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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 08, 2025

Exodus Movement, Inc.

(Exact name of Registrant as Specified in Its Charter)

Texas
(State or Other Jurisdiction
of Incorporation)

001-42047
(Commission File Number)

81-3548560
(IRS Employer
Identification No.)

**15418 Weir St.
#333
Omaha, Nebraska**
(Address of Principal Executive Offices)

68137
(Zip Code)

Registrant's Telephone Number, Including Area Code: 833 992-2566

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A Common Stock, par value \$0.000001 per share	EXOD	NYSE American LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☒

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

Item 1.01 Entry into a Material Definitive Agreement.

Indemnification Agreements

Exodus Movement, Inc. (the “**Company**”) entered into indemnification agreements with each of its directors and executive officers (collectively, the “**Indemnitees**” and, the “**Indemnification Agreements**”), effective as of December 8, 2025, which replaced and superseded any previous indemnification agreements between the Company and each such individual. The Indemnification Agreements provide for certain indemnification and advancement of expenses by the Company in connection with actions or proceedings arising out of the Indemnitees’ service as directors or officers of the Company or service to other entities at the Company’s request, on the terms and subject to the conditions set forth therein.

The foregoing description of the Indemnification Agreements is not complete and is subject to and qualified in its entirety by reference to the complete text of the Indemnification Agreements, the form of which is attached hereto as Exhibit 10.1 and incorporated herein by reference.

Item 3.03 Material Modification to Rights of Shareholders.

On November 7, 2025, stockholders owning a majority of the voting power of the outstanding shares of Class A Common Stock and Class B Common Stock entitled to vote thereon, acting together as a single class, executed and delivered to the Company a written consent in lieu of a stockholder meeting approving and adopting the redomestication of the Company from the State of Delaware to the State of Texas (the “**Redomestication**”) by means of a plan of conversion (the “**Plan of Conversion**”), as described in the Company’s definitive information statement on Schedule 14C filed with the Securities and Exchange Commission on November 17, 2025 (the “**Information Statement**”). Pursuant to the Plan of Conversion, the Company effected the Redomestication on December 8, 2025 by filing: (i) a certificate of conversion with the Secretary of State of the State of Delaware, (ii) a certificate of conversion with Texas Secretary of State and (iii) a certificate of formation with the Texas Secretary of State (the “**Texas Charter**”). The Company also adopted new bylaws (the “**Texas Bylaws**”) to reflect the Redomestication.

Through the adoption of the Plan of Conversion, at the effective time of the Redomestication:

- The Company continues its existence as a Texas corporation (the “**Texas Corporation**”) and continues to operate its business under the current name “Exodus Movement, Inc.”
 - The internal affairs of the Company ceased to be governed by Delaware law and are instead governed by Texas law.
 - The Company ceased to be governed by its Delaware certificate of incorporation and Delaware bylaws and is instead governed by the provisions of the Texas Charter and the Texas Bylaws.
 - The Redomestication did not result in any change in the Company’s business, management, obligations, assets or liabilities (other than as a result of the transaction costs related to the Redomestication).
 - Each outstanding share of Class A Common Stock of the Company automatically converted into one outstanding share of Class A Common Stock of the Texas Corporation.
 - Each outstanding share of Class B Common Stock of the Company automatically converted into one outstanding share of Class B Common Stock of the Texas Corporation.
 - Stockholders of the Company are not required to exchange their existing stock certificates for new share certificates.
 - Each common stock token that digitally represented a share of the Company’s Class A Common Stock prior to the Redomestication automatically continued in existence and now digitally represents the corresponding share of Class A Common Stock of the Texas Corporation, with no change to the terms, conditions or functionality of the tokens.
 - Each outstanding option, warrant, restricted stock unit or other right to receive, purchase or acquire shares of Class A Common Stock or Class B Common Stock of the Company, as applicable, continues in existence in the form of and automatically became an option, warrant, restricted stock unit or other right to receive, purchase or acquire an equal number of shares of Class A Common Stock or Class B Common Stock of the Texas Corporation, as applicable, under the same terms and conditions.
 - The Class A Common Stock of the Texas Corporation resulting from the conversion continues to be traded on NYSE American under the current symbol “EXOD.” The Redomestication did not cause any interruption in the trading of such Class A Common Stock.
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- The Redomestication did not affect any of the Company’s material contracts with any third parties, and the Company’s rights and obligations under those material contractual arrangements continue to be the rights and obligations of the Company after the Redomestication.
- The Redomestication did not have any material accounting implications.

Certain rights of the Company’s stockholders were changed as a result of the Redomestication. A more detailed description of the Plan of Conversion, Texas Charter, and Texas Bylaws, and the effects of the Redomestication, is set forth under “ACTION 2 – TEXAS REDOMESTICATION” of the Information Statement, and the description contained therein is incorporated herein by reference.

