows:

	Three Months Ended March 31,			
	2024		2023	
United States	\$ 7,425	62 %	\$ 6,686	54 %
International:				
Netherlands	208	2 %	1,246	10 %
Other	4,368	36 %	4,455	36 %
Total International	4,576	38 %	5,701	46 %
Total revenue	\$ 12,001	100 %	\$ 12,387	100 %

Revenue from one foreign country, Netherlands, comprised 10 % or greater of total revenue for one or more of the periods presented.

#### NOTE 10 - RELATED-PARTY TRANSACTIONS

##### EQUITY INVESTMENTS

For the three months ended March 31, 2024, the Company recognized \$ 0.1 million of revenue related to license fees from the Spiegel Venture, while no revenue was recognized for Nebula.

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As of March 31, 2024, and December 31, 2023, the impacts of the arrangements with the Spiegel Venture and Nebula on the Company's consolidated balance sheets were as follows:

(In thousands)	March 31, 2024	December 31, 2023
Accounts receivable	\$ 479	\$ 811
Accounts payable	\$ 3	\$ 374

For the three months ended March 31, 2024, and 2023, the impacts of arrangements with the Spiegel Venture and Nebula on the Company's consolidated statements of operations were as follows:

(In thousands)	Three Months Ended March 31,	
	2024	2023
Revenues	\$ 111	\$ 794
Cost of revenues	\$ 15	\$ 1,202

### **OPERATING LEASE**

The Company sublets a portion of its office space to Hendricks Investment Holdings, LLC, which is considered a related party as it is managed by various members of the Company's Board of Directors. The Company accounts for the arrangement as an operating lease. Refer to *Note 11 - Leases* for additional information.

### **NOTE 11 - LEASES**

#### **COMPANY AS LESSEE**

The Company is a party to a non-cancellable operating lease agreement for office space, which expires in 2033. The Company's operating lease for this office space includes fixed rent payments and variable lease payments, which are primarily related to common area maintenance and utility charges. The Company elected not to separate lease and non-lease components, and as such, all amounts paid under the lease are classified as either fixed or variable lease payments. The Company has determined that no renewal clauses are reasonably certain of being exercised and therefore has not included any renewal periods within the lease term for this lease.

As of March 31, 2024, the Company held operating lease ROU assets of \$ 3.3 million, current lease liabilities of \$ 0.4 million, included within accrued expenses and other liabilities on the consolidated balance sheets, and non-current lease liabilities of \$ 4.2 million. In measuring operating lease liabilities, the Company used a weighted average discount rate of 4.4 % in existence as of the January 1, 2022, ASU 2016-02 adoption date. The weighted average remaining lease term as of March 31, 2024, was 8.92 years.

#### **Components of Lease Cost**

For the three months ended March 31, 2024, the Company's total operating lease cost was comprised of the following:

(In thousands)	Three Months Ended March 31,	
	2024	2023
Operating lease cost	\$ 119	\$ 121
Variable lease cost	12	13
Total lease cost	\$ 131	\$ 134

**Maturity of Lease Liabilities**

As of March 31, 2024, maturities of the Company's operating lease liabilities, which do not include short-term leases and variable lease payments, were as follows:

	(In thousands)
Nine remaining months of 2024	\$ 419
2025	571
2026	585
2027	600
2028	615
Thereafter	2,731
Total lease payments	\$ 5,521
Less: imputed interest	( 961 )
Present value of total lease liabilities	\$ 4,560

**COMPANY AS LESSOR**

The Company subleases a portion of its office space to a related party and accounts for the arrangement as an operating lease. Related party sublease rental income is recognized on a straight-line basis and is included in Interest and other income (expense) in the accompanying consolidated statements of operations. For the three months ended March 31, 2024, operating lease income from the Company's sublet was less than \$ 0.1 million. As of March 31, 2024, total remaining future minimum lease payments receivable on the Company's operating lease were \$ 0.2 million.

**NOTE 12 - COMMITMENTS AND CONTINGENCIES****CONTENT COMMITMENTS**

As of March 31, 2024, the Company's content obligations amounted to \$ 0.6 million, including \$ 0.1 million recorded within content liabilities in the accompanying unaudited consolidated balance sheets, and \$ 0.5 million of obligations not yet recorded as they did not yet meet the asset recognition criteria for content assets. These obligations are expected to be paid by December 31, 2024.

As of December 31, 2023, the Company's content obligations amounted to \$ 1.1 million, including \$ 0.4 million recorded within current content liabilities in the accompanying unaudited consolidated balance sheets and \$ 0.7 million of obligations not yet recorded as they did not yet meet the asset recognition criteria for content assets.

Content obligations include amounts related to licensed, commissioned and internally produced streaming content. An obligation for the production of content includes non-cancelable commitments under creative talent and employment agreements. An obligation for the licensed and commissioned content is incurred at the time the Company enters into an agreement to obtain future titles. Once a title becomes available, a content liability is generally recorded. Certain agreements include the obligation to license rights for unknown future titles, the ultimate quantity and/or fees for which are not yet determinable as of the reporting date.

**ADVERTISING COMMITMENTS**

The Company periodically enters into agreements to receive future advertising and marketing services as part of various licensee arrangements, and the Company reports commitments when the applicable agreements provide for specific committed amounts. As of March 31, 2024, the Company's future advertising commitments totaled \$ 1.4 million, of which the Company expects to pay \$ 0.8 million during the year ending December 31, 2024 .

**NOTE 13 - INCOME TAXES**

For the three months ended March 31, 2024, Income tax expense was immaterial . For the comparative period in 2023 , the provision for income taxes was \$ 0.1 million. The Company's provision for income taxes differs from the federal statutory rate primarily due to the Company being in a full valuation allowance position and not recognizing a tax benefit attributable to generated losses for either federal or state income tax purposes.

**NOTE 14 - SUBSEQUENT EVENTS**

On May 6, 2024, the Board declared a regular quarterly cash dividend of \$ 0.025 per share of Common Stock, equivalent to \$ 0.10 per share of Common Stock on an annual basis. The cash dividend will be paid on July 31, 2024, to all holders of record of Common Stock at the close of business on July 12, 2024. This cash dividend of approximately \$ 1.3 million is expected to be paid from available cash on hand.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis provides information that management believes is relevant to an assessment and understanding of our results of operations and financial condition. The following discussion should be read in conjunction with the Company's unaudited consolidated financial statements and notes thereto included elsewhere in this Quarterly Report on Form 10-Q. Unless the context otherwise requires, references in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" to "we," "us," "our," and "the Company" are intended to mean the business and operations of CuriosityStream Inc.

### CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains certain statements that are, or may be deemed to be, "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, regarding the Company's plans, expectations, thoughts, beliefs, estimates, goals and outlook for the future that are intended to be covered by the protections provided under the Private Securities Litigation Reform Act of 1995.

All statements other than statements of historical fact included in this Quarterly Report on Form 10-Q including, without limitation, statements under this "Management's Discussion and Analysis of Financial Condition and Results of Operations" regarding the Company's financial position, business strategy and the plans and objectives of management for future operations, such as subscription plan price increases, the development of integrated digital brand partnerships with advertisers and our dividend plans, are forward-looking statements. When used in this Quarterly Report on Form 10-Q, words such as "anticipate," "attribute," "believe," "continue," "hope," "estimate," "expect," "intend," "may," "might," "potential," "seek," "should," "will" and "would," and similar expressions, as they relate to us or the Company's management, identify forward-looking statements. Such forward-looking statements are based on the beliefs of management, as well as assumptions made by, and information currently available to, the Company's management. Actual results could differ materially from those contemplated by the forward-looking statements as a result of certain factors detailed in our filings with the SEC. All subsequent written or oral forward-looking statements attributable to us or persons acting on the Company's behalf are qualified in their entirety by this paragraph. These forward-looking statements are subject to risks and uncertainties that could cause actual results and events to differ materially from those included in forward-looking statements. Factors that might cause or contribute to such differences include, but are not limited to, those discussed in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 25, 2024 (the "Annual Report") and any other subsequent periodic reports and future periodic reports. We assume no obligation to revise or publicly release any revision to any forward-looking statements contained in this Quarterly Report on Form 10-Q, unless required by law.

### OVERVIEW

Founded by John Hendricks, founder of the Discovery Channel and former Chairman of Discovery Communications, CuriosityStream is a media and entertainment company that offers premium video and audio programming across the principal categories of factual entertainment, including science, history, society, nature, lifestyle and technology. Our mission is to provide premium factual entertainment that informs, enchants and inspires.

We seek to meet demand for high-quality factual entertainment via subscription video on-demand ("SVOD") platforms, content licensing, bundled content licenses for SVOD and linear offerings, talks and courses and partner bulk sales.

The main sources of our revenue are:

1. Subscription and license fees earned from our Direct-to-Consumer business and Partner Direct subscribers ("Direct Business"),
2. License fees from content licensing arrangements ("Content Licensing"),
3. Bundled license fees from distribution affiliates ("Bundled Distribution"),
4. Subscriber fees from our Enterprise business ("Enterprise"), and
5. Other revenue, including advertising and sponsorships ("Other").

We operate our business as a single operating segment that provides premium streaming content through multiple channels, including the use of various applications, partnerships and affiliate relationships.

CuriosityStream's award-winning content library features more than 16,000 programs that explore topics ranging from space engineering to ancient history to the rise of Wall Street and includes shows and series from leading nonfiction producers. Our library includes:

- An extensive catalog of originally produced and owned content of approximately 10,000 short-, mid- and long-form video and audio titles, including Curiosity University recorded lectures that are led by some of the most acclaimed college and university professors in the world.
- A rotating catalog of nearly 6,000 internationally licensed videos and audio programs.
- More than 6,000 on-demand and ad-free productions available on-demand through our SVOD offerings.

Each week we launch new video titles, which are available on-demand in high- or ultra-high definition. Through new and long-standing international partnerships, we have localized a large portion of our video library from English to ten different languages.

