Risk Factors Comparison 2024-03-07 to 2023-03-09 Form: 10-K

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Investing in our securities involves a variety of risks and uncertainties, known and unknown, including, among others, those discussed below. Each of the following risks should be carefully considered, together with all the other information included in this Form 10- K, including Management' s Discussion and Analysis of Financial Condition and Results of Operations, our **consolidated** financial statements and the related notes and in our other filings with the SEC. Furthermore, additional risks and uncertainties not presently known to us or that we currently believe to be immaterial may also adversely affect our business. Our business, financial condition, operating results, cash flow and prospects could be materially and adversely affected by any of these risks or uncertainties. Risks Relating to Our Business and Industry We have a history of generating significant losses and may not be able to achieve and sustain profitability. To date, we have not been profitable, and we may never achieve profitability on a full- year or consistent basis. We incurred net losses of $ ~~10~~ **5** , ~~433~~ **872** , 000 for the year ended December 31, ~~2022~~ **2023** . As of December 31, ~~2022~~ **2023** , we had an accumulated deficit of $ ~~82~~ **89** , ~~482~~ **476** , 000. If we continue to experience losses, we may not be able to continue our operations, and investors may lose their entire investment. We continue to pursue business through a variety of channels. These channels may result in the use of a significant amount of our management resources and costs, and we cannot guarantee we will fully realize the expected benefits. We continue to pursue business through a variety of channels. Although we may devote significant resources and costs to the development of these sales channels, we may struggle to successfully identify the channel partners, or to successfully conclude transactions with the channel partners. Should we be unable to identify or conclude important channel partnerships, or if our partners are unable to meet our expectations, our business prospects and operations could be adversely affected as a result of the devotion of significant managerial effort and Company costs required. In addition, there can be no assurance that we would fully realize the potential benefit of the relationships. If we cannot do so, we may be unable to meet future revenue expectations ~~. Our new technology platform may not function as expected or may not be accepted by our clients. In 2022, we completed the migration of all customers to our new platform for our digital accessibility product. We cannot guarantee that our platform will operate as expected or that our new platform will be accepted by our customers. If our new platform does not operate as expected or is not accepted, our ability to pursue and retain business may be damaged and our business and results of operations may be materially and adversely affected~~ . Our future development will require additional capital, and we may be unable to obtain needed capital or financing on satisfactory terms, or at all, which would prevent us from fully developing our business and generating revenues. As of December 31, ~~2022~~ **2023** , we had $ ~~6.~~ 9 **. 2** million in cash **following a $ 7. 0 million loan acquired in November 2023, which will become due in November 2026** . Our business plan will require additional capital expenditures, and our capital outlays could increase substantially over the next several years as we implement our business plan. As a result, we may need to raise additional capital through future private or public equity offerings, strategic alliances or debt financing. Our future capital requirements will depend on many factors, including, among others: market conditions, sales and marketing costs, mergers and acquisition activity, if any, costs of litigation in enforcing our intellectual property rights, and information technology development and acquisition costs. No assurance can be given that we can successfully raise additional equity or debt capital, or that such financing will be available to us on favorable terms, if **at all. We have a $ 7. 0 million loan due in November 2026 that includes certain financial and liquidity covenants. We cannot guarantee we will meet these covenants, obtain sufficient capital to repay the loan on a timely basis or obtain refinancing of the loan on satisfactory terms, or at all, all of which could have a material adverse effect on our business. On November 30, 2023, we entered into a Loan and Security Agreement (the " Loan Agreement ") with SG Credit Partners, Inc. (the " Lender ") pursuant to which we acquired a $ 7. 0 million loan due in November 2026. Under the Loan Agreement, we provided the Lender a first priority security interest in all existing and future acquired assets owned by us. The Loan Agreement contains certain customary covenants that limit our ability to engage in certain transactions. In addition, we must maintain (i) at all times a minimum liquidity of not less than $ 2. 0 million (plus, prior to our payment in full of an earnout related to our BOIA acquisition, an amount equal to the greater of $ 2. 1 million and the expected amount of the earnout) and (ii) minimum monthly recurring revenue levels measured on a trailing three (3) month average basis as of the last day of each calendar month. The minimum monthly recurring revenue levels commence at $ 2. 3 million and increase for each month after the month ending November 30, 2024 to the greater of $ 2. 3 million and 105. 00 % of Borrowers' monthly recurring revenue for the applicable month in the prior year. We cannot guarantee that we will always meet these covenants or that we can obtain sufficient capital to repay the loan on a timely basis, or obtain refinancing of the loan on satisfactory terms, or** at all. Weakened global economic conditions including current and ongoing microeconomic uncertainty may adversely affect our industry, business and results of operations. Our overall performance depends in part on worldwide economic and geopolitical conditions. The United States and other key international economies have experienced cyclical downturns from time to time in which economic activity was impacted by falling demand for a variety of goods and services, restricted credit, poor liquidity, reduced corporate profitability, volatility in credit, equity and foreign exchange markets, bankruptcies and overall uncertainty with respect to the economy. These economic conditions can arise suddenly, and the full impact of such conditions can remain uncertain. In addition, geopolitical developments can increase levels of political and economic unpredictability globally and increase the volatility of global financial markets. Moreover, these conditions can affect the rate of IT spending and could adversely affect