

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

FORM 10-K/A
(Amendment No. 1)

(Mark One)

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

For the fiscal year ended December 31, 2023

or

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: 001-33852



VirnetX Holding Corporation

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

77-0390628
(I.R.S. Employer Identification No.)

308 Dorla Court, Suite 206
Zephyr Cove, Nevada
(Address of principal executive offices)

89448
(Zip Code)

Registrant's telephone number, including area code: 775-548-1785

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 per share	VHC	NYSE

Securities registered pursuant to section 12(g) of the Act:

None

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the 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 Accelerated filer Non-accelerated filer
Emerging growth company Smaller reporting company

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

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

prepared or issued its audit report.

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

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

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2023, was \$29,557,799 based upon the closing price of the common shares of the registrant on June 30, 2023. This calculation does not reflect a determination that certain persons are affiliates of the registrant for any other purpose.

3,681,970 shares of the registrant's Common Stock were outstanding as of March 8, 2024.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this Amendment No. 1 to the Annual Report on Form 10-K/A, to the extent not set forth herein, is incorporated by reference from the registrant's definitive proxy statement to be filed with the Securities and Exchange Commission not later than 120 days after December 31, 2023 relating to the registrant's 2024 Annual Meeting of Stockholders.

Auditor Name: Farber Hass Hurley LLP

Auditor Location: Chatsworth, California

PCAOB ID: 223

EXPLANATORY NOTE

This Form 10-K/A is filed to amend Part IV, Item 15 (Exhibits and Financial Statement Schedules) of the Annual Report on Form 10-K for the fiscal year ended December 31, 2023, as filed on March 15, 2024 (the “Original Annual Report”), of VirnetX Holding Corporation (“we”, “us”, “our”, “the Company” or “VirnetX”), to include the following exhibits: (1) Offer Letter by and between Darl C. McBride and the Company, dated as of December 22, 2023; (2) Outside Director Compensation Policy, as adopted on November 30, 2023; and (3) Compensation Recovery Policy of the Company as adopted November 8, 2023.

Except as described above, this Form 10-K/A does not modify or update disclosure in, or exhibits to, the Original Annual Report. Furthermore, this Form 10-K/A does not change any previously reported financial results, nor does it reflect events occurring after the date of the Original Annual Report. As such, information not affected by this Form 10-K/A remains unchanged and reflects the disclosures made at the time the Original Annual Report was filed. Accordingly, this Form 10-K/A should be read in conjunction with the Original Annual Report and other filings of VirnetX Holding Corporation with the Securities and Exchange Commission.

PART IV

Item 15. Exhibits and Financial Statement Schedules

- (1) *Financial Statements:* See the Index to Consolidated Financial Statements under Item 8 of the Original Annual Report.
 - (2) *Financial Statement Schedule:* Financial statement schedules are omitted because they are not applicable, or the required information is shown in the financial statements or notes thereto. All other schedules are omitted because of the absence of conditions under which they are required or because the required information is given in the financial statements or the notes thereto.
 - (3) *Exhibits:* The documents listed in the Exhibit Index of this Amendment No. 1 to the Annual Report on Form 10-K/A are incorporated by reference or are filed with this Amendment No. 1 to the Annual Report on Form 10-K/A, in each case as indicated therein (numbered in accordance with Item 601 of Regulation S-K).
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EXHIBIT INDEX