## RESULTS OF OPERATIONS

The financial data in the following table sets forth selected financial information derived from our unaudited consolidated financial statements for three months ended March 31, 2024, and 2023, and includes our results of operations as a percentage of revenue or as a percentage of costs, as applicable, for the periods indicated:

(Unaudited and in thousands)	Three Months Ended March 31,		Change	
	2024	2023	Total	%
<b>Revenues</b>				
Direct Business	\$ 9,530	\$ 8,582	\$ 948	11 %
Content Licensing	1,164	2,018	(854)	(42 %)
Bundled Distribution	1,142	1,416	(274)	(19 %)
Enterprise	68	97	(29)	n/m
Other	97	274	(177)	(65 %)
<b>Total revenue</b>	<b>12,001</b>	<b>12,387</b>	<b>(386)</b>	<b>(3 %)</b>
<b>Operating expenses</b>				
Cost of revenues	6,748	9,001	(2,253)	(25 %)
Advertising and marketing	3,105	3,115	(10)	— %
General and administrative	5,802	8,059	(2,257)	(28 %)
<b>Total operating expenses</b>	<b>15,655</b>	<b>20,175</b>	<b>(4,520)</b>	<b>(22 %)</b>
<b>Operating loss</b>	<b>(3,654)</b>	<b>(7,788)</b>	<b>4,134</b>	<b>(53 %)</b>
<b>Other income (expense)</b>				
Change in fair value of warrant liability	(30)	(74)	44	n/m
Interest and other income (expense)	439	388	51	n/m
Equity method investment loss	(1,756)	(219)	(1,537)	702 %
<b>Loss before income taxes</b>	<b>\$ (5,001)</b>	<b>\$ (7,693)</b>	<b>\$ 2,692</b>	<b>(35 %)</b>
Provision for income taxes	34	58	(24)	n/m
<b>Net loss</b>	<b>\$ (5,035)</b>	<b>\$ (7,751)</b>	<b>\$ 2,716</b>	<b>(35 %)</b>

\* n/m = percentage not meaningful

For the three months ended March 31, 2024, and 2023, operating loss was \$3.7 million and \$7.8 million, respectively. The decline in operating loss of \$4.1 million, or 53%, primarily resulted from the decreases to our operating expenses of \$4.5 million, or 22%, which more than offset the decline in revenues of \$0.4 million, or 3%, compared to the three months ended March 31, 2023.

For the three months ended March 31, 2024, and 2023, net loss was \$5.0 million and \$7.8 million, respectively, a decrease in net loss of \$2.7 million, or 35%.

Our future operating results and cash flows are dependent upon a number of opportunities, challenges, and other factors, including our ability to efficiently grow our subscriber base, increase our prices and expand our service offerings to maximize subscriber lifetime value.

### Revenue

Since the Company was founded in 2015, we have generated the majority of our revenues from consumers directly accessing our content in the form of monthly or annual subscription plans.

For the three months ended March 31, 2024, and 2023, revenues totaled \$12.0 million and \$12.4 million, respectively, a decrease of \$0.4 million, or 3%. This decline was primarily driven by declines in Content Licensing and Bundled Distribution of \$0.9 million and \$0.3 million, respectively, while our Direct Business revenue increased by \$0.9 million.



## Direct Business

Our Direct Business revenue is derived from consumers subscribing directly through our O&O Consumer Service and App Services and through Partner Direct relationships. Our O&O Consumer Service is available in more than 175 countries to any household with a broadband connection. Our App Services enable access to CuriosityStream on almost every major consumer device, including streaming media players like Roku, Apple TV and Amazon Fire TV, major smart TV brands (e.g., LG, Vizio, Samsung) and gaming consoles.

We are currently in the process of raising the prices for our legacy subscribers in our U.S. dollar-based markets, which represent the vast majority of our Direct Business revenue. These legacy subscribers previously paid \$2.99 per month or \$19.99 per year. As of March 27, 2023, we increased our standard pricing for new subscribers to this service to \$4.99 per month or \$39.99 per year. We also provide a Smart Bundle service for \$9.99 per month or \$69.99 per year. Our Smart Bundle membership currently includes our standard service, plus subscriptions to third-party platforms *Tastemade*, *Kidstream* (added in January 2024), *SommTV*, *Da Vinci Kids*, and our *Curiosity University* stand-alone service. Our Smart Bundle pricing remains unchanged. However, we may in the future increase the price of these existing subscription plans, which may have a positive effect on our revenue from this line of our business.

The multichannel video programming distributors ("MVPDs"), virtual MVPDs ("vMVPDs") and digital distributor partners making up our Partner Direct Business pay us a license fee for sales to individuals who subscribe to CuriosityStream via the partners' respective platforms. We have affiliate agreement relationships with, and our service is available directly from, major MVPDs that include Comcast, Cox, Dish and vMVPDs and digital distributors that include Amazon Prime Video Channels, Apple Channel, Roku Channel, Sling TV and YouTube TV.

The following table details our Direct Business for the three months ended March 31, 2024, and 2023:

(in thousands)	Three Months Ended March 31,		Change	
	2024	2023	Total	%
Direct-to-Consumer	8,068	7,480	588	8 %
Partner Direct Business	\$ 1,462	\$ 1,102	360	33 %
Total Direct Business	\$ 9,530	\$ 8,582	\$ 948	41 %

For the three months ended March 31, 2024, our Direct-to-Consumer revenue increased by \$0.6 million, or 8%, compared to 2023. While our overall DTC subscriber count declined, the effects of this were more than offset by the higher pricing that we began to roll out in 2023. Our Partner Direct Business benefited primarily from the adoption of the price increase and continued subscriber growth.

## Content Licensing

Through our Content Licensing business, we license to certain media companies a collection of existing titles from our content library in a traditional content licensing deal. We also pre-sell selected rights (such as in territories or on platforms that are lower priority for us) to content we create before we even begin production. This latter model reduces risk in our content development decisions and creates content licensing revenue.

The following table details our Content Licensing results for the three months ended March 31, 2024, and 2023:

(in thousands)	Three Months Ended March 31,		Change	
	2024	2023	Total	%
Library sales <sup>1</sup>	\$ 868	\$ 817	\$ 51	6 %
Presales	296	1,201	(905)	(75 %)
Total Content Licensing	1,164	2,018	(854)	(42 %)

<sup>1</sup> The 2024 amount included \$0.2 million from trade and barter transactions.

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For the three months ended March 31, 2024, compared to 2023, Library sales increased by 6%, while presales declined by 75%. Within our content licensing business, our primary focus is on our positive gross margin library-related transactions, although we may continue to enter into presale arrangements with certain partners for strategic purposes.

### ***Bundled Distribution***

Our Bundled Distribution business includes affiliate relationships with our Bundled MVPD Partners and vMVPDs, which are broadband and wireless companies in the U.S. and international territories to whom we can offer a broad scope of rights, including 24/7 “linear” channels, our video-on-demand content library, mobile rights and pricing and packaging flexibility, in exchange for an annual fixed fee or fee per subscriber.

For the three months ended March 31, 2024, and 2023, our Bundled Distribution revenue was \$1.1 million and \$1.4 million, respectively. This 19% decline was primarily the result of revised affiliate agreements and the non-renewal of certain partnerships. Bundled Distribution is a challenging revenue stream given the pressures being felt in the linear pay television business worldwide.

### ***Enterprise***

Our Enterprise business is comprised primarily of providing subscriptions in bulk to companies and organizations that in turn offer these subscriptions to their employees and members as an employment benefit or “gift of curiosity.”

### ***Other***

We provide advertising and sponsorships services through developing integrated digital brand partnerships designed to offer the chance to be associated with CuriosityStream content in a variety of forms, including short- and long-form program integration; branded social media promotional videos; broadcast advertising spots in our video and audio programs that are made available on our linear programming channels or in front of the paywall; and our increasing focus on digital display ads while delivering our content through advertising-based video-on-demand (AVOD), transactional video-on-demand (TVOD), free advertising-supported streaming television (FAST), YouTube and other similar distribution channels.

In the future, we hope to continue developing integrated digital brand partnerships with advertisers. These sponsorship campaigns offer companies the chance to be associated with CuriosityStream content in the forms described above. We believe the impressions accumulated in these multi-faceted campaigns would result in verifiable metrics for the clients.

For the three months ended March 31, 2024, Other revenue was \$0.1 million, a decline of \$0.2 million, or 65%, from the same period in 2023. This decline was largely due to certain short-term marketing partnerships that we entered into during the early part of 2023, including a \$0.2 million campaign that we provided through a trade and barter arrangement, which were not renewed in 2024.

### **Operating Expenses**

Our primary operating costs relate to the cost of producing and acquiring our content, the costs of advertising and marketing our service, personnel costs, and distribution fees.

For the three months ended March 31, 2024, and 2023, our operating expenses were \$15.7 million and \$20.2 million, respectively, a decrease of \$4.5 million, or 22%.

### ***Cost of Revenues***

Cost of revenues encompasses content amortization, distribution fees, revenue sharing arrangements, hosting and streaming delivery costs, payment processing costs, commission costs, and subtitling and broadcast costs. Producing and co-producing content and commissioned content is generally more costly than content acquired through licenses.

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Distribution fees include payment processing fees and revenue share arrangements with Smart Bundle and digital distributor partners, as well as fees owed to the Spiegel Venture related to our German SVOD service. We pay a fixed percentage distribution fee to our partners for subscribers accessing our platform via App Services to compensate these partners for access to their customer and subscriber bases. The MVPD, vMVPD and digital distributor partners making up our Partner Direct business pay us a license fee, and host and stream our content to their customers via their own platforms, such as set top boxes in the case of most MVPDs. We do not incur billing, streaming or backend costs associated with content distribution through our MVPD, vMVPD and digital distributor partners.

The following table details cost of revenues for the three months ended March 31, 2024, and 2023:

(in thousands)	Three Months Ended March 31,		Change	
	2024	2023	Total	%
Content amortization	\$ 5,215	\$ 5,852	\$ (637)	(11 %)
Other <sup>1</sup>	1,533	3,149	(1,616)	(51 %)
Total cost of revenues	<u>\$ 6,748</u>	<u>\$ 9,001</u>	<u>\$ (2,253)</u>	<u>(62 %)</u>

<sup>1</sup> Includes commissions, distribution fees, production and broadcast, promotions and sponsorships, and other expenses.