our customers' ability or willingness to purchase our software, delay prospective customers' purchasing decisions, reduce the value or duration of their subscription contracts, affect attrition rates, or decrease our ability to collect on accounts receivable, all of which could adversely affect our future sales and operating results. We have been party to litigation and may in the future be party to additional litigation, which could have a material adverse effect on our financial position or results of operations. We are subject to disputes and allegations related to our business operations. Because we are in a technology industry, these disputes may involve claims of intellectual property infringement or misappropriation. We have also been involved in securities law litigation in the past. These and other types of litigation can be very expensive, and we cannot assure you that our insurance policies will cover the costs. Because it is not possible to determine when and whether these disputes and allegations may arise or the ultimate disposition of such matters, the resolution of any such matters, should they arise, could have a material adverse effect on our financial position or results of operations. Market interest rates could remain high or continue to increase our interest costs on future debt and could adversely affect our stock price. If interest rates remain high or continue to increase, so could our interest costs for any new debt. **Our $ 7. 0 million term loan has an interest rate equal to 6. 25 % in excess of the base rate, which is defined as the greater of the prime rate and 7. 00 % per annum, payable in cash on a monthly basis. Consequently, our interest payment obligations are subject to fluctuations in market interest rates.** This increased cost **is outside** ~~could make financing, including the financing~~ of ~~any acquisition~~ **our control** , ~~costlier~~ **and we can provide no assurance that we can refinance the indebtedness on favorable terms, or at all** . We may **also** incur **additional** variable interest rate indebtedness in the future. Rising interest rates could limit our ability to refinance debt when it matures or cause us to pay higher interest rates upon refinancing and increased interest expense on refinanced **indebtedness, assuming we can refinance the** indebtedness. We may pursue new strategic opportunities, including acquisitions, which may result in the use of a significant amount of our management resources or significant costs, and we may not be able to consummate those opportunities or on beneficial terms. We are seeking strategic opportunities, which may include acquisitions, to help us pursue our business objectives. Although we may devote significant time and resources in pursuit of such transactions, we may struggle to successfully identify such opportunities, or to successfully conclude transactions. Should we be unable to identify or conclude important strategic transactions, our business prospects and operations could be adversely affected as a result of the devotion of significant managerial effort required, and the challenges of achieving our objectives in the absence of strategic opportunities. In addition, we may incur significant costs in connection with seeking acquisitions or other strategic opportunities regardless of whether the transaction is completed. Should we be successful in consummating these opportunities, we may not be able to do so on terms that are beneficial to AudioEye. They may also impact our financial position and capital needs which, among other actions, could require us to raise additional capital, which could result in dilution to our stockholders or result in restrictions on our activities, and could cause substantial fluctuations in our results of operations. We may not be able to successfully integrate newly acquired businesses or other strategic relationships, and we may not be able to fully realize the potential benefit of such opportunities. If we do locate and consummate important acquisitions or strategic relationships, we may not be able to integrate those opportunities or successfully realize their full benefit. There are inherent risks in integrating these opportunities, which may include: ● the assumption of liabilities of the acquired businesses that could be greater than anticipated; ● incurring significantly higher than anticipated capital expenditures and operating expenses following the acquisition; ● failing to integrate the operations, customers and personnel of the acquired company or business; ● the diversion of financial and management resources from existing operations; ● the potential loss of key employees or existing customers or adverse effects on existing business relationships with suppliers and customers; ● incorrect estimates made in the accounting for acquisitions, incurrence of non- recurring charges, and write- off of significant amounts of goodwill or other assets that could adversely affect our operating results; ● unforeseen risks and liabilities associated with businesses acquired, including any unknown vulnerabilities in acquired technology or compromises of acquired data; and ● failing to achieve the anticipated benefits of the acquisition. Fully integrating an acquired company or business into our operations may take a significant amount of time. We cannot assure you that we will be successful in overcoming these risks or any other problems encountered with acquisitions. To the extent we do not successfully avoid or overcome the risks or problems related to any acquisitions, our results of operations and financial condition could be adversely affected. We acquired the Bureau of Internet Accessibility...... financial condition could be adversely affected. Our business plan may not be realized. If our business plan proves to be unsuccessful, our business may fail, and you may lose your entire investment. Our operations are subject to all of the risks inherent in the establishment of a growing business enterprise with a limited operating history. The likelihood of our success must be considered in light of the problems, expenses, complications, and delays frequently encountered in connection with the development of a new business. Unanticipated events may occur that could affect the actual results achieved during the forecast periods. Consequently, the actual results of operations during the forecast periods will vary from the forecasts, and such variations may be material. In addition, the degree of uncertainty increases with each successive year presented in our business plan. We cannot assure you that we will succeed in the anticipated operation of our business plan. If our business plan proves to be unsuccessful, our business may fail, and you may lose some or all of your investment. We have experienced and will continue to experience competition as more companies seek to provide products and services similar to our products and services ~~,~~ and **seek to take advantage of changes in technologies.