Exhibit Number	Description	Incorporated by reference herein				Filed Herewith
		Form	Exhibit No.	Filing Date	File No.	
3.1	Amended and Restated Certificate of Incorporation of the Company, as amended.	8-K	3.1	11/01/2007	000-26895	
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of the Company.	8-K	3.1	10/25/2023	001-33852	
3.3	Amended and Restated Bylaws of the Company.	8-K	3.1	1/27/2023	001-33852	
4.2	Specimen Common Stock Certificate.	S-3	4.1	07/30/2018	333-226413	
4.3	Form of Senior Indenture.	S-3	4.2	07/30/2018	333-226413	
4.4	Form of Subordinated Indenture.	S-3	4.4	07/30/2018	333-226413	
4.5	Description of Capital Stock.	10-K	4.6	03/16/2020	001-33852	
10.1	Form of Indemnification Agreement.	10-K	10.1	03/18/2019	001-33852	
10.2*	2007 Stock Plan, as amended.	10-Q	10.2	05/10/2012	001-33852	
10.3*	Amended Form of Stock Option Agreement – 2007 Stock Plan.	10-Q	4.5	05/10/2011	001-33852	
10.4*	Form of Restricted Stock Unit Award Agreement – 2007 Stock Plan.	10-Q	10.3	05/10/2012	001-33852	
10.5*	2013 Equity Incentive Plan, as amended.	DEF 14A	Appendix A	04/13/2021	001-33852	
10.6*	Amended and Restated 2013 Equity Incentive Plan.	S-8	10.1	06/15/2023	333-272677	
10.7*	Form of Stock Option Agreement – 2013 Equity Incentive Plan and Amended and Restated 2013 Equity Incentive Plan.	10-K	10.6	03/02/2015	001-33852	
10.8*	Form of Restricted Stock Unit Agreement – 2013 Equity Incentive Plan and Amended and Restated 2013 Equity Incentive Plan.	10-K	10.7	03/02/2015	001-33852	
10.9*	Form of Restricted Stock Agreement – Amended and Restated 2013 Equity Incentive Plan.	10-Q	10.2	08/11/2023	001-33852	
10.10	Patent License and Assignment Agreement by and between the Company and Leidos, Inc. (formerly Science Applications International Corporation) dated as of August 12, 2005.	8-K	10.4	07/12/2007	000-26895	
10.11**	Amendment No. 1 to Patent License and Assignment Agreement by and between the Company and Leidos, Inc. dated as of November 2, 2006.	8-K	10.6	07/12/2007	000-26895	
10.12	Amendment No. 2 to Patent License and Assignment Agreement by and between VirnetX, Inc. and Leidos, Inc. dated as of March 12, 2008.	8-K	10.1	03/18/2008	001-33852	
10.13	Security Agreement by and between the Company and Leidos, Inc. dated as of August 12, 2005.	8-K	10.5	07/12/2007	000-26895	
10.14	Assignment Agreement between the Company and Leidos, Inc. dated as of December 21, 2006.	8-K	10.7	07/12/2007	000-26895	
10.15	Professional Services Agreement by and between the Company and Leidos, Inc. dated as of August 12, 2005.	8-K	10.8	07/12/2007	000-26895	
10.16**	Settlement and License Agreement, by and between Microsoft Corporation and VirnetX, Inc., dated May 14, 2010.	10-Q/A	10.1	01/31/2011	001-33852	
10.17**	Amended Settlement and License Agreement, by and between Microsoft Corporation and VirnetX, Inc., dated December 17, 2014.	10-K	10.23	03/02/2015	001-33852	
10.18*	Hire Letter by and between Katherine Allanson and the Company, dated as of September 1, 2021.	10-Q	10.1	11/08/2021	001-33852	
10.19*	Offer Letter by and between Darl C. McBride and the Company, dated as of December 22, 2023.					X

10.20	Cooperation Letter Agreement, dated March 29, 2023, among The Radoff Family Foundation, Bradley L. Radoff, JEC II Associates, LLC, Michael Torok and the Company.	8-K	10.1	03/30/2023	001-33852	
10.21	Warrant to Purchase Shares of Common Stock of the Company by and between the Company and Odeon Capital Group LLC, dated as of April 29, 2020.	10-Q	10.2	05/15/2023	001-33852	
10.22*	Outside Director Compensation Policy, as adopted on November 30, 2023.					X
21.1	Subsidiaries of VirnetX Holding Corporation.	10-K	21.1	03/16/2021	001-33852	
23.1	Consent of Farber Hass Hurley LLP, Independent Registered Public Accounting Firm.	10-K	23.1	3/15/2024	001-33852	
24.1	Power of Attorney (contained on signature page to Original Annual Report).	10-K	24.1	3/15/2024	001-33852	
31.1	Chief Executive Officer Certification pursuant to Rule 13a-14(a) of the Securities Exchange Act.	10-K	31.1	3/15/2024	001-33852	
31.2	Chief Financial Officer Certification pursuant to Rule 13a-14(a) of the Securities Exchange Act.	10-K	31.2	3/15/2024	001-33852	
31.3	Chief Executive Officer Certification pursuant to Rule 13a-14(a) of the Securities Exchange Act.					X
31.4	Chief Financial Officer Certification pursuant to Rule 13a-14(a) of the Securities Exchange Act.					X
32.1†	Chief Executive Officer Certification pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	10-K	32.1	3/15/2024	001-33852	
32.2†	Chief Financial Officer Certification pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	10-K	32.2	3/15/2024	001-33852	
97.1*	Compensation Recovery Policy of the Company as adopted November 8, 2023.					X
101.INS	XBRL Instance Document					X
101.SCH	XBRL Taxonomy Extension Schema Document					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document					X
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)					X