For the three months ended March 31, 2024, cost of revenues decreased to \$6.7 million from \$9.0 million, a 62% reduction. This decrease was mostly driven by an 11% decline in content amortization due to fewer presale agreements, as discussed above, a reduction in content acquisitions and releases during the year and the content impairment that we recorded in the third quarter of 2023. Other cost of revenues also declined due to a reduction in revenue share arrangements, including specifically our arrangement with Nebula that expired at the end of 2023.

### **Advertising and Marketing**

Our advertising and marketing expenditures are a primary operating cost for our business. While these costs may fluctuate based on advertising and marketing objectives, we generally focus marketing dollars on efficient customer acquisition methods. For the three months ended March 31, 2024, advertising and marketing expenses remained flat when compared to the same period in 2023.

### **General and Administrative**

Our general and administrative costs are associated with certain administrative functions, including corporate governance, executive management, information technology, finance and human resources. These costs consist largely of compensation expense, subscriptions that support our business, professional services, licenses and rent. While personnel levels may fluctuate based on our needs, we tend to focus on hiring and retaining revenue-generating personnel, such as sales staff and roles that support the improvement, maintenance and marketing of our different revenue streams.

The following table details general and administrative costs for the three months ended March 31, 2024, and 2023:

(in thousands)	Three Months Ended March 31,		Change	
	2024	2023	Total	%
Payroll and related	\$ 2,652	\$ 3,589	\$ (937)	(26 %)
Professional services	1,051	1,927	(876)	(45 %)
Stock-based compensation	689	1,267	(578)	(46 %)
Technology and subscriptions	374	423	(49)	(12 %)
Other <sup>1</sup>	1,036	853	183	21 %
Total general and administrative	<u>\$ 5,802</u>	<u>\$ 8,059</u>	<u>\$ (2,257)</u>	<u>(28 %)</u>

<sup>1</sup> Includes facilities costs, depreciation and amortization, insurance, technology and subscriptions, travel and other expenses.

For the three months ended March 31, 2024, general and administrative expenses decreased to \$5.8 million from \$8.1 million for the same period in 2023. This decrease of \$2.3 million, or 28%, was primarily the result of lower payroll and related costs and stock-based compensation of \$0.9 million and 0.6 million, respectively, primarily driven by our smaller average workforce size as well as reduced incentive compensation. Professional services costs also declined by 45% as we streamlined various outside services during the year and brought certain finance and operations functions internal.

**Other Income (Expense)**

***Change in Fair Value of Warrant Liability***

The fair value of our warrant liability is estimated using the Black-Scholes valuation model that takes into account a number of economic assumptions, including the market price of our Common Stock and its expected volatility. Changes in these inputs from period to period may significantly affect changes in fair values.

***Equity Method Investment Loss***

For the three months ended March 31, 2024, the Company recorded a loss of \$1.8 million compared to a loss of \$0.2 million for the same period in 2023, related to its investments in the Spiegel Venture and Nebula. This increase in losses is primarily attributable to write-downs recorded by the Spiegel Venture.

**Income Taxes**

For the three months ended March 31, 2024, Income tax expense was immaterial. For the comparative period in 2023, the provision for income taxes was \$0.1 million, primarily due to losses generated before income taxes. Our provision for income taxes differs from the federal statutory rate primarily due to the Company being in a full valuation allowance position and not recognizing a tax benefit attributable to generated losses for either federal or state income tax purposes.

***LIQUIDITY AND CAPITAL RESOURCES***

**Liquidity**

As of March 31, 2024, the Company's cash and cash equivalents, including restricted cash, totaled \$38.9 million. For the three months ended March 31, 2024, the Company incurred a net loss of \$5.0 million and generated \$0.7 million of net cash in operating activities. There were no significant cash flows from financing activities or investing activities during the three months ended March 31,.

Our cash and cash equivalents mainly consist of investments in institutional money market funds and short-term deposits held at major global financial institutions. We regularly monitor the creditworthiness of the financial institutions and money market fund asset managers with whom we invest our funds, and we maintain a level of liquidity sufficient to allow us to meet our cash needs in both the short term and long term.

We believe that our current cash levels, including investments in money market funds that are readily convertible to cash, will be adequate to support our ongoing operations, capital expenditures and working capital for at least the next twelve months. We believe that we have access to additional funds in the short term and the long term, if needed, through the capital markets to obtain further financing.

We use cash principally to acquire content, promote our service through advertising and marketing, and provide for working capital to operate our business. We have experienced significant net losses since our inception, and, given the significant operating and capital expenditures associated with our business plan, we anticipate that we will continue to incur net losses.

As previously discussed, we began entering into trade and barter transactions in the second quarter of 2023 primarily for the purpose of exchanging content assets through licensing agreements with media counterparties. Our use of these transactions has enabled us to acquire quality content that we can monetize through various distribution channels while preserving our liquidity.

Our Board of Directors declared a quarterly cash dividend of \$0.025 per share, with the first dividend paid on April 30, 2024, for an aggregate amount paid of \$1.3 million. Our Board of Directors declared the next quarterly cash dividend of \$0.025 per share to be paid on July 31, 2024, for an aggregate amount paid of \$1.3 million. We intend to pay regular quarterly dividends.

### Cash Flow Analysis

The following table presents our cash flows from operating, investing and financing activities for the three months ended March 31, 2024, and 2023:

(Unaudited and in thousands)	Three Months Ended March 31,	
	2024	2023
Net cash used in operating activities	\$ 666	\$ (6,308)
Net cash provided by investing activities	—	14,995
Net cash used in financing activities	(6)	(26)
Net increase in cash, cash equivalents and restricted cash	\$ 660	\$ 8,661

### Operating Activities

Cash flows from operating activities primarily consist of net losses, changes to our content assets (including additions and amortization), and other working capital items.

(in thousands)	Three Months Ended March 31,	
	2024	2023
Net loss	\$ (5,035)	\$ (7,751)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities		
Change in fair value of warrant liability	30	74
Additions to content assets	(426)	(3,723)
Change in content liabilities	(333)	(1,206)
Amortization of content assets	5,215	5,852
Stock-based compensation	689	1,267
Equity interests loss	1,756	219
Other depreciation, amortization and non-cash items	239	274
Changes in operating assets and liabilities	(1,469)	(1,314)
Net cash provided by (used in) operating activities	\$ 666	\$ (6,308)

For the three months ended March 31, 2024, our net cash inflow from operating activities was \$0.7 million compared to net cash used in operating activities of \$6.3 million for the three months ended March 31, 2023, an increase in operating cash outflow of \$7.0 million.

Although we reported a net loss of \$5.0 million for the three months ended March 31, 2024, this amount reflected noncash items such as amortization of content assets, stock-based compensation and equity method investment loss of \$5.2 million, \$1.8 million, and \$0.7 million, respectively. Cash used during the quarter included a \$1.5 million change in operating assets and liabilities and additions to content assets and change of content liabilities of \$0.4 million and \$0.3 million, respectively.

For the three months ended March 31, 2023, we reported a net loss of \$7.8 million. This amount reflected noncash items such as amortization of content assets, stock-based compensation and equity method investment loss of \$5.9 million, \$1.3 million and \$0.2 million, respectively. Cash used during the quarter included additions to content assets and changes in content liabilities of \$3.7 million and \$1.2 million, respectively, and changes in operating assets and liabilities of \$1.3 million.

### Investing Activities

Cash flow from investing activities consists of purchases, sales and maturities of investments, business acquisitions and equity investments and purchases of property and equipment.

For the three months ended March 31, 2024, there were no investing activities that resulted in cash inflows or outflows. In contrast, for the same period in 2023, our cash inflows were primarily due to maturities of investments in debt securities.

#### **Capital Expenditures**

Going forward, we expect to continue making expenditures for additions to our content assets and purchases of property and equipment, although at a slower rate than in previous periods. The amount, timing and allocation of capital expenditures are largely discretionary and within management's control. Depending on market conditions, we may choose to defer a portion of our budgeted expenditures until later periods to achieve the desired balance between sources and uses of liquidity and prioritize capital projects that we believe have the highest expected returns and potential to generate cash flow. Subject to financing alternatives, we may also increase our capital expenditures significantly to take advantage of opportunities we consider to be attractive.

#### **OFF BALANCE SHEET ARRANGEMENTS**

As of March 31, 2024, we had no off-balance sheet arrangements.

#### **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

Our discussion and analysis of our financial condition and results of operation is based upon our financial statements, which have been prepared in accordance with U.S. GAAP. Certain amounts included in or affecting the financial statements presented in this Quarterly Report on Form 10-Q and related disclosures must be estimated, requiring management to make assumptions with respect to values or conditions which cannot be known with certainty at the time the financial statements are prepared. Management believes that the accounting policies set forth below comprise the most important "critical accounting policies" for the Company. A critical accounting policy is one which is both important to the portrayal of a company's financial condition and results of operations and requires management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Management evaluates such policies on an ongoing basis, based upon historical results and experience, consultation with experts and other methods that management considers reasonable in the particular circumstances under which the judgments and estimates are made, as well as management's forecasts as to the manner in which such circumstances may change in the future.

For more detailed information on our critical accounting policies, including those related to content assets, revenue recognition and trade and barter transactions, refer to the "Summary of Significant Accounting Policies" section in the Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 25, 2024. This comprehensive discussion helps to ensure that stakeholders have a complete understanding of the accounting methodologies and principles that influence the financial statements presented herein.

#### **RECENT ACCOUNTING PRONOUNCEMENTS**

The information set forth in *Note 2 - Basis of Presentation and Summary of Significant Accounting Policies* in the Unaudited Notes to Interim Consolidated Financial Statements is incorporated herein by reference.

#### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES REGARDING MARKET RISK**

Not applicable.

#### **ITEM 4. CONTROLS AND PROCEDURES**

##### **DISCLOSURE CONTROLS AND PROCEDURES**

We maintain disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in our reports that we file or submit under the Securities Exchange Act of 1934, as amended (the "Exchange Act") are recorded, processed, summarized and reported within the specified time periods in the rules and forms of the SEC, and that such information is accumulated and communicated to the Company's management, including its Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), as appropriate, to allow timely decisions regarding required disclosure.

Our management, with the participation of the CEO and the CFO, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) or 15d-15(e) promulgated under the Exchange Act) as of March 31, 2024. Based on these evaluations, our CEO and CFO concluded that our disclosure controls and procedures were effective as of March 31, 2024.

***CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING***

Our management is required to evaluate, with the participation of our CEO and our CFO, any changes in internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during each fiscal quarter that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. There were no changes in our internal control over financial reporting during the quarter ended March 31, 2024, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II — OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, if determined adversely to us, we believe would individually or in the aggregate have a material adverse effect on our business, results of operations, financial condition or cash flows.

### **ITEM 1A. RISK FACTORS**

Factors that could cause our actual results to differ materially from those in this Quarterly Report on Form 10-Q are any of the risks described in our Annual Report on Form 10-K filed with the SEC on March 25, 2024. Any of these factors could result in a significant or material adverse effect on our results of operations or financial condition. Additional risk factors not presently known to us or that we currently deem immaterial may also impair our business or results of operations.

There have been no material changes from the risk factors previously disclosed under the heading “Risk Factors” in our Annual Report on Form 10-K filed with the SEC on March 25, 2024.

### **ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

None.

### **ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

### **ITEM 4. MINE SAFETY DISCLOSURES**

Not Applicable.

### **ITEM 5. OTHER INFORMATION**

#### ***RULE 10b5-1 TRADING PLANS***

None of the Company's directors or officers adopted, modified or terminated a Rule 10b5-1 trading arrangement or a non-Rule 10b5-1 trading arrangement during the Company's fiscal quarter ended March 31, 2024, as such terms are defined under Item 408(a) of Regulation S-K.



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**ITEM 6. EXHIBITS**

The following exhibits are filed as part of, or incorporated by reference into, this Quarterly Report on Form 10-Q.

Incorporated By Reference						Filed/Furnished Herewith
Exhibit No.	Description	Form	File No.	Exhibit	Filing Date	
3.2	<a href="#">Amended and Restated Bylaws, as amended</a>					X
31.1	<a href="#">Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>					X
31.2	<a href="#">Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes- Oxley Act of 2002</a>					X
32.1*	<a href="#">Certification of the Chief Executive Officer and Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>					X
101. INS**	Inline XBRL Instance Document					X
101. SCH	Inline XBRL Taxonomy Extension Schema Document					X
101. CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document					X
101. LAB	Inline XBRL Taxonomy Extension Label Linkbase Document					X
101. PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document					X
101. DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document					X
104	Cover Page Interactive Data File (as formatted as Inline XBRL and contained in Exhibit 101)					X

\* This document is being furnished with this Form 10-Q. This certification is deemed not filed for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act, or the Exchange Act.

\*\* The instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.

**PART III. SIGNATURES**

In accordance with the requirements of the Exchange Act, the registrant caused this Quarterly Report on Form 10-Q to be signed on its behalf by the undersigned, thereunto duly authorized.

CURIOSITYSTREAM INC.

Date: May 8, 2024

By: /s/ Clint Stinchcomb  
Name: Clint Stinchcomb  
Title: President and Chief Executive Officer  
(Principal Executive Officer)

Date: May 8, 2024

By: /s/ Peter Westley  
Name: Peter Westley  
Title: Chief Financial Officer and Treasurer  
(Principal Financial and Accounting Officer)

AMENDED AND RESTATED BY LAWS  
OF  
CURIOSITYSTREAM INC.  
(THE "CORPORATION")

ARTICLE I  
OFFICES

**Section 1.1. Registered Office.** The registered office of the Corporation within the State of Delaware shall be located at either (a) the principal place of business of the Corporation in the State of Delaware or (b) the office of the corporation or individual acting as the Corporation's registered agent in Delaware.

**Section 1.2. Additional Offices.** The Corporation may, in addition to its registered office in the State of Delaware, have such other offices and places of business, both within and outside the State of Delaware, as the Board of Directors of the Corporation (the "**Board**") may from time to time determine or as the business and affairs of the Corporation may require.

ARTICLE II  
STOCKHOLDERS MEETINGS

**Section 2.1. Annual Meetings.** The annual meeting of stockholders shall be held at such place, either within or without the State of Delaware, and time and on such date as shall be determined by the Board and stated in the notice of the meeting, provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a) and in accordance with the DGCL. At each annual meeting, the stockholders entitled to vote on such matters shall elect those directors of the Corporation to fill any term of a directorship that expires on the date of such annual meeting and may transact any other business as may properly be brought before the meeting.

**Section 2.2. Special Meetings.** Subject to the rights of the holders of any outstanding series of the preferred stock of the Corporation ("**Preferred Stock**"), and to the requirements of applicable law, special meetings of stockholders, for any purpose or purposes, may be called only by the Chairman of the Board, the Chief Executive Officer of the Corporation, or the Board pursuant to a resolution adopted by a majority of the Board, and may not be called by any other person. Special meetings of stockholders shall be held at such place, either within or without the State of Delaware, and at such time and on such date as shall be determined by the Board and stated in the Corporation's notice of the meeting, provided that the Board may in its sole discretion determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a).

**Section 2.3. Notices.** Written notice of each stockholders meeting stating the place, if any, date, and time of the meeting, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, shall be given in the manner permitted by Section 9.3 to each stockholder entitled to vote thereat as of the record date for determining the stockholders entitled to notice of the meeting, by the Corporation not less than 10 nor more than 60 days before the date of the meeting unless otherwise required by the General Corporation Law of the State of Delaware (the "**DGCL**"). If said notice is for a stockholders meeting other than an annual meeting, it shall in addition state the purpose or purposes for which the meeting is called, and the business transacted at such meeting shall be limited to the matters so stated in the Corporation's notice of meeting (or any supplement thereto). Any meeting of stockholders as to which notice has been given may be postponed, and any meeting of stockholders as to which notice has been given may be cancelled, by the Board upon public announcement (as defined in Section 2.7(c)) given before the date previously scheduled for such meeting.

**Section 2.4. Quorum.** Except as otherwise provided by applicable law, the Corporation's Second Amended and Restated Certificate of Incorporation, as the same may be amended or restated from time to time (the "**Certificate of Incorporation**") or these Amended and Restated By Laws, as amended or restated from time to time, the presence, in person or by proxy, at a stockholders meeting of the holders of shares of outstanding capital stock of the Corporation representing one-third (1/3) of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of shares representing one-third (1/3) of the voting power of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. If a quorum shall not be present or represented by proxy at any meeting of the stockholders of the Corporation, the chairman of the meeting may adjourn the meeting from time to time in the manner

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provided in Section 2.6 until a quorum shall attend. The stockholders present at a duly convened meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the voting power of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any such other corporation to vote shares held by it in a fiduciary capacity.

## **Section 2.5. Voting of Shares.**

(a) Voting Lists. The Secretary of the Corporation (the “**Secretary**”) shall prepare, or shall cause the officer or agent who has charge of the stock ledger of the Corporation to prepare and make, at least 10 days before every meeting of stockholders, a complete list of the stockholders of record entitled to vote at such meeting; provided, however, that if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date, arranged in alphabetical order and showing the address and the number of shares registered in the name of each stockholder. Nothing contained in this Section 2.5(a) shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If a meeting of stockholders is to be held solely by means of remote communication as permitted by Section 9.5(a), the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of meeting. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the list required by this Section 2.5(a) or to vote in person or by proxy at any meeting of stockholders.

(b) Manner of Voting. At any stockholders meeting, every stockholder entitled to vote may vote in person or by proxy. If authorized by the Board, the voting by stockholders or proxy holders at any meeting conducted by remote communication may be effected by a ballot submitted by electronic transmission (as defined in Section 9.3), provided that any such electronic transmission must either set forth or be submitted with information from which the Corporation can determine that the electronic transmission was authorized by the stockholder or proxy holder. The Board, in its discretion, or the chairman of the meeting of stockholders, in such person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(c) Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Proxies need not be filed with the Secretary until the meeting is called to order, but shall be filed with the Secretary before being voted. Without limiting the manner in which a stockholder may authorize another person or persons to act for such stockholder as proxy, either of the following shall constitute a valid means by which a stockholder may grant such authority. No stockholder shall have cumulative voting rights.

(i) A stockholder may execute a writing authorizing another person or persons to act for such stockholder as proxy. Execution may be accomplished by the stockholder or such stockholder's authorized officer, director, employee or agent signing such writing or causing such person's signature to be affixed to such writing by any reasonable means, including, but not limited to, by facsimile signature.

(ii) A stockholder may authorize another person or persons to act for such stockholder as proxy by transmitting or authorizing the transmission of an electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder. Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission authorizing another person or persons to act as proxy for a stockholder may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used;

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provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

(d) Required Vote. Subject to the rights of the holders of one or more series of Preferred Stock, voting separately by class or series, to elect directors pursuant to the terms of one or more series of Preferred Stock, at all meetings of stockholders at which a quorum is present, the election of directors shall be determined by a plurality of the votes cast by the stockholders present in person or represented by proxy at the meeting and entitled to vote thereon. All other matters presented to the stockholders at a meeting at which a quorum is present shall be determined by the vote of a majority of the votes cast by the stockholders present in person or represented by proxy at the meeting and entitled to vote thereon, unless the matter is one upon which, by applicable law, the Certificate of Incorporation, these Amended and Restated By Laws or applicable stock exchange rules, a different vote is required, in which case such provision shall govern and control the decision of such matter.

(e) Inspectors of Election. The Board may, and shall if required by law, in advance of any meeting of stockholders, appoint one or more persons as inspectors of election, who may be employees of the Corporation or otherwise serve the Corporation in other capacities, to act at such meeting of stockholders or any adjournment thereof and to make a written report thereof. The Board may appoint one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspectors of election or alternates are appointed by the Board, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall ascertain and report the number of outstanding shares and the voting power of each; determine the number of shares present in person or represented by proxy at the meeting and the validity of proxies and ballots; count all votes and ballots and report the results; determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. No person who is a candidate for an office at an election may serve as an inspector at such election. Each report of an inspector shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors.