** ~~because~~ **Because** larger and better- financed competitors may affect our ability to compete in the marketplace and achieve profitability, our business may fail. Competition in our market is intense, and we expect competition for our products and services to become even more intense. We compete directly against other companies offering similar products and services that compete or will compete directly with our proposed products and services. We also compete against established vendors in our markets. These companies may incorporate other competitive technologies into their product offerings, whether developed internally or by third parties. There are also established consultants who offer services to help their customers obtain compliance with accessibility standards. In many cases these consultants compete for the same funding from our prospective customers. **Furthermore, recent advances in different technologies, such as artificial intelligence, large language models, and multi- modal models, may impact our industry, and it is unclear whether we or our competitors will be able to take advantage of these advances.** For the foreseeable future, many of our competitors may be larger, better- financed companies that may develop products superior to our current and proposed products, which could create significant competitive advantages for those companies. Our future success depends on our ability to compete effectively with our competitors **or other technologies** . As a result, we may have difficulty competing with larger, established competitors. Generally, these competitors may have: ● substantially greater financial, technical, and marketing resources; ● a larger customer base; ● better name recognition; **● access to different and evolving technologies;** and ● more expansive or different product offerings. These competitors may command a larger market share than we do, which may enable them to establish a stronger competitive position, in part, through greater marketing opportunities. Further, our competitors may be able to respond more quickly than we are to new or emerging technologies and changes in user preferences and to devote greater resources to developing new products and offering new services. These competitors may develop products or services that are comparable or superior to ours. If we fail to address competitive developments quickly and effectively, we may not be able to remain a viable business **We acquired the Bureau** of Internet Accessibility Inc.(" BOIA ") on March 9,2022,and we cannot assure you that will successfully integrate the business or that the acquisition will bring us the expected benefits.On March 9,2022,we acquired Bureau of Internet Accessibility Inc.(" BOIA ").We cannot assure you that we will be able to successfully integrate the business or that we will receive the expected benefits from the acquisition.All of the risks from the prior paragraph apply to the integration of BOIA **,** including ~~the risk~~ that **its success is contingent upon a small number of key employees** ~~we could fail to integrate the customers to new products and services over time~~ .Further,while a significant portion of the aggregate consideration for BOIA is based on BOIA' s revenues for 2022 and 2023,BOIA may ultimately not perform as we hope ~~both during and subsequent to the earn- out period~~ .If it does not,our results **of operations and financial condition could be adversely affected.** . If we are not able to adequately protect our patented rights, our operations may be negatively impacted. Our ability to compete largely depends on the superiority, uniqueness and value of our technology and intellectual property. To protect our intellectual property rights, we rely on a combination of patent, trademark, copyright, and trade secret laws, confidentiality agreements with our employees and third parties, and protective contractual provisions. We cannot assure you that infringement or invalidity claims (or claims for indemnification resulting from infringement claims) will not be asserted or prosecuted against us or that any such assertions or prosecutions will not materially adversely affect our business. Regardless of whether any future claims are valid or can be successfully asserted, defending against such claims could cause us to incur significant costs, could jeopardize or substantially delay a successful outcome in any future litigation, and could divert resources away from our other activities. In addition, assertion of infringement claims could result in injunctions that prevent us from distributing our products. In addition to challenges against our existing patents, any of the following could also reduce the value of our intellectual property now, or in the future: ● our applications for patents, trademarks, and copyrights relating to our business may not be granted and, if granted, may be challenged or invalidated; ● issued trademarks, copyrights or patents may not provide us with any competitive advantages; ● our efforts to protect our intellectual property rights may not be effective in preventing misappropriation of our technology; or ● our efforts may not prevent the development and design by others of products or technologies similar to, competitive with, or superior to those that we develop. Also, we may not be able to effectively protect our intellectual property rights in certain foreign countries where we may do business in the future or from which competitors may operate. Obtaining patents will not necessarily protect our technology or prevent our international competitors from developing similar products or technologies. Our inability to adequately protect our patented rights may have a negative impact on our operations and revenues. In addition, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights in Internet- related businesses are uncertain and still evolving. Because of the growth of the Internet and Internet- related businesses, patent applications are continuously and simultaneously being filed in connection with Internet- related technology. There are a significant number of U. S. and foreign patents and patent applications in our areas of interest, and we believe that there has been, and is likely to continue to be, significant litigation in the industry regarding patent and other intellectual property rights. We may commence legal proceedings against third parties who we believe are infringing on our intellectual property rights, and if we are forced to litigate to defend our intellectual property rights, or to defend claims by third parties against us relating to intellectual property rights, legal fees and court injunctions could adversely affect our financial condition and potentially end our business. We expect an increase in the number of third parties who could violate our patents as the market develops new uses of similar products and consumers continue to increase their adoption of technology