* Indicates management contract or compensatory plan.

** Confidential treatment has been granted by the SEC as to certain portions of this exhibit.

*** Portions of this exhibit have been omitted pending a determination by the SEC as to whether these portions should be granted confidential treatment.

† The certifications attached as Exhibit 32.1 and 32.2 that accompany this Report are not deemed filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of VirnetX Holding Corporation under the Securities Act or the Exchange Act, whether before or after the date of this Report, irrespective of any general incorporation language contained in such filing.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

VirnetX Holding Corporation

By: /s/ Kendall Larsen

Name: Kendall Larsen

Title: Chief Executive Officer and President

Dated: April 18, 2024



Darl McBride
[address]

Dear Mr. McBride,

On behalf of VirnetX Holding Corporation (the "Company"), I am pleased to offer you a promotion to the position of Chief Operating Officer at the Company, effective January 1, 2024 (the "Effective Date"). Following the Effective Date, you will receive an annual salary of \$354,781.44, which will be paid semi-monthly in accordance with the Company's normal payroll procedures. You will remain eligible to participate in certain employee benefit programs generally made available to similarly situated Company employees, including medical, dental and vision insurance, as well as the Company's 401(k) retirement program, subject to the satisfaction of any eligibility requirements and subject to the terms of such benefit programs. In addition, you will be eligible for bonuses subject to performance review. You should note that the Company may modify job titles, salaries, and benefits from time to time as it deems necessary.

In addition, it will be recommended that the Company grant you a restricted stock award covering 6,000 shares of the Company's common stock. 1/2 of such shares shall vest on the one-year anniversary of the vesting commencement date, which shall be the same as the Effective Date, and the remaining of such shares shall vest on the yearly anniversary thereafter, such that all such shares shall be fully vested on the two-year anniversary of the vesting commencement date, subject to your continuing employment with the Company. This restricted stock award shall be subject to the terms and conditions of the Company's Amended and Restated 2013 Equity Incentive Plan and Restricted Stock Award Agreement, including vesting requirements.

The Company is excited about your promotion and looks forward to a continued beneficial and productive relationship. Nevertheless, you should continue to be aware that your employment with the Company is for no specified period and continues to constitute at-will employment. As a result, you are free to resign at any time, for any reason or for no reason. Similarly, the Company is free to conclude its employment relationship with you at any time, with or without cause, and with or without notice. We request that, in the event of resignation, you give the Company at least two weeks' notice.

We also ask that, if you have not already done so, you disclose to the Company all agreements relating to your prior employment that may affect your eligibility to be employed by the Company or limit the manner in which you may be employed. It is the Company's understanding that any such agreements will not prevent you from performing the duties of your position and you represent that such is the case. Moreover, you agree that, during the term of your employment with the Company, you will not engage in any other employment, occupation, consulting, or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of your employment, nor will you engage in any other activities that conflict with your obligations to the Company. Similarly, you agree not to bring any third-party confidential information to the Company, including that of your former employer, and that in performing your duties for the Company you will not in any way utilize any such information.

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Main Office (775) 548-1785 | Fax (775) 580-7527
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As a Company employee, you are expected to abide by the Company's rules and standards. Specifically, like all Company employees, you were required to sign an acknowledgment that you read and understood the Company's rules of conduct which are included in the Company Handbook and your acceptance of this letter agreement confirms that the terms of that acknowledgment still apply.