**Section 2.6. Adjournments.** Any meeting of stockholders, annual or special, may be adjourned by the chairman of the meeting, from time to time, whether or not there is a quorum, to reconvene at the same or some other place. Notice need not be given of any such adjourned meeting if the date, time, and place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the stockholders, or the holders of any class or series of stock entitled to vote separately as a class, as the case may be, may transact any business that might have been transacted at the original meeting. If the adjournment is for more than 30 days, notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If, after the adjournment, a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 9.2, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

**Section 2.7. Advance Notice for Business .**

(a) Annual Meetings of Stockholders. No business may be transacted at an annual meeting of stockholders, other than business that is either (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the annual meeting by or at the direction of the Board or (iii) otherwise properly brought before the annual meeting by any stockholder of the Corporation (x) who is a stockholder of record entitled to vote at such annual meeting on the date of the giving of the notice provided for in this Section 2.7(a) and on the record date for the determination of stockholders entitled to vote at such annual meeting and (y) who complies with the notice procedures set forth in this Section 2.7(a). Notwithstanding anything in this Section 2.7(a) to the contrary, only persons nominated for election as a director to fill any term of a directorship that expires on the date of the annual meeting pursuant to Section 3.2 will be considered for election at such meeting.

(i) In addition to any other applicable requirements, for business (other than nominations) to be properly brought before an annual meeting by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary and such business must otherwise be a proper matter for stockholder action. Subject to Section 2.7(a)(iii), a stockholder's notice to the Secretary with respect to such business, to be timely, must be received by the Secretary at the principal executive offices

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of the Corporation not later than the close of business on the 90th day nor earlier than the close of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders (which anniversary date shall, for purposes of the Corporation's first annual meeting of stockholders, be held after the Closing of the merger of the Corporation on May 20, 2021 (the "First Annual meeting"); provided, however, that in the event that the annual meeting is more than 30 days before or more than 60 days after such anniversary date (other than in connection with the First Annual Meeting), notice by the stockholder to be timely must be so delivered not earlier than the close of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting is first made by the Corporation. The public announcement of an adjournment or postponement of an annual meeting shall not commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this Section 2.7(a).

(ii) To be in proper written form, a stockholder's notice to the Secretary with respect to any business (other than nominations) must set forth as to each such matter such stockholder proposes to bring before the annual meeting (A) a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend these Amended and Restated By Laws, the language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (B) the name and record address of such stockholder and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (C) the class or series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and by the beneficial owner, if any, on whose behalf the proposal is made, (D) stockholder description of all agreements, arrangements or understandings (including any contract to purchase or sell, acquisition or grant of any option, right or warrant to purchase or sell swap or other instrument), (E) any material interest of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made in such business and (F) a representation that such stockholder intends to appear in person or by proxy at the annual meeting to bring such business before the meeting.

(iii) The foregoing notice requirements of this Section 2.7(a) shall be deemed satisfied by a stockholder as to any proposal (other than nominations) if the stockholder has notified the Corporation of such stockholder's intention to present such proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and such stockholder has complied with the requirements of such Rule for inclusion of such proposal in a proxy statement prepared by the Corporation to solicit proxies for such annual meeting. No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 2.7(a); provided, however, that once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section 2.7(a) shall be deemed to preclude discussion by any stockholder of any such business. If the Board or the chairman of the annual meeting determines that any stockholder proposal was not made in accordance with the provisions of this Section 2.7(a) or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 2.7(a), such proposal shall not be presented for action at the annual meeting. Notwithstanding the foregoing provisions of this Section 2.7(a), if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such matter may have been received by the Corporation.

(iv) In addition to the provisions of this Section 2.7(a), a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 2.7(a) shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(v) The stockholder providing notice shall further update and supplement its notice of any business proposed to be brought before a meeting, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.7(a) shall be true and correct (A) as of the record date for the meeting and (B) as of the date that is ten business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof. Such update and supplement shall be delivered to the Secretary not later than three business days after the later of the record date or the date

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notice of the record date is first publicly announced (in the case of the update and supplement required to be made as of the record date for the meeting) and not later than seven business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to the meeting), or any adjournment, recess, rescheduling or postponement thereof (in the case of the update and supplement required to be made as of ten business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof).

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting only pursuant to Section 3.2.

(c) Public Announcement. For purposes of these Amended and Restated By Laws, "**public announcement**" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act (or any successor thereto).

**Section 2.8. Conduct of Meetings**. The chairman of each annual and special meeting of stockholders shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the Chief Executive Officer or if the Chief Executive Officer is not a director, the President (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the President or if the President is not a director, such other person as shall be appointed by the Board. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the chairman of the meeting. The Board may adopt such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with these Amended and Restated By Laws or such rules and regulations as adopted by the Board, the chairman of any meeting of stockholders shall have the right and authority to convene and to adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairman of the meeting, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (e) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The secretary of each annual and special meeting of stockholders shall be the Secretary or, in the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary so appointed to act by the chairman of the meeting. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting.

**Section 2.9. No Consents in Lieu of Meeting**. Any action required or permitted to be taken by the stockholders of the Corporation must be effected by a duly called annual or special meeting of such stockholders and may not be effected by written consent of the stockholders of the Corporation.

### **ARTICLE III DIRECTORS**

**Section 3.1. Powers; Number**. The business and affairs of the Corporation shall be managed by or under the direction of the Board, which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Amended and Restated By Laws required to be exercised or done by the stockholders. Directors need not be stockholders or residents of the State of Delaware. Subject to the Certificate of Incorporation, the number of directors shall be fixed exclusively by resolution of the Board.

#### **Section 3.2. Advance Notice for Nomination of Directors**

(a) Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided by the terms of one or more series of Preferred Stock with respect to the rights of holders of one or more series of Preferred Stock to elect directors. Nominations of persons for election to the Board at any annual meeting of stockholders, or at any special meeting of stockholders called for the purpose of electing directors as set forth in the Corporation's notice of such special meeting, may be made (i) by or at the direction of the Board or (ii) by any stockholder of the Corporation (x) who is

a stockholder of record entitled to vote in the election of directors on the date of the giving of the notice provided for in this [Section 3.2](#) and on the record date for the determination of stockholders entitled to vote at such meeting and (y) who complies with the notice procedures set forth in this [Section 3.2](#).

(b) In addition to any other applicable requirements, for a nomination to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary. To be timely, a stockholder's notice to the Secretary must be received by the Secretary at the principal executive offices of the Corporation (i) in the case of an annual meeting, not later than the close of business on the 90th day nor earlier than the close of business on the 120th day before the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that in the event that the annual meeting is more than 30 days before or more than 60 days after such anniversary date (other than in connection with the First Annual Meeting), notice by the stockholder to be timely must be so received not earlier than the close of business on the 120th day before the meeting and not later than the later of (x) the close of business on the 90th day before the meeting or (y) the close of business on the 10th day following the day on which public announcement of the date of the annual meeting was first made by the Corporation; and (ii) in the case of a special meeting of stockholders called for the purpose of electing directors, not later than the close of business on the 10th day following the day on which public announcement of the date of the special meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting or special meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described in this [Section 3.2](#).

(c) Notwithstanding anything in paragraph (b) to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is greater than the number of directors whose terms expire on the date of the annual meeting and there is no public announcement by the Corporation naming all of the nominees for the additional directors to be elected or specifying the size of the increased Board before the close of business on the 90th day prior to the anniversary date of the immediately preceding annual meeting of stockholders, a stockholder's notice required by this [Section 3.2](#) shall also be considered timely, but only with respect to nominees for the additional directorships created by such increase that are to be filled by election at such annual meeting, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the close of business on the 10th day following the date on which such public announcement was first made by the Corporation.

(d) To be in proper written form, a stockholder's notice to the Secretary must set forth (i) as to each person whom the stockholder proposes to nominate for election as a director (A) the name, age, business address and residence address of the person, (B) the principal occupation or employment of the person (present and for the past five years), (C) the class or series and number of shares of capital stock of the Corporation, if any, that are owned beneficially or of record by the person and (D) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, without regard to the application of the Exchange Act to either the nomination or the Corporation; and (ii) as to the stockholder giving the notice (A) the name and record address of such stockholder as they appear on the Corporation's books and the name and address of the beneficial owner, if any, on whose behalf the nomination is made, (B) the class or series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such stockholder and the beneficial owner, if any, on whose behalf the nomination is made, (C) a description of all agreements, arrangements or understandings (including any contract to purchase or sell, acquisition or grant of any option, right or warrant to purchase or sell, swap or other instrument) (x) relating to the nomination to be made by such stockholder among such stockholder, the beneficial owner, if any, on whose behalf the nomination is made, each proposed nominee and any other person or persons (including their names) or (y) with the intent or effect of which may be to transfer to or from any such person, in whole or in part, any of the economic consequences of ownership of any security of the Corporation or to increase or decrease the voting power of any such person with respect to any security of the Corporation, (D) a representation that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice, (E) any direct or indirect legal, economic or financial interest of such stockholder in the outcome of any vote to be taken at any annual or special meeting of stockholders of the Corporation or any other entity with respect to any matter that is substantially related, directly or indirectly, to any nomination or business proposed by the stockholder giving notice, (F) a certification that each person that the stockholder giving notice is nominating has complied with all applicable federal, state and other legal requirements in connection with its acquisition of shares or other securities of the Corporation and such person's acts or omissions as a stockholder of the Corporation, (G) a representation as to the accuracy of the information set forth in the notice and (H) any other information relating to such stockholder and the beneficial owner, if any, on whose behalf the nomination is made that would be required to be disclosed in a proxy statement or other

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filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected.

(e) If the Board or the chairman of the meeting of stockholders determines that any nomination was not made in accordance with the provisions of this Section 3.2, or that the information provided in a stockholder's notice does not satisfy the information requirements of this Section 3.2, then such nomination shall not be considered at the meeting in question. Notwithstanding the foregoing provisions of this Section 3.2, if the stockholder (or a qualified representative of the stockholder) does not appear at the meeting of stockholders of the Corporation to present the nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Corporation.

(f) In addition to the provisions of this Section 3.2, a stockholder shall also comply with all of the applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 3.2 shall be deemed to affect any rights of the holders of Preferred Stock to elect directors pursuant to the Certificate of Incorporation.