and integrate it into their daily lives. There may be the potential need to enter into additional active litigation to defend and enforce our patents. These legal proceedings could continue for several years and may require significant expenditures for legal fees and other expenses. In the event we are not successful through appeal and do not subsequently obtain monetary and injunctive relief, these litigation matters may significantly reduce our financial resources and have a material impact on our ability to continue our operations. The time and effort required of our management to effectively pursue or defend these litigation matters may adversely affect our ability to operate our business, since time spent on matters related to the lawsuits would take away from the time spent on managing and operating the business. We cannot assure you any such potential lawsuits will result in an outcome that is favorable to our stockholders or the Company. The current legal environment for our products and services remains unclear. We cannot assure you that our existing or planned product and service offerings will be in compliance with local, state, and / or federal U. S. laws or the laws of any foreign jurisdiction where we operate or may operate in the future. Further, the legal, regulatory and judicial framework relating to the accessibility of websites may change. We cannot assure you that we will not unintentionally violate new laws or that existing laws will not be modified, that new laws and regulations will not be enacted in the future, or that judicial application of existing laws and regulations might change, which may cause us to be in violation of such laws or render our product and service offerings less needed. More aggressive domestic or international regulation of the Internet may materially and adversely affect our business, financial condition, operating results, and future prospects. Our business greatly depends on the growth of online services, Internet of Things (" IOT "), kiosks, streaming, and other next- generation Internet- based applications, and there is a risk that such growth may not occur as expected, or at all, which would harm our business. The Internet may ultimately prove not to be a viable commercial marketplace for such applications for several reasons, including: ● unwillingness of consumers to shift to and use other such next- generation Internet- based applications; ● refusal to purchase our products and services; ● perception by end- users with respect to product and service quality and performance; ● limitations on access and ease of use; ● congestion leading to delayed or extended response times; ● inadequate development of Internet infrastructure to keep pace with increased levels of use; and ● increased government regulations. Because of these and other factors, the growth of online services, IOT, kiosks, streaming, and other next- generation Internet- based applications may be impeded or not occur as expected. As a result, our business and operations could be adversely impacted. If the market for our online services does not grow as anticipated, our business would be adversely affected. While other next- generation Internet- based applications have grown rapidly in personal and professional use, we cannot assure you that the adoption of our products and services will grow at a comparable rate or grow at all. Our success is dependent on our employees, many of whom are relatively new in their positions with the Company. Our success has depended, and continues to depend, on the efforts and talents of our senior management team and employees, including our engineers, product managers, sales and marketing personnel, and professional services personnel. Many of our employees are relatively new to their positions, and we can provide no assurance that our management team will be able to effectively work together or with all of our employees. If they are unable to do so or our new employees do not work effectively, there may be delays in execution of our business and operating strategies. Our expansion into new products, services, technologies, and geographic regions subjects us to additional business, legal, financial, and competitive risks. We may have limited or no experience in our newer market segments, and our customers may not adopt our new offerings. These offerings may present new and difficult technology challenges, and we may be subject to claims if customers of these offerings experience service disruptions or failures or other quality issues. In addition, profitability, if any, in our newer activities may be lower than in our older activities, and we may not be successful enough in these newer activities to recoup our investments in them. If any of this were to occur, it could damage our reputation, limit our growth, and negatively affect our operating results. We face risks related to system interruption and lack of redundancy. We experience occasional system interruptions and delays that make our websites and services unavailable or slow to respond and prevent us from efficiently providing services to third parties, which may reduce our net sales and the attractiveness of our products and services. If we are unable to continually add software and hardware, effectively upgrade our systems and network infrastructure, and take other steps to improve the efficiency of our systems, it could cause system interruptions or delays and adversely affect our operating results. Our computer and communications systems and operations could be damaged or interrupted by fire, flood, power loss, telecommunications failure, earthquakes, acts of war or terrorism, acts of God, computer viruses, physical or electronic break- ins, and similar events or disruptions. Any of these events could cause system interruption, delays, and loss of critical data, and could prevent us from providing services, which could make our product and service offerings less attractive and subject us to liability. Our systems are not fully redundant, and our disaster recovery planning may not be sufficient. In addition, we may have inadequate insurance coverage to compensate for any related losses. Any of these events could damage our reputation and be expensive to remedy. Government regulation is evolving, and unfavorable changes could harm our business. We are subject to general business regulations and laws, as well as regulations and laws specifically governing the Internet, e- commerce, electronic devices, and other services. Existing and future laws and regulations may impede our growth. These regulations and laws may cover website accessibility, taxation, privacy, data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, consumer protection, web services, the provision of online payment services, information reporting requirements, unencumbered Internet access to our services, the design and operation of websites, and the characteristics and quality of products and services. It is not clear how