Like all Company employees, you were required, as a condition of your employment, to sign and comply with an At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement (the "Employment Agreement") which required, among other provisions, the assignment of patent rights to any invention made during your employment at the Company, and non-disclosure of Company proprietary information, and your acceptance of this letter agreement confirms that the terms of the Employment Agreement you previously signed with the Company still apply. In the event of any dispute or claim relating to or arising out of our employment relationship, you and the Company agree that all disputes between you and the Company shall be fully and finally resolved by binding arbitration, pursuant to the terms set forth in the Employment Agreement.

To accept the terms of your continued employment, please sign and date this letter in the space provided below. A duplicate original is enclosed for your records. If you accept the terms of your continued employment, your promotion will be effective January 1, 2024. This letter, along with the Employment Agreement, set forth the terms of your employment with the Company and supersede any prior representations or agreements between you and the Company, whether written or oral. This letter, including, but not limited to, its at-will employment provision, may not be modified or amended except by a written agreement signed by the President of the Company and you.

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We look forward to your favorable reply and continuing to work with you.

Sincerely,

/s/ Kendall Larsen
Kendall Larsen
Chief Executive Officer

Agreed to and accepted:

Signature /s/ Darl McBride
Printed Name Darl McBride
Date 12/22/2023

(Signature Page to Chief Operating Officer Offer Letter to Darl McBride)

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VIRNETX HOLDING CORPORATION

OUTSIDE DIRECTOR COMPENSATION POLICY

(Adopted on November 30, 2023 (the “Effective Date”))

VirnetX Holding Corporation (the “Company”) believes that the granting of equity and cash compensation to its members of the Board of Directors (the “Board,” and members of the Board, the “Directors”) represents an effective tool to attract, retain, and reward Directors who are not employees of the Company (the “Outside Directors”). This Outside Director Compensation Policy (the “Policy”) is intended to formalize the Company’s policy regarding the compensation to its Outside Directors. Unless otherwise defined herein, capitalized terms used in this Policy will have the meaning given to such terms in the Company’s Amended and Restated 2013 Equity Incentive Plan (the “Plan”), or if the Plan is no longer in place, the meaning given to such terms or any similar terms in the equity plan then in place. Each Outside Director will be solely responsible for any tax obligations incurred by such Outside Director as a result of the equity and cash payments such Outside Director receives under this Policy.

This Policy replaces and supersedes all of the Company’s prior director compensation programs and policies, effective as of the Effective Date.

1. CASH COMPENSATION*Annual Cash Retainer*

Each Outside Director will be paid an annual cash retainer of \$75,000. There are no per-meeting attendance fees for attending Board meetings or meetings of any committee of the Board.

Chair / Committee Membership Annual Cash Retainer

Each Outside Director who serves as chair or member of a committee of the Board will be paid additional annual cash retainers as follows:

Chair of Audit Committee:	\$	25,000
Chair of Nominating and Corporate Governance Committee:	\$	15,000
Chair of Compensation Committee:	\$	15,000
Member of Audit Committee, Nominating and Corporate Governance Committee or Compensation Committee (other than the Chair of the applicable committee):	\$	5,000

Each annual cash retainer and additional annual fee will be paid quarterly in arrears on a prorated basis.

The Board in its discretion may change and otherwise revise the terms of the cash compensation granted under this Policy, including, without limitation, the amount of cash compensation to be paid, on or after the date the Board determines to make any such change or revision.

2. EQUITY COMPENSATION

Outside Directors will be eligible to receive all types of Awards (except Incentive Stock Options) under the Plan (or the applicable equity plan in place at the time of grant), including discretionary Awards not covered under this Policy. All grants of Awards to Outside Directors pursuant to Section 2 of this Policy will be made in accordance with the following provisions:

a. No Discretion. No person will have any discretion to select which Outside Directors will be granted any Awards under this Policy or to determine the number of Shares to be covered by such Awards (except as provided in Sections 6 and 9 below).

b. Initial Award. Subject to Section 7 of this Policy, each individual who first becomes an Outside Director following the Effective Date will be granted an award of such number of Shares of Restricted Stock (an “**Initial Award**”) equal to the lesser of (i) 22,500 Shares, or (ii) that number of Shares equal to the quotient obtained by dividing \$450,000 by the Fair Market Value per Share on the date the individual first becomes an Outside Director, rounded down, if necessary, to the nearest whole Share. The Initial Award will be granted by the Board not earlier than the first trading day on or after the date on which such individual first becomes an Outside Director, whether through election by the stockholders of the Company or appointment by the Board to fill a vacancy (such grant date, the “**Initial Award Grant Date**”). If an individual was a member of the Board and also an employee, becoming an Outside Director due to termination of employment will not entitle the Outside Director to an Initial Award.