(g) The stockholder providing notice shall further update and supplement its notice of any nomination or other business proposed to be brought before a meeting, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 3.2 shall be true and correct (A) as of the record date for the meeting and (B) as of the date that is ten business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof. Such update and supplement shall be delivered to the Secretary not later than three business days after the later of the record date or the date notice of the record date is first publicly announced (in the case of the update and supplement required to be made as of the record date for the meeting) and not later than seven business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to the meeting), or any adjournment, recess, rescheduling or postponement thereof (in the case of the update and supplement required to be made as of ten business days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof).

**Section 3.3. Compensation.** Unless otherwise restricted by the Certificate of Incorporation or these Amended and Restated By Laws, the Board shall have the authority to fix the compensation of directors, including for service on a committee of the Board, and may be paid either a fixed sum for attendance at each meeting of the Board or other compensation as director. The directors may be reimbursed their expenses, if any, of attendance at each meeting of the Board. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of committees of the Board may be allowed like compensation and reimbursement of expenses for service on the committee.

**Section 3.4. Chairman of the Board.** The Board shall annually elect one of its members to be its chair (the "Chairman of the Board") and shall fill any vacancy in the position of Chairman of the Board at such time and in such manner as the Board shall determine. Except as otherwise provided in these By Laws, the Chairman of the Board shall preside at all meetings of the Board and of stockholders. The Chairman of the Board shall perform such other duties and services as shall be assigned to or required of the Chairman of the Board by the Board.

## ARTICLE IV BOARD MEETINGS

**Section 4.1. Annual Meetings.** The Board shall meet as soon as practicable after the adjournment of each annual stockholders meeting at the place of the annual stockholders meeting unless the Board shall fix another time and place and give notice thereof in the manner required herein for special meetings of the Board. No notice to the directors shall be necessary to legally convene this meeting, except as provided in this Section 4.1.

**Section 4.2. Regular Meetings.** Regularly scheduled, periodic meetings of the Board may be held without notice at such times, dates and places (within or without the State of Delaware) as shall from time to time be determined by the Board.

**Section 4.3. Special Meetings.** Special meetings of the Board (a) may be called by the Chairman of the Board or President and (b) shall be called by the Chairman of the Board, President or Secretary on the written request of at least a majority of directors then in office, or the sole director, as the case may be, and shall be held at such time, date and place (within or without the State of Delaware) as may be determined by the person calling the meeting or, if called upon the request of directors or the sole director, as specified in such written request. Notice of each special meeting of the Board shall be given, as provided in Section 9.3, to each director (i) at least 24 hours before the meeting if such notice is oral notice given personally or by telephone or written notice given by hand delivery or by means of a form of electronic

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transmission and delivery; (ii) at least two days before the meeting if such notice is sent by a nationally recognized overnight delivery service; and (iii) at least five days before the meeting if such notice is sent through the United States mail. If the Secretary shall fail or refuse to give such notice, then the notice may be given by the officer who called the meeting or the directors who requested the meeting. Any and all business that may be transacted at a regular meeting of the Board may be transacted at a special meeting. Except as may be otherwise expressly provided by applicable law, the Certificate of Incorporation, or these Amended and Restated By Laws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice or waiver of notice of such meeting. A special meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 9.4.

**Section 4.4. Quorum; Required Vote** . A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by applicable law, the Certificate of Incorporation or these Amended and Restated By Laws. If a quorum shall not be present at any meeting, a majority of the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**Section 4.5. Consent In Lieu of Meeting** . Unless otherwise restricted by the Certificate of Incorporation or these Amended and Restated By Laws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions (or paper reproductions thereof) are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 4.6. Organization** . The chairman of each meeting of the Board shall be the Chairman of the Board or, in the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) or, in the absence (or inability or refusal to act) of the Chief Executive Officer or if the Chief Executive Officer is not a director, the President (if he or she shall be a director) or in the absence (or inability or refusal to act) of the President or if the President is not a director, a chairman elected from the directors present. The Secretary shall act as secretary of all meetings of the Board. In the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary shall perform the duties of the Secretary at such meeting. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chairman of the meeting may appoint any person to act as secretary of the meeting.

## ARTICLE V COMMITTEES OF DIRECTORS

**Section 5.1. Establishment** . The Board may by resolution of the Board designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board when required by the resolution designating such committee. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee.

**Section 5.2. Available Powers** . Any committee established pursuant to Section 5.1 hereof, to the extent permitted by applicable law and by resolution of the Board, shall have and may exercise all of the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it.

**Section 5.3. Alternate Members** . The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member.

**Section 5.4. Procedures** . Unless the Board otherwise provides, the time, date, place, if any, and notice of meetings of a committee shall be determined by such committee. At meetings of a committee, a majority of the number of members of the committee (but not including any alternate member, unless such alternate member has replaced any absent or disqualified member at the time of, or in connection with, such meeting) shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by applicable law, the Certificate of Incorporation, these Amended and Restated By Laws or the Board. If a quorum is not present at a meeting of a committee, the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a

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quorum is present. Unless the Board otherwise provides and except as provided in these Amended and Restated By Laws, each committee designated by the Board may make, alter, amend and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board is authorized to conduct its business pursuant to Article III and Article IV of these Amended and Restated By Laws.

## ARTICLE VI OFFICERS

**Section 6.1. Officers.** The officers of the Corporation elected by the Board shall be a Chief Executive Officer, a Chief Financial Officer, a Secretary and such other officers (including without limitation, a Chairman of the Board, Presidents, Vice Presidents, Assistant Secretaries and a Treasurer) as the Board from time to time may determine. Officers elected by the Board shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article VI. Such officers shall also have such powers and duties as from time to time may be conferred by the Board. The Chief Executive Officer or President may also appoint such other officers (including without limitation one or more Vice Presidents and Controllers) as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers shall have such powers and duties and shall hold their offices for such terms as may be provided in these Amended and Restated By Laws or as may be prescribed by the Board or, if such officer has been appointed by the Chief Executive Officer or President, as may be prescribed by the appointing officer.

(a) Reserved.

(b) Chief Executive Officer. The Chief Executive Officer shall be the chief executive officer of the Corporation, shall have general supervision of the affairs of the Corporation and general control of all of its business subject to the ultimate authority of the Board, and shall be responsible for the execution of the policies of the Board with respect to such matters, except to the extent any such powers and duties have been prescribed to the Chairman of the Board pursuant to Section 6.1(a) above. In the absence (or inability or refusal to act) of the Chairman of the Board, the Chief Executive Officer (if he or she shall be a director) shall preside when present at all meetings of the stockholders and the Board. The position of Chief Executive Officer and President may be held by the same person and may be held by more than one person.

(c) President. The President shall make recommendations to the Chief Executive Officer on all operational matters that would normally be reserved for the final executive responsibility of the Chief Executive Officer. In the absence (or inability or refusal to act) of the Chairman of the Board and the Chief Executive Officer, the President (if he or she shall be a director) shall preside when present at all meetings of the stockholders and the Board. The President shall also perform such duties and have such powers as shall be designated by the Board. The position of President and Chief Executive Officer may be held by the same person.

(d) Vice Presidents. In the absence (or inability or refusal to act) of the President, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated by the Board) shall perform the duties and have the powers of the President. Any one or more of the Vice Presidents may be given an additional designation of rank or function.

(e) Secretary.

(i) The Secretary shall attend all meetings of the stockholders, the Board and (as required) committees of the Board and shall record the proceedings of such meetings in books to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board and shall perform such other duties as may be prescribed by the Board, the Chairman of the Board, the Chief Executive Officer or President. The Secretary shall have custody of the corporate seal of the Corporation and the Secretary, or any Assistant Secretary, shall have authority to affix the same to any instrument requiring it, and when so affixed, it may be attested by his or her signature or by the signature of such Assistant Secretary. The Board may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing thereof by his or her signature.

(ii) The Secretary shall keep, or cause to be kept, at the principal executive office of the Corporation or at the office of the Corporation's transfer agent or registrar, if one has been appointed, a stock ledger, or duplicate stock ledger, showing the names of the stockholders and their addresses, the number and classes of shares held by each and, with respect to certificated shares, the number and date of certificates issued for the same and the number and date of certificates cancelled.

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(f) Assistant Secretaries. The Assistant Secretary or, if there be more than one, the Assistant Secretaries in the order determined by the Board shall, in the absence (or inability or refusal to act) of the Secretary, perform the duties and have the powers of the Secretary.

(g) Chief Financial Officer. The Chief Financial Officer shall perform all duties commonly incident to that office (including, without limitation, the care and custody of the funds and securities of the Corporation, which from time to time may come into the Chief Financial Officer's hands and the deposit of the funds of the Corporation in such banks or trust companies as the Board, the Chief Executive Officer or the President may authorize).

(h) Treasurer. The Treasurer shall, in the absence (or inability or refusal to act) of the Chief Financial Officer, perform the duties and exercise the powers of the Chief Financial Officer.

**Section 6.2. Term of Office; Removal; Vacancies**. The elected officers of the Corporation shall be appointed by the Board and shall hold office until their successors are duly elected and qualified by the Board or until their earlier death, resignation, retirement, disqualification, or removal from office. Any officer may be removed, with or without cause, at any time by the Board. Any officer appointed by the Chief Executive Officer or President may also be removed, with or without cause, by the Chief Executive Officer or President, as the case may be, unless the Board otherwise provides. Any vacancy occurring in any elected office of the Corporation may be filled by the Board. Any vacancy occurring in any office appointed by the Chief Executive Officer or President may be filled by the Chief Executive Officer, or President, as the case may be, unless the Board then determines that such office shall thereupon be elected by the Board, in which case the Board shall elect such officer.

**Section 6.3. Other Officers**. The Board may delegate the power to appoint such other officers and agents, and may also remove such officers and agents or delegate the power to remove same, as it shall from time to time deem necessary or desirable.

**Section 6.4. Multiple Officeholders; Stockholder and Director Officers**. Any number of offices may be held by the same person unless the Certificate of Incorporation or these Amended and Restated By Laws otherwise provide. Officers need not be stockholders or residents of the State of Delaware.

## ARTICLE VII SHARES

**Section 7.1. Certificated and Uncertificated Shares**. The shares of the Corporation may be certificated or uncertificated, subject to the sole discretion of the Board and the requirements of the DGCL.