existing laws governing issues such as property ownership, libel, and personal privacy apply to the Internet, e- commerce, digital content, and web services. Unfavorable regulations and laws could diminish the demand for our products and services and increase our cost of doing business. We may be subject to risks related to government contracts and related procurement regulations. Our contracts with U. S., as well as state, local, and foreign, government entities are subject to various procurement regulations and other requirements relating to their formation, administration, and performance. We may be subject to audits and investigations relating to our government contracts, and any violations could result in various civil and criminal penalties and administrative sanctions, including termination of contracts, refunding or suspending of payments, forfeiture of profits, payment of fines, and suspension or debarment from future government business. In addition, such contracts may provide for termination by the government at any time, without cause. If we do not successfully adapt, enhance or develop new products and services in a cost- effective manner to meet customer demand in the rapidly evolving market for next- generation Internet- based applications and services, our business may fail. The market for next- generation Internet- based applications and services is characterized by rapidly changing technology, evolving industry standards, changes in customer needs, and frequent new service and product introductions. Our future success will depend, in part, on our ability to use new technologies effectively, to continue to develop our technical expertise and proprietary technology, to enhance our existing products and services, and to develop new products and services that meet changing customer needs on a timely and cost- effective basis. We may not be able to adapt quickly enough to changing technology, customer requirements, and industry standards. If we fail to use new technologies effectively, to develop our technical expertise and new products and services, or to enhance existing products and services on a timely basis, either internally or through arrangements with third parties, our product and service offerings may fail to meet customer needs, which would adversely affect our revenues and prospects for growth. In addition, if we are unable to, for technological, legal, financial, or other reasons, adapt in a timely manner to changing market conditions or customer requirements, we could lose customers, strategic alliances, and market share. Sudden changes in user and customer requirements and preferences, the frequent introduction of new products and services embodying new technologies, and the emergence of new industry standards and practices could render our existing products, services and systems obsolete. The emerging nature of products and services in the technology and communications industry and their rapid evolution will require that we continually improve the performance, features, and reliability of our products and services. Our survival and success will depend, in part, on our ability to: ● design, develop, launch and / or license our planned products, services, and technologies that address the increasingly sophisticated and varied needs of our prospective customers; and ● respond to technological advances and emerging industry standards and practices on a cost- effective and timely basis. The development of products and services and other patented technology involves significant technological and business risks and requires substantial expenditures and lead time. We may be unable to use new technologies effectively. Updating our technology internally and licensing new technology from third parties may also require us to incur significant additional expenditures. If our products and services do not continue to gain market acceptance, we may not be able to fund future operations. A number of factors may affect the market acceptance of our products or services or any other products or services we develop or acquire, including, among others: ● the price of our products or services relative to other competitive products and services; ● the perception by users of the effectiveness of our products and services; ● our ability to fund our sales and marketing efforts; and ● the effectiveness of our sales and marketing efforts. If our products and services do not continue to gain market acceptance, we may not be able to fund future operations, including the development of new products and services and / or our sales and marketing efforts for our current products and services, which inability would have a material adverse effect on our business, financial condition, and operating results. We continually develop new products and product enhancements and actively capitalize software development costs, while making educated assumptions to anticipate the attributed revenue to be derived from each development or enhancement. If our assumptions are incorrect or if we are unable to accurately attribute revenue to each respective product or product enhancement, we may have to account for impairment, thus causing us to reverse the capitalized expenditures. Our product developers are consistently programming new products and enhancements to existing products. Under applicable accounting guidance, we make determinations to estimate the useful life of each of these products and enhancements. Based on these determinations, we amortize software expenses over a pre- determined period of time. Should our estimates turn out to be inaccurate or should the business fail to attract new revenue in relation to each respective product or product enhancement, we may have to reverse or write off the related capitalized expenses. Our products and services are highly technical and may contain undetected errors, which could cause harm to our reputation and adversely affect our business. Our products and services are highly technical and complex and, when deployed, may contain errors or defects. Despite testing, some errors in our products and services may only be discovered after they have been installed and used by customers. Any errors or defects discovered in our products and services after commercial release could result in failure to achieve market acceptance, loss of revenue or delay in revenue recognition, loss of customers, and increased service and warranty cost, any of which could adversely affect our business, operating results and financial condition. In addition, we could face claims for product liability, tort, or breach of warranty. The performance of our products and services could have unforeseen or unknown adverse effects on the networks over which they are delivered as well as on third- party applications and services that utilize our products and services, which could result in legal claims against us, harming our business. Furthermore, we expect to provide implementation, consulting, and other