Subject to Section 3 of this Policy, each Initial Award will be scheduled to vest as follows: 1/3rd of the Shares subject to the Initial Award will be scheduled to vest on each one (1)-year anniversary following the Initial Award Grant Date; provided, however, that any Shares subject to the Initial Award that remain unvested as of the close of business on the day prior to the Company’s third annual meeting of the Company’s stockholders (each, an “**Annual Meeting**”) that occurs after the date on which such individual first becomes an Outside Director shall fully vest on such date, in each case, subject to the Outside Director continuing to be a Service Provider through the applicable vesting date.

c. Annual Award. Subject to Section 7 of this Policy, the Board shall, on an annual basis and not earlier than the date of each Annual Meeting following the Effective Date, grant each Outside Director an award of such number of Shares of Restricted Stock (an “**Annual Award**”) equal to the lesser of (i) 7,500 Shares, or (ii) that number of Shares equal to the quotient obtained by dividing \$150,000 by the Fair Market Value per Share on the date of the Annual Meeting to which such Award relates, rounded down, if necessary, to the nearest whole Share. Notwithstanding the foregoing, any Outside Director who has not been a Director for at least six (6) months prior to the date of the applicable Annual Meeting will not receive an Annual Award.

Subject to Section 3 of this Policy, each Annual Award will be scheduled to vest on the earlier of (i) the one (1)-year anniversary of the date the Annual Award is granted, or (ii) the close of business on the day prior to the date of the Annual Meeting next following the date the Annual Award is granted, in each case, subject to the Outside Director continuing to be a Service Provider through the applicable vesting date.

d. Additional Terms of Initial Awards and Annual Awards. Each Initial Award and Annual Award will be granted under and subject to the terms and conditions of the Plan and the applicable form of Award Agreement previously approved by the Board or its Compensation Committee, as applicable, for use thereunder.

Subject to Section 7 of this Policy, the Board in its discretion may change and otherwise revise the terms of the equity compensation granted under this Policy, including, without limitation, the amount of equity compensation to be paid, on or after the date the Board determines to make any such change or revision.

3. CHANGE IN CONTROL

In the event of a Change in Control, each Outside Director will fully vest in his or her outstanding Company equity awards as of immediately prior to the Change in Control, including any Initial Awards and Annual Awards, provided that the Outside Director continues to be an Outside Director at least until the date of the Change in Control.

4. TRAVEL EXPENSES

Each Outside Director's reasonable, customary, and documented travel expenses to Board meetings will be reimbursed by the Company.

5. ADDITIONAL PROVISIONS

All provisions of the Plan not inconsistent with this Policy will apply to Awards granted to Outside Directors.

6. ADJUSTMENTS

In the event that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, reclassification, repurchase, or exchange of Shares or other securities of the Company, or other change in the corporate structure of the Company affecting the Shares occurs (other than any ordinary dividends or other ordinary distributions), the Administrator, in order to prevent diminution or enlargement of the benefits or potential benefits intended to be made available under this Policy, will adjust the number of Shares issuable pursuant to Awards granted under this Policy or make other reasonable adjustments. The determination of any adjustment under this Section 6 will be made by the Administrator in its sole discretion.

7. **LIMITATIONS**

No Outside Director may be granted, in any Fiscal Year, Awards covering more than 100,000 Shares. Awards granted to an individual while he or she was an Employee or Consultant, but not an Outside Director, shall not count for purposes of this limitation.