**Section 7.2. Multiple Classes of Stock**. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the Corporation shall (a) cause the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights to be set forth in full or summarized on the face or back of any certificate that the Corporation issues to represent shares of such class or series of stock or (b) in the case of uncertificated shares, within a reasonable time after the issuance or transfer of such shares, send to the registered owner thereof a written notice containing the information required to be set forth on certificates as specified in clause (a) above; provided, however, that, except as otherwise provided by applicable law, in lieu of the foregoing requirements, there may be set forth on the face or back of such certificate or, in the case of uncertificated shares, on such written notice a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights.

**Section 7.3. Signatures**. Each certificate representing capital stock of the Corporation shall be signed by or in the name of the Corporation by (a) the Chairman of the Board, the Chief Executive Officer, the President or a Vice President and (b) the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation. Any or all the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar on the date of issue.

**Section 7.4. Consideration and Payment for Shares**.

(a) Subject to applicable law and the Certificate of Incorporation, shares of stock may be issued for such consideration, having in the case of shares with par value a value not less than the par value thereof, and to such persons, as determined from time to time by the Board. The consideration may consist of any tangible or

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intangible property or any benefit to the Corporation including cash, promissory notes, services performed, contracts for services to be performed or other securities, or any combination thereof.

(b) Subject to applicable law and the Certificate of Incorporation, shares may not be issued until the full amount of the consideration has been paid, unless upon the face or back of each certificate issued to represent any partly paid shares of capital stock or upon the books and records of the Corporation in the case of partly paid uncertificated shares, there shall have been set forth the total amount of the consideration to be paid therefor and the amount paid thereon up to and including the time said certificate representing certificated shares or said uncertificated shares are issued.

#### **Section 7.5. Lost, Destroyed or Wrongfully Taken Certificates .**

(a) If an owner of a certificate representing shares claims that such certificate has been lost, destroyed or wrongfully taken, the Corporation shall issue a new certificate representing such shares or such shares in uncertificated form if the owner: (i) requests such a new certificate before the Corporation has notice that the certificate representing such shares has been acquired by a protected purchaser; (ii) if requested by the Corporation, delivers to the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, wrongful taking or destruction of such certificate or the issuance of such new certificate or uncertificated shares; and (iii) satisfies other reasonable requirements imposed by the Corporation.

(b) If a certificate representing shares has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the Corporation of that fact within a reasonable time after the owner has notice of such loss, apparent destruction or wrongful taking and the Corporation registers a transfer of such shares before receiving notification, the owner shall be precluded from asserting against the Corporation any claim for registering such transfer or a claim to a new certificate representing such shares or such shares in uncertificated form.

#### **Section 7.6. Transfer of Stock .**

(a) If a certificate representing shares of the Corporation is presented to the Corporation with an endorsement requesting the registration of transfer of such shares or an instruction is presented to the Corporation requesting the registration of transfer of uncertificated shares, the Corporation shall register the transfer as requested if:

(i) in the case of certificated shares, the certificate representing such shares has been surrendered;

(ii) (A) with respect to certificated shares, the endorsement is made by the person specified by the certificate as entitled to such shares; (B) with respect to uncertificated shares, an instruction is made by the registered owner of such uncertificated shares; or (C) with respect to certificated shares or uncertificated shares, the endorsement or instruction is made by any other appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(iii) the Corporation has received a guarantee of signature of the person signing such endorsement or instruction or such other reasonable assurance that the endorsement or instruction is genuine and authorized as the Corporation may request;

(iv) the transfer does not violate any restriction on transfer imposed by the Corporation that is enforceable in accordance with Section 7.8(a); and

(v) such other conditions for such transfer as shall be provided for under applicable law have been satisfied.

(b) Whenever any transfer of shares shall be made for collateral security and not absolutely, the Corporation shall so record such fact in the entry of transfer if, when the certificate for such shares is presented to the Corporation for transfer or, if such shares are uncertificated, when the instruction for registration of transfer thereof is presented to the Corporation, both the transferor and transferee request the Corporation to do so.

**Section 7.7. Registered Stockholders.** Before due presentment for registration of transfer of a certificate representing shares of the Corporation or of an instruction requesting registration of transfer of uncertificated shares, the Corporation may treat the registered owner as the person exclusively entitled to inspect for any proper purpose the stock ledger and the other books and records of the Corporation, vote such shares, receive dividends or notifications with respect to such shares and otherwise exercise all the rights and powers of the owner of such shares, except that a person who is the beneficial owner of such shares (if held in a voting trust or by a nominee on behalf of such person) may, upon

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providing documentary evidence of beneficial ownership of such shares and satisfying such other conditions as are provided under applicable law, may also so inspect the books and records of the Corporation.

#### **Section 7.8. Effect of the Corporation's Restriction on Transfer .**

(a) A written restriction on the transfer or registration of transfer of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, if permitted by the DGCL and noted conspicuously on the certificate representing such shares or, in the case of uncertificated shares, contained in a notice, offering circular or prospectus sent by the Corporation to the registered owner of such shares within a reasonable time prior to or after the issuance or transfer of such shares, may be enforced against the holder of such shares or any successor or transferee of the holder including an executor, administrator, trustee, guardian or other fiduciary entrusted with like responsibility for the person or estate of the holder.

(b) A restriction imposed by the Corporation on the transfer or the registration of shares of the Corporation or on the amount of shares of the Corporation that may be owned by any person or group of persons, even if otherwise lawful, is ineffective against a person without actual knowledge of such restriction unless: (i) the shares are certificated and such restriction is noted conspicuously on the certificate; or (ii) the shares are uncertificated and such restriction was contained in a notice, offering circular or prospectus sent by the Corporation to the registered owner of such shares within a reasonable time prior to or after the issuance or transfer of such shares.

**Section 7.9. Regulations.** The Board shall have power and authority to make such additional rules and regulations, subject to any applicable requirement of law, as the Board may deem necessary and appropriate with respect to the issue, transfer or registration of transfer of shares of stock or certificates representing shares. The Board may appoint one or more transfer agents or registrars and may require for the validity thereof that certificates representing shares bear the signature of any transfer agent or registrar so appointed.

### **ARTICLE VIII INDEMNIFICATION**

**Section 8.1. Right to Indemnification .** To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "**proceeding**"), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (hereinafter an "**Indemnatee**"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such Indemnatee in connection with such proceeding; provided, however, that, except as provided in Section 8.3 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify an Indemnatee in connection with a proceeding (or part thereof) initiated by such Indemnatee only if such proceeding (or part thereof) was authorized by the Board.

**Section 8.2. Right to Advancement of Expenses .** In addition to the right to indemnification conferred in Section 8.1, an Indemnatee shall also have the right to be paid by the Corporation to the fullest extent not prohibited by applicable law the expenses (including, without limitation, attorneys' fees) incurred in defending or otherwise participating in any such proceeding in advance of its final disposition (hereinafter an "**advancement of expenses**"); provided, however, that, if the DGCL requires, an advancement of expenses incurred by an Indemnatee in his or her capacity as a director or officer of the Corporation (and not in any other capacity in which service was or is rendered by such Indemnatee, including, without limitation, service to an employee benefit plan) shall be made only upon the Corporation's receipt of an undertaking (hereinafter an "**undertaking**"), by or on behalf of such Indemnatee, to repay all amounts so advanced if it shall ultimately be determined that such Indemnatee is not entitled to be indemnified under this Article VIII or otherwise.

**Section 8.3. Right of Indemnatee to Bring Suit .** If a claim under Section 8.1 or Section 8.2 is not paid in full by the Corporation within 60 days after a written claim therefor has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be 20 days, the Indemnatee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms

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of an undertaking, the Indemnitee shall also be entitled to be paid the expense of prosecuting or defending such suit. In (a) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by an Indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (b) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover such expenses upon a final judicial decision from which there is no further right to appeal (hereinafter a "**final adjudication**") that, the Indemnitee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including a determination by its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, shall be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise shall be on the Corporation.

**Section 8.4. Non-Exclusivity of Rights.** The rights provided to any Indemnitee pursuant to this Article VIII shall not be exclusive of any other right, which such Indemnitee may have or hereafter acquire under applicable law, the Certificate of Incorporation, these Amended and Restated By Laws, an agreement, a vote of stockholders or disinterested directors, or otherwise.

**Section 8.5. Insurance.** The Corporation may secure and maintain insurance, at its expense, to protect itself and/or any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

**Section 8.6. Indemnification of Other Persons.** This Article VIII shall not limit the right of the Corporation to the extent and in the manner authorized or permitted by law to indemnify and to advance expenses to persons other than Indemnitees. Without limiting the foregoing, the Corporation may, to the extent authorized from time to time by the Board, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation and to any other person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, to the fullest extent of the provisions of this Article VIII with respect to the indemnification and advancement of expenses of Indemnitees under this Article VIII.

**Section 8.7. Amendments.** Any repeal or amendment of this Article VIII by the Board or the stockholders of the Corporation or by changes in applicable law, or the adoption of any other provision of these Amended and Restated By Laws inconsistent with this Article VIII, will, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide broader indemnification rights to Indemnitees on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision; provided however, that amendments or repeals of this Article VIII shall require the affirmative vote of the stockholders holding at least 66.7% of the voting power of all outstanding shares of capital stock of the Corporation.

**Section 8.8. Certain Definitions.** For purposes of this Article VIII, (a) references to "**other enterprise**" shall include any employee benefit plan; (b) references to "**finances**" shall include any excise taxes assessed on a person with respect to an employee benefit plan; (c) references to "**serving at the request of the Corporation**" shall include any service that imposes duties on, or involves services by, a person with respect to any employee benefit plan, its participants, or beneficiaries; and (d) a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interest of the Corporation" for purposes of Section 145 of the DGCL.

**Section 8.9. Contract Rights.** The rights provided to Indemnitees pursuant to this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, agent or employee and shall inure to the benefit of the Indemnitee's heirs, executors and administrators.

**Section 8.10. Severability.** If any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article VIII shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this

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Article VIII (including, without limitation, each such portion of this Article VIII containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.1. Place of Meetings.** If the place of any meeting of stockholders, the Board or committee of the Board for which notice is required under these Amended and Restated By Laws is not designated in the notice of such meeting, such meeting shall be held at the principal business office of the Corporation; provided, however, if the Board has, in its sole discretion, determined that a meeting shall not be held at any place, but instead shall be held by means of remote communication pursuant to Section 9.5 hereof, then such meeting shall not be held at any place.