technical services in connection with the implementation and ongoing maintenance of our products and services, which typically involves working with sophisticated software, computing systems, and communications systems. Many of our contracts with customers contain provisions relating to warranty disclaimers and liability limitations, but such provisions may not be upheld. Defending a lawsuit, regardless of its merit, is costly and may divert our management' s attention and adversely affect the market' s perception of us and our products and services. In addition, if our business liability insurance coverage proves inadequate or future coverage is unavailable on acceptable terms or at all, our business, operating results and financial condition could be adversely impacted. Malfunctions of third- party communications infrastructure, hardware and software expose us to a variety of risks we cannot control, and those risks could result in harm to our business. Our business depends upon the capacity, reliability and security of the infrastructure owned by third parties over which our product offerings are deployed. We have no control over the operation, quality or maintenance of a significant portion of that infrastructure or over whether those third parties will upgrade or improve their equipment. We do depend on these companies to maintain the operational integrity of our integrated connections. If one or more of these companies is unable or unwilling to supply or expand its levels of service in the future, our operations could be adversely impacted. System interruptions or increases in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of the networks to users. In addition, users depend on real- time communications; outages caused by increased traffic could result in delays and system failures. These types of occurrences could cause users to perceive that our products and services do not function properly and could therefore adversely affect our ability to attract and retain strategic partners and customers. Security and privacy breaches, computer viruses, and cyber- attacks could harm our business, financial condition, results of operations, or reputation. Security and privacy breaches, computer malware and cyber- attacks have become more prevalent, including in our industry. In addition, security and privacy laws are becoming more prevalent and pervasive. Our corporate systems, third- party systems and security measures may be breached due to the actions of outside parties, employee or company error, malfeasance, a combination of these, or otherwise, and, as a result, an unauthorized party may obtain access to our data or any third- party data we may possess, including privacy data. Any such security breach could require us to comply with various breach notification laws and may expose us to litigation, remediation and investigation costs, increased costs for security measures, loss of revenue, damage to our reputation, and potential liability. System failure or interruption or our failure to meet increasing demands on our systems could harm our business. The success of our product and service offerings depends on the uninterrupted operation of various systems, secure data centers, and other computer and communication networks that we use or establish. To the extent the number of users of networks utilizing our future products and services suddenly increases, the technology platform and hosting services which will be required to accommodate a higher volume of traffic may result in slower response times, service interruptions or delays or system failures.

The deployment of our products, services, systems and operations will also be vulnerable to damage or interruption from: ● power loss, transmission cable cuts and other telecommunications failures; ● damage or interruption caused by fire, earthquake and other natural disasters; ● computer viruses or software defects; and ● physical or electronic break- ins, sabotage, intentional acts of vandalism, terrorist attacks and other events beyond our control. System interruptions or failures and increases or delays in response time could result in a loss of potential or existing users and, if sustained or repeated, could reduce the appeal of our products and services to users. These types of occurrences could cause users to perceive that our products and services do not function properly and could therefore adversely affect our ability to attract and retain strategic partners and customers. We do not expect to pay any dividends to holders of our common stock for the foreseeable future, which will affect the extent to which our investors realize any future gains on their investment. We do not anticipate that we will pay any dividends to holders of our common stock in the foreseeable future. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment. We will need to recruit and retain additional qualified personnel to successfully grow our business. Our future success will depend in part on our ability to attract and retain qualified operations, marketing and sales personnel as well as technical personnel. Inability to attract and retain such personnel could adversely affect our business. Competition for technical, sales, marketing and executive personnel is intense, particularly in the technology and Internet sectors. We cannot assure you that we will be able to attract or retain such personnel. **Our new technology platform may not function as expected or may not be accepted by our clients. In 2022, we completed the migration of all customers to our new platform for our digital accessibility product. We cannot guarantee that our platform will continue to operate as expected or that our new platform will be fully accepted by our customers. If our new platform does not operate as expected or is not accepted, our ability to pursue and retain business may be damaged and our business and results of operations may be materially and adversely affected.