8. **SECTION 409A**

In no event will cash compensation or expense reimbursement payments under this Policy be paid after the later of (a) the fifteenth (15th) day of the third (3rd) month following the end of the Company's fiscal year in which the compensation is earned or expenses are incurred, as applicable, or (b) the fifteenth (15th) day of the third (3rd) month following the end of the calendar year in which the compensation is earned or expenses are incurred, as applicable, in compliance with the "short-term deferral" exception under Section 409A of the Internal Revenue Code of 1986, as amended, and the final regulations and guidance thereunder, as may be amended from time to time (together, "**Section 409A**"). It is the intent of this Policy that this Policy and all payments hereunder be exempt from or otherwise comply with the requirements of Section 409A so that none of the compensation to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be so exempt or comply. In no event will the Company reimburse an Outside Director for any taxes imposed or other costs incurred as a result of Section 409A.

9. **REVISIONS**

The Board or any Committee designated by the Board may amend, alter, suspend, or terminate this Policy at any time and for any reason. No amendment, alteration, suspension, or termination of this Policy will materially impair the rights of an Outside Director with respect to compensation that already has been paid or awarded, unless otherwise mutually agreed between the Outside Director and the Company. Termination of this Policy will not affect the Board's or the Compensation Committee's ability to exercise the powers granted to it under the Plan with respect to Awards granted under the Plan pursuant to this Policy prior to the date of such termination.

EXHIBIT 31.3

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

I, Kendall Larsen, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K/A of VirnetX Holding Corporation for the fiscal year ended December 31, 2023; and
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.

/s/ Kendall Larsen

Kendall Larsen
President and Chief Executive Officer
(Principal Executive Officer)

Date: April 18, 2024

EXHIBIT 31.4

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

I, Katherine Allanson, certify that:

1. I have reviewed this Amendment No. 1 to the Annual Report on Form 10-K/A of VirnetX Holding Corporation for the fiscal year ended December 31, 2023; and
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.

/s/ Katherine Allanson

Katherine Allanson

Chief Financial Officer

(Principal Financial Officer and Principal Accounting Officer)

Date: April 18, 2024

VIRNETX HOLDING CORPORATION

COMPENSATION RECOVERY POLICY

As adopted November 8, 2023

VirnetX Holding Corporation (the “**Company**”) is committed to strong corporate governance. As part of this commitment, the Company’s Board of Directors (the “**Board**”) has adopted this clawback policy called the Compensation Recovery Policy (the “**Policy**”). The Policy is intended to further the Company’s pay-for-performance philosophy and to comply with applicable law by providing for the reasonably prompt recovery of certain executive compensation in the event of an Accounting Restatement. Capitalized terms used in the Policy are defined below, and the definitions have substantive impact on its application so reviewing them carefully is important to your understanding.

The Policy, which was approved as set forth above, is intended to comply with Section 10D of the Securities Exchange Act of 1934 (the “**Exchange Act**”), with Exchange Act Rule 10D-1 and with the listing standards of the national securities exchange (the “**Exchange**”) on which the securities of the Company are listed. The Policy will be interpreted in a manner that is consistent with the requirements of Section 10D of the Exchange Act, Exchange Act Rule 10D-1 and with the listing standards of the Exchange, including any interpretive guidance provided by the Exchange.

In summary, the Policy provides rules related to the reasonably prompt recovery of certain incentive-based compensation received by Executive Officers. With limited exceptions, which are detailed below, the application of the Policy to Executive Officers is not discretionary and applies without regard to whether an Executive Officer was at fault, except to the limited extent provided below.

Persons Covered by the Policy

The Policy is binding and enforceable against all Executive Officers. “**Executive Officer**” means each individual who is or was ever designated as an “officer” by the Board in accordance with Exchange Act Rule 16a-1(f). Each Executive Officer will be required to sign and return to the Company an acknowledgement that such Executive Officer will be bound by the terms and comply with the Policy. The failure to obtain such acknowledgement will have no impact on the applicability or enforceability of the Policy.

Administration of the Policy

The Compensation Committee of the Board (the “**Committee**”) of the Board has full delegated authority to administer the Policy. The Committee is authorized to interpret and construe the Policy and to make all determinations necessary, appropriate, or advisable for the administration of the Policy. In addition, if determined in the discretion of the Board, the Policy may be administered by the independent members of the Board or another committee of the Board made up of independent members of the Board, in which case all references to the Committee will be deemed to refer to the independent members of the Board or the other Board committee. All determinations of the Committee will be final and binding and will be given the maximum deference permitted by law.