### **Section 9.2. Fixing Record Dates .**

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the business day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 9.2(a) at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

### **Section 9.3. Means of Giving Notice .**

(a) Notice to Directors. Whenever under applicable law, the Certificate of Incorporation or these Amended and Restated By Laws notice is required to be given to any director, such notice shall be given either (i) in writing and sent by mail, or by a nationally recognized delivery service, (ii) by means of facsimile telecommunication or other form of electronic transmission, or (iii) by oral notice given personally or by telephone. A notice to a director will be deemed given as follows: (i) if given by hand delivery, orally, or by telephone, when actually received by the director, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (iv) if sent by facsimile telecommunication, when sent to the facsimile transmission number for such director appearing on the records of the Corporation, (v) if sent by electronic mail, when sent to the electronic mail address for such director appearing on the records of the Corporation, or (vi) if sent by any other form of electronic transmission, when sent to the address, location or number (as applicable) for such director appearing on the records of the Corporation.

(b) Notice to Stockholders. Whenever under applicable law, the Certificate of Incorporation or these Amended and Restated By Laws notice is required to be given to any stockholder, such notice may be given (i) in writing and sent either by hand delivery, through the United States mail, or by a nationally recognized overnight delivery service for next day delivery, or (ii) by means of a form of electronic transmission consented to by the stockholder, to the extent permitted by, and subject to the conditions set forth in Section 232 of the DGCL. A notice to a stockholder shall be deemed given as follows: (i) if given by hand delivery, when actually received by

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the stockholder, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the stockholder at the stockholder's address appearing on the stock ledger of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the stockholder at the stockholder's address appearing on the stock ledger of the Corporation, and (iv) if given by a form of electronic transmission consented to by the stockholder to whom the notice is given and otherwise meeting the requirements set forth above, (A) if by facsimile transmission, when directed to a number at which the stockholder has consented to receive notice, (B) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice, (C) if by a posting on an electronic network together with separate notice to the stockholder of such specified posting, upon the later of (1) such posting and (2) the giving of such separate notice, and (D) if by any other form of electronic transmission, when directed to the stockholder. A stockholder may revoke such stockholder's consent to receiving notice by means of electronic communication by giving written notice of such revocation to the Corporation. Any such consent shall be deemed revoked if (1) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (2) such inability becomes known to the Secretary or an Assistant Secretary or to the Corporation's transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(c) Electronic Transmission. "**Electronic transmission**" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, including but not limited to transmission by telex, facsimile telecommunication, electronic mail, telegram and cablegram.

(d) Notice to Stockholders Sharing Same Address. Without limiting the manner by which notice otherwise may be given effectively by the Corporation to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Amended and Restated By Laws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. A stockholder may revoke such stockholder's consent by delivering written notice of such revocation to the Corporation. Any stockholder who fails to object in writing to the Corporation within 60 days of having been given written notice by the Corporation of its intention to send such a single written notice shall be deemed to have consented to receiving such single written notice.

(e) Exceptions to Notice Requirements. Whenever notice is required to be given, under the DGCL, the Certificate of Incorporation or these Amended and Restated By Laws, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting that shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

Whenever notice is required to be given by the Corporation, under any provision of the DGCL, the Certificate of Incorporation or these Amended and Restated By Laws, to any stockholder to whom (1) notice of two consecutive annual meetings of stockholders and all notices of stockholder meetings or of the taking of action by written consent of stockholders without a meeting to such stockholder during the period between such two consecutive annual meetings, or (2) all, and at least two payments (if sent by first-class mail) of dividends or interest on securities during a 12-month period, have been mailed addressed to such stockholder at such stockholder's address as shown on the records of the Corporation and have been returned undeliverable, the giving of such notice to such stockholder shall not be required. Any action or meeting that shall be taken or held without notice to such stockholder shall have the same force and effect as if such notice had been duly given. If any such stockholder shall deliver to the Corporation a written notice setting forth such stockholder's then current address, the requirement that notice be given to such stockholder shall be reinstated. In the event that the action taken by the Corporation is such as to require the filing of a certificate with the Secretary of State of Delaware, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to Section 230(b) of the DGCL. The exception in subsection (1) of the first sentence of this paragraph to the requirement that notice be given shall not be applicable to any notice returned as undeliverable if the notice was given by electronic transmission.

**Section 9.4. Waiver of Notice**. Whenever any notice is required to be given under applicable law, the Certificate of Incorporation, or these Amended and Restated By Laws, a written waiver of such notice, signed by the person or

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persons entitled to said notice, or a waiver by electronic transmission by the person entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to such required notice. All such waivers shall be kept with the books of the Corporation. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where a person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

#### **Section 9.5. Meeting Attendance via Remote Communication Equipment .**

(a) Stockholder Meetings. If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders entitled to vote at such meeting and proxy holders not physically present at a meeting of stockholders may, by means of remote communication:

(i) participate in a meeting of stockholders; and

(ii) be deemed present in person and vote at a meeting of stockholders, whether such meeting is to be held at a designated place or solely by means of remote communication, provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxy holder, (B) the Corporation shall implement reasonable measures to provide such stockholders and proxy holders a reasonable opportunity to participate in the meeting and, if entitled to vote, to vote on matters submitted to the applicable stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any stockholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such votes or other action shall be maintained by the Corporation.

(b) Board Meetings. Unless otherwise restricted by applicable law, the Certificate of Incorporation or these Amended and Restated By Laws, members of the Board or any committee thereof may participate in a meeting of the Board or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

**Section 9.6. Dividends**. The Board may from time to time declare, and the Corporation may pay, dividends (payable in cash, property or shares of the Corporation's capital stock) on the Corporation's outstanding shares of capital stock, subject to applicable law and the Certificate of Incorporation.

**Section 9.7. Reserves**. The Board may set apart out of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

**Section 9.8. Contracts and Negotiable Instruments**. Except as otherwise provided by applicable law, the Certificate of Incorporation or these Amended and Restated By Laws, any contract, bond, deed, lease, mortgage or other instrument may be executed and delivered in the name and on behalf of the Corporation by such officer or officers or other employee or employees of the Corporation as the Board may from time to time authorize. Such authority may be general or confined to specific instances as the Board may determine. The Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, the Treasurer or any Vice President may execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation. Subject to any restrictions imposed by the Board, the Chairman of the Board, the Chief Executive Officer, President, the Chief Financial Officer, the Treasurer or any Vice President may delegate powers to execute and deliver any contract, bond, deed, lease, mortgage or other instrument in the name and on behalf of the Corporation to other officers or employees of the Corporation under such person's supervision and authority, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

**Section 9.9. Fiscal Year**. The fiscal year of the Corporation shall be fixed by the Board.

**Section 9.10. Seal**. The Board may adopt a corporate seal, which shall be in such form as the Board determines. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

**Section 9.11. Books and Records**. The books and records of the Corporation may be kept within or outside the State of Delaware at such place or places as may from time to time be designated by the Board.

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**Section 9.12. Resignation.** Any director, committee member or officer may resign by giving notice thereof in writing or by electronic transmission to the Chairman of the Board, the Chief Executive Officer, the President or the Secretary. The resignation shall take effect at the time it is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 9.13. Surety Bonds.** Such officers, employees and agents of the Corporation (if any) such as the Chairman of the Board, the Chief Executive Officer, President or the Board shall be bonded for the faithful performance of their duties and for the restoration to the Corporation, in case of their death, resignation, retirement, disqualification or removal from office, of all books, papers, vouchers, money and other property of whatever kind in their possession or under their control belonging to the Corporation, in such amounts and by such surety companies as the Chairman of the Board, the Chief Executive Officer, President or the Board may determine. The premiums on such bonds shall be paid by the Corporation and the bonds so furnished shall be in the custody of the Secretary.

**Section 9.14. Securities of Other Corporations .** Powers of attorney, proxies, waivers of notice of meeting, consents in writing and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chairman of the Board, the Chief Executive Officer, President, any Vice President or any officers authorized by the Board. Any such officer, may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities, or to consent in writing, in the name of the Corporation as such holder, to any action by such corporation, and at any such meeting or with respect to any such consent shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed. The Board may from time to time confer like powers upon any other person or persons.

**Section 9.15. Amendments.** The Board shall have the power to adopt, amend, alter or repeal the By Laws. The affirmative vote of a majority of the Board shall be required to adopt, amend, alter or repeal the By Laws. The By Laws also may be adopted, amended, altered or repealed by the stockholders; provided, however, that in addition to any vote of the holders of any class or series of capital stock of the Corporation required by applicable law or the Certificate of Incorporation, the affirmative vote of the holders of at least a majority of the voting power (except as otherwise provided in Section 8.7) of all outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders to adopt, amend, alter or repeal the By Laws.

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Clint Stinchcomb, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of CuriosityStream 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 officers 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 officers 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 registrant's board of directors (or persons performing the equivalent function):
  - 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.

Dated: May 8, 2024

By: /s/ Clint Stinchcomb

Name: Clint Stinchcomb

Title: President and Chief Executive Officer  
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER  
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Peter Westley, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of CuriosityStream 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 officers 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 officers 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 registrant's board of directors (or persons performing the equivalent function):
  - 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.

Dated: May 8, 2024

By: /s/ Peter Westley

Name: Peter Westley

Title: Chief Financial Officer

(Principal Financial and Accounting Officer)

**CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER  
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Clint Stinchcomb, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report on Form 10-Q for the quarter ended March 31, 2024 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such report fairly presents, in all material respects, the financial condition and results of operations of CuriosityStream Inc.

Dated: May 8, 2024

By: /s/ Clint Stinchcomb

Name: Clint Stinchcomb

Title: President and Chief Executive Officer  
(Principal Executive Officer)

I, Peter Westley, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that Quarterly Report on Form 10-Q for the quarter ended March 31, 2024 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such report fairly presents, in all material respects, the financial condition and results of operations of CuriosityStream Inc.

Dated: May 8, 2024

By: /s/ Peter Westley

Name: Peter Westley

Title: Chief Financial Officer  
(Principal Financial and Accounting Officer)