** If we fail to maintain effective internal control over financial reporting and effective disclosure controls and procedures, we may not be able to report financial results accurately or on a timely basis, or to detect fraud, which could have a material adverse effect on our business and stock price. In connection with this annual report, our management carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures and of the effectiveness of our internal control over financial reporting. Based on that evaluation, our Principal Executive Officer and Principal Financial Officer have concluded that our disclosure controls and procedures and our internal control over financial reporting were effective as of December 31, ~~2022~~ **2023** . Nonetheless, failure to maintain established internal control over financial reporting or to maintain effective disclosure controls and procedures could adversely impact our public disclosures regarding our business, financial condition or results of operations. Upon review of the required internal control over financial reporting, our management and / or our auditors have in the past and may in the future identify material weaknesses and / or significant deficiencies that need to be addressed. Any actual or perceived weaknesses or conditions that need to be addressed in our internal control over financial reporting and disclosure of management ~~'~~ **'** s assessment of the Company' s internal control over financial reporting could adversely impact the price of and our ability to list our common stock and may lead to stockholder claims and regulatory action against us. Failure to maintain effective internal controls in the future could also result in a material misstatement of our annual or quarterly **consolidated** financial statements that would not be prevented or detected on a timely basis and that could cause us to restate our **consolidated** financial statements for a prior period, cause investors to lose confidence in our **consolidated** financial statements and / or limit our ability to raise capital. Additionally, any such failure may also negatively impact our operating results and financial condition, impair our ability to timely file our periodic and other reports with the SEC, consume a significant amount of management' s time, and cause us to incur substantial additional costs relating to the implementation of remedial measures. Risks Related to the Market for Our Common Stock Although our shares of common stock are listed on the Nasdaq Capital Market, historically we have had a limited trading volume and a higher price volatility. This may result in reduced liquidity of our common stock. Although our shares of common stock are listed on the Nasdaq Capital Market under the symbol " AEYE, " historically trading volume in our common stock has been limited. In addition, our stock has also historically seen significant price volatility, which may reduce the liquidity of our common stock. The sale of a significant number of shares of common stock at any particular time could be difficult to achieve at the market prices prevailing immediately before such shares are offered and may limit your liquidity options. If we cannot continue to satisfy the continuing listing criteria of the Nasdaq Capital Market, the exchange may subsequently delist our common stock. The Nasdaq Capital Market requires us to meet certain financial, public float, bid price and liquidity standards on an ongoing basis in order to continue the listing of our common stock. Generally, we must maintain a minimum amount of stockholders' equity and a minimum number of holders of our securities, as well as meet certain disclosure and corporate governance requirements. If we fail to meet any of the continuing listing requirements, our common stock may be subject to delisting. If our common stock is delisted and we are not able to list our common stock on another national securities exchange, we expect our securities would be quoted on an over- the- counter market. If this were to occur, our stockholders could face significant material adverse consequences, including limited availability of market quotations for our common stock and reduced liquidity for the trading of our securities. In addition, we could experience a decreased ability to issue additional securities and obtain additional financing in the future. The market price for our common stock may fluctuate significantly, which could result in substantial losses by our investors. The market price of our common stock may fluctuate significantly in response to numerous factors, some of which are beyond our control, such as: ● the outcomes of potential future patent litigation; ● our ability to monetize our future patents; ● changes in our industry; ● announcements of technological innovations, new products or product enhancements by us or others; ● announcements by us or others of significant strategic partnerships, out- licensing, in- licensing, joint ventures, acquisitions or capital commitments; ● changes in laws or regulations or judicial interpretation of the application of accessibility- related laws and regulations to the internet **; ● our failure to meet any financial covenants, to have sufficient liquidity to repay any of our indebtedness, or to refinance our indebtedness on favorable terms, or at all** ; ● changes in earnings estimates or recommendations by security analysts, if our common stock is covered by analysts; ● investors' general perception of us; ● future issuances of common stock; ● investors' future resales of our securities; ● the addition or departure of key personnel; ● general market conditions, including the volatility of market prices for shares of technology companies, generally, and other factors, including factors unrelated to our operating performance; and ● the other factors described in this " Risk Factors " section. These factors and any corresponding price fluctuations may materially and adversely affect the market price of our common stock and result in substantial losses by our investors. Further, the stock market in general, and the market for technology companies in particular, has experienced extreme price and volume fluctuations in the past. Continued market fluctuations could result in extreme volatility in the price of our common stock, which could cause a decline in the value of our common stock. Price volatility of our common stock might be worse if the trading volume of our common stock is low. In the past, following periods of market volatility, stockholders have often instituted securities class action litigation. We have previously been the target of securities litigation and may in the future be subject to additional securities litigation, which could result in substantial costs to us and divert resources and attention of management from our business, even if we are successful in any such litigation. Future sales of our common stock could also reduce the market price of such stock. Moreover, the liquidity of our common stock is limited, not only in terms of the number of shares that can be bought and sold at a given price, but by delays in the timing of transactions and reduction in security analysts' and the media' s coverage of us, if any. These factors may result in lower prices for our common stock than might otherwise be obtained and could also result in a larger spread between the bid and ask prices for our common stock. In addition, without a large float, our common stock is less liquid than the stock of companies with broader public ownership and, as a result, the trading price of our common stock may be more volatile. In the absence of an active public trading market, an investor may be unable to liquidate its investment in our common stock. Trading of a relatively small volume of our common stock may have a greater impact on the trading price of our stock than would be the case if our public float were larger. We cannot predict the prices at which our common stock will trade in the future. Sales or the availability for sale of a substantial number of shares of our common stock may cause the price of our common stock to decline and adversely affect our ability to raise capital. If our stockholders sell substantial amounts of our common stock in the public market, including pursuant to our currently effective Registration Statement on Form S- 3, such sales or the anticipation of such sales could cause the market price of our common stock to fall. Such circumstances, whether or not sales have occurred or are occurring, also could make more difficult our ability to raise additional financing through the sale of equity or equity- related securities in the future at a time and price that we deem reasonable or appropriate. Issuance of additional shares of common stock in future financings will result in the dilution of our existing stockholders and may also result in a reduction in the market price of our common stock. Our Certificate of Incorporation authorizes the issuance of up to 50, 000, 000 shares of common stock with a $ 0. 