Events Requiring Application of the Policy

If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (an “**Accounting Restatement**”), then the Committee must determine what compensation, if any, must be recovered.

Compensation Covered by the Policy

The Policy applies to all **Incentive-Based Compensation** (certain terms used in this Section are defined below) that is **Received** on or after October 2, 2023 (the “**Effective Date**”), while the Company has a class of securities listed on a national securities exchange, and during the **Covered Period** by a person who was an Executive Officer during the Covered Period and during the performance period for the Incentive-Based Compensation (“**Clawback Eligible Incentive-Based Compensation**”). The Incentive-Based Compensation that must be recovered is the amount of Clawback Eligible Incentive-Based Compensation that exceeds the amount of Clawback Eligible Incentive-Based Compensation that otherwise would have been Received had such Clawback Eligible Incentive-Based Compensation been determined based on the restated amounts (such compensation, as computed without regard to any taxes paid, the “**Excess Compensation**,” is referred to in the listings standards as “erroneously awarded incentive-based compensation”).

To determine the amount of Excess Compensation for Incentive-Based Compensation based on stock price or total shareholder return, where it is not subject to mathematical recalculation directly from the information in an Accounting Restatement, the amount must be based on a reasonable estimate of the effect of the Accounting Restatement on the stock price or total shareholder return upon which the Incentive-Based Compensation was received and the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange.

“**Incentive-Based Compensation**” means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure. For the avoidance of doubt, no compensation that is potentially subject to recovery under the Policy will be earned until the Company’s right to recover under the Policy has lapsed. The following items of compensation are not Incentive-Based Compensation under the Policy: salaries, bonuses paid solely at the discretion of the Committee or Board that are not paid from a bonus pool that is determined by satisfying a Financial Reporting Measure, bonuses paid solely upon satisfying one or more subjective standards and/or completion of a specified employment period, non-equity incentive plan awards earned solely upon satisfying one or more strategic measures or operational measures, and equity awards for which the grant is not contingent upon achieving any Financial Reporting Measure performance goal and vesting is contingent solely upon completion of a specified employment period (e.g., time-based vesting equity awards) and/or attaining one or more non-Financial Reporting Measures.

“**Financial Reporting Measures**” are measures that are determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also Financial Reporting Measures. A Financial Reporting Measure need not be presented within the financial statements or included in a filing with the Securities and Exchange Commission.

Incentive-Based Compensation is “**Received**” under the Policy in the Company’s fiscal period during which the Financial Reporting Measure specified in the Incentive-Based Compensation award is attained, even if the payment, vesting, settlement or grant of the Incentive-Based Compensation occurs after the end of that period.

“**Covered Period**” means the three completed fiscal years immediately preceding the Accounting Restatement Determination Date. In addition, Covered Period can include certain transition periods resulting from a change in the Company’s fiscal year. The Company’s obligation to recover Excess Compensation is not dependent on if or when the restated financial statements are filed.

“**Accounting Restatement Determination Date**” means the earliest to occur of: (a) the date the Board, a committee of the Board, or one or more of the officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement; and (b) the date a court, regulator, or other legally authorized body directs the Company to prepare an Accounting Restatement.

Repayment of Excess Compensation

The Company must recover such Excess Compensation reasonably promptly and Executive Officers are required to repay Excess Compensation to the Company. Subject to applicable law, the Company may recover such Excess Compensation by requiring the Executive Officer to repay such amount to the Company by direct payment to the Company or such other means or combination of means as the Committee determines to be appropriate (these determinations do not need to be identical as to each Executive Officer). These means may include:

- (a) requiring reimbursement of cash Incentive-Based Compensation previously paid;
- (b) seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer, or other disposition of any equity-based awards;
- (c) offsetting the amount to be recovered from any unpaid or future compensation to be paid by the Company or any affiliate of the Company to the Executive Officer;
- (d) cancelling outstanding vested or unvested equity awards; and/or
- (e) taking any other remedial and recovery action permitted by law, as determined by the Committee.

The repayment of Excess Compensation must be made by an Executive Officer notwithstanding any Executive Officer's belief (whether legitimate or non-legitimate) that the Excess Compensation had been previously earned under applicable law and therefore is not subject to clawback.

In addition to its rights to recovery under the Policy, the Company or any affiliate of the Company may take any legal actions it determines appropriate to enforce an Executive Officer's obligations to the Company or to discipline an Executive Officer, including (without limitation) termination of employment, institution of civil proceedings, reporting of misconduct to appropriate governmental authorities, reduction of future compensation opportunities or change in role. The decision to take any actions described in the preceding sentence will not be subject to the approval of the Committee and can be made by the Board, any committee of the Board, or any duly authorized officer of the Company or of any applicable affiliate of the Company.

Limited Exceptions to the Policy

The Company must recover the Excess Compensation in accordance with the Policy except to the limited extent that the conditions set forth below are met, and the Committee determines that recovery of the Excess Compensation would be impracticable:

- (a) The direct expense paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered. Before reaching this conclusion, the Company must make a reasonable attempt to recover such Excess Compensation, document such reasonable attempt(s) to recover, and provide that documentation to the Exchange; or
- (b) Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the legal requirements as such.

Other Important Information in the Policy

The Policy is in addition to the requirements of Section 304 of the Sarbanes-Oxley Act of 2002 that are applicable to the Company's Chief Executive Officer and Chief Financial Officer, as well as any other applicable laws, regulatory requirements, rules, or pursuant to the terms of any existing Company policy or agreement providing for the recovery of compensation.

Notwithstanding the terms of any of the Company's organizational documents (including, but not limited to, the Company's bylaws), any corporate policy or any contract (including, but not limited to, any indemnification agreement), neither the Company nor any affiliate of the Company will indemnify or provide advancement for any Executive Officer against any loss of Excess Compensation. Neither the Company nor any affiliate of the Company will pay for or reimburse insurance premiums for an insurance policy that covers potential recovery obligations. In the event the Company is required to recover Excess Compensation from an Executive Officer who is no longer an employee pursuant to the Policy, the Company will be entitled to seek such recovery in order to comply with applicable law, regardless of the terms of any release of claims or separation agreement such individual may have signed.

The Committee or Board may review and modify the Policy from time to time.

If any provision of the Policy or the application of any such provision to any Executive Officer is adjudicated to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of the Policy or the application of such provision to another Executive Officer, and the invalid, illegal or unenforceable provisions will be deemed amended to the minimum extent necessary to render any such provision or application enforceable.

The Policy will terminate and no longer be enforceable when the Company ceases to be listed issuer within the meaning of Section 10D of the Exchange Act.

ACKNOWLEDGEMENT

- I acknowledge that I have received and read the Compensation Recovery Policy (the “**Policy**”) of VirnetX Holding Corporation (the “**Company**”).
- I understand and acknowledge that the Policy applies to me, and all of my beneficiaries, heirs, executors, administrators or other legal representatives and that the Company’s right to recovery in order to comply with applicable law will apply, regardless of the terms of any release of claims or separation agreement I have signed or will sign in the future.
- I agree to be bound by and to comply with the Policy and understand that determinations of the Committee (as such term is used in the Policy) will be final and binding and will be given the maximum deference permitted by law.
- I understand and agree that my current indemnification rights, whether in an individual agreement or the Company’s organizational documents, exclude the right to be indemnified for amounts required to be recovered under the Policy.
- I understand that my failure to comply in all respects with the Policy is a basis for termination of my employment with the Company and any affiliate of the Company as well as any other appropriate discipline.
- I understand that neither the Policy, nor the application of the Policy to me, gives rise to a resignation for good reason (or similar concept) by me under any applicable employment agreement or arrangement.
- I acknowledge that if I have questions concerning the meaning or application of the Policy, it is my responsibility to seek guidance from the Compliance Officer or my own personal advisers.
- I acknowledge that neither this Acknowledgement nor the Policy is meant to constitute an employment contract.

Please review, sign and return this form to the Chief Administrative Officer.

Executive

(print name)

(signature)

(date)