00001 par value per share and 10, 000, 000 shares of preferred stock with a $ 0. 00001 par value per share, of which, as of December 31, ~~2022~~ **2023** , approximately 11, ~~551~~ **711** , 000 shares of common stock were issued and outstanding. As of December 31, ~~2022~~ **2023** , we also had outstanding options to purchase an aggregate of approximately ~~156~~ **112** , 000 shares of our common stock, and unvested, or vested but not yet settled, restricted stock units covering an aggregate of approximately 1, ~~803~~ **707** , 000 shares of common stock. The exercise of such options and the settlement of such restricted stock units would further increase the number of our outstanding shares of common stock. From time to time, we may adopt new equity compensation plans or increase the number of shares available for issuance in connection with our existing equity compensation plans. Our board of directors may also choose to issue some or all of our available shares to provide additional financing or acquire businesses. The issuance of any shares under our equity compensation plans, for acquisition, licensing or financing efforts, upon exercise of ~~warrants and~~ options, or settlement of restricted stock units, will dilute the interests of our holders of common stock and cause a reduction in the proportionate ownership and voting power of all then current stockholders. Any such issuances may also result in a reduction in the market price of our common stock. The interests of our controlling stockholders may not coincide with yours and such controlling stockholders may make decisions with which you may disagree. As of ~~February 28~~ **December 31** , 2023, ~~six~~ **four** of our stockholders, two of whom are our Executive Chairman and our Chief Executive Officer, and another of whom is a director, beneficially owned in the aggregate over ~~50~~ **45** % of the voting power of our outstanding shares of common **stock** . As a result, these stockholders may be able to influence the outcome of matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. In addition, this concentration of ownership may delay or prevent a change in control of our company and make some future transactions more difficult or impossible without the support of our controlling stockholders. The interests of our controlling stockholders may not coincide with our interests or the interests of other stockholders. If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline. The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We currently have new research coverage by securities and industry analysts. If one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price and trading volume to decline. ~~16~~ **We are subject to financial reporting and other requirements that place significant demands on our resources. We are subject to reporting and other obligations under the Securities Exchange Act of 1934, as amended, including the requirements of Section 404 of the Sarbanes-Oxley Act of 2002. Section 404 requires us to conduct an annual management assessment of the effectiveness of our internal control over financial reporting. These reporting and other obligations place significant demands on our management, administrative, operational, internal audit and accounting resources. Any failure to maintain effective internal controls could have a material adverse effect on our business, operating results and stock price. Moreover, effective internal control is necessary for us to provide reliable financial reports and prevent fraud. If we cannot provide reliable financial reports or prevent fraud, we may not be able to manage our business as effectively as we would if an**

effective control environment existed, and our business and reputation with investors may be harmed. We may also face claims by our investors, which could harm our business and financial condition. Risks Relating to Our Charter Documents and Capital Structure We are close to being controlled by a small number of “ insider ” stockholders, which could determine corporate and stockholder action on significant matters. As of January 31, 2024, our directors and executive officers beneficially owned an aggregate of 4, 718, 606 of our outstanding shares of common stock, which represents approximately 40 % of the aggregate voting power of our outstanding shares of common stock. As of January 31, 2024, our Chief Executive Officer alone beneficially owned over 29 % of the voting power of our outstanding shares of common stock. Through their collective ownership of our outstanding stock, such holders, if they were to act together, would be close to controlling the voting of our shares at all meetings of stockholders and, because the common stock does not have cumulative voting rights, to determining the outcome of the election of all of our directors and determining corporate and stockholder action on other matters. Provisions of our Certificate of Incorporation and bylaws could discourage potential acquisition proposals and could deter or prevent a change in control. Some provisions in our Certificate of Incorporation and bylaws, as well as statutes, may have the effect of delaying, deterring or preventing a change in control. These provisions, including those providing for the possible issuance of shares of our preferred stock, which may be divided into series and with the preferences, limitations and relative rights to be determined by our board of directors, and the right of the board of directors to amend the bylaws, may make it more difficult for other persons, without the approval of our board of directors, to make a tender offer or otherwise acquire a substantial number of shares of our common stock or to launch other takeover attempts that a stockholder might consider to be in his or her best interest. These provisions could limit the price that some investors might be willing to pay in the future for shares of our common stock. 17