The foregoing descriptions of the Plan of Conversion, the Texas Charter and the Texas Bylaws do not purport to be complete and are subject to and qualified in their entirety by the full text of Plan of Conversion, the Texas Charter and the Texas Bylaws, copies of which are attached hereto as Exhibit 2.1, Exhibit 3.1 and Exhibit 3.2, respectively, and are incorporated by reference herein.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

The information set forth under Item 3.03 is incorporated by reference into this Item 5.03.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit numbers</u>	<u>Description</u>
2.1	<u>Plan of Conversion</u>
3.1	<u>Certificate of Formation of Exodus Movement, Inc.</u>
3.2	<u>Bylaws of Exodus Movement, Inc.</u>
10.1	<u>Form of Indemnification Agreement to be entered into between Exodus Movement, Inc. and its directors and officers</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

EXODUS MOVEMENT, INC.

Date: December 10, 2025

By: /s/ James Gernetzke

James Gernetzke, Chief Financial Officer

PLAN OF CONVERSION

This Plan of Conversion (this “**Plan**”) is adopted as of December 8, 2025 and sets forth certain terms of the conversion of Exodus Movement, Inc., a Delaware corporation (the “**Delaware Corporation**”), to Exodus Movement, Inc., a Texas corporation (the “**Texas Corporation**”), pursuant to the terms of the General Corporation Law of the State of Delaware (as amended, the “**DGCL**”) and the Texas Business Organizations Code (as amended, the “**TBOC**”).

RECITALS:

1. The Delaware Corporation was incorporated on July 25, 2016.
2. Upon the terms and subject to the conditions set forth in this Plan, and in accordance with Section 266 of the DGCL and Title 1, Chapter 10, Subchapter C of the TBOC, the Delaware Corporation will be converted to a Texas Corporation.
3. The Board of Directors of the Delaware Corporation (the “**Board**”) has unanimously (i) determined that the Conversion (as defined below) is advisable and in the best interests of the Delaware Corporation and its stockholders and recommended the approval of the Conversion by the stockholders of the Delaware Corporation and (ii) approved and adopted this Plan, the Conversion and the other documents and transactions contemplated by this Plan, including the Texas Charter, the Texas Bylaws, the Texas Certificate of Conversion and the Delaware Certificate of Conversion (as each is defined below).
4. The stockholders of the Delaware Corporation have approved and adopted this Plan, the Conversion and the other documents and transactions contemplated by this Plan, including the Texas Charter, the Texas Bylaws, the Texas Certificate of Conversion and the Delaware Certificate of Conversion.
5. In connection with the Conversion, at the Effective Time (as defined below), each share of Class A Common Stock, par value \$0.000001 per share (the “**Delaware Class A Common Stock**”), and each share of Class B Common Stock, par value \$0.000001 per share (the “**Delaware Class B Common Stock**”), of the Delaware Corporation issued and outstanding (or held in treasury) immediately prior to the Effective Time shall be converted into one share of Class A Common Stock, par value \$0.000001 per share (the “**Texas Class A Common Stock**”), and one share of Class B Common Stock, par value \$0.000001 per share (the “**Texas Class B Common Stock**”), of the Texas Corporation, respectively.
6. The mode of carrying out the Conversion into effect shall be as described in this Plan.

ARTICLE I THE CONVERSION

- 1.1. Conversion.** At the Effective Time, the Delaware Corporation will be converted to the Texas Corporation, pursuant to, and in accordance with, Section 266 of the DGCL and Title 1, Chapter 10, Subchapter C of the TBOC (the “**Conversion**”), whereupon the Delaware

Corporation will continue its existence in the organizational form of the Texas Corporation, which will be subject to the laws of the State of Texas.

- 1.2. Certificate of Conversion.** Following the approval of the Conversion, including this Plan and the Texas Charter, the Delaware Corporation shall file a certificate of conversion in the form attached hereto as Exhibit A (the “**Delaware Certificate of Conversion**”) with the Secretary of State of the State of Delaware (the “**Delaware Secretary of State**”) and shall file a certificate of conversion in the form attached hereto as Exhibit B (the “**Texas Certificate of Conversion**”) and the certificate of formation in the form attached hereto as Exhibit C (the “**Texas Charter**”) and any and all documents required to be filed with the Secretary of State of the State of Texas (the “**Texas Secretary of State**”) in connection with the Conversion and the Delaware Corporation or the Texas Corporation, as applicable, and shall make all other filings or recordings required by the DGCL or the TBOC in connection with the Conversion.
- 1.3. Effective Time.** The Conversion will become effective upon the filing of the Delaware Certificate of Conversion with the Delaware Secretary of State and the Texas Certificate of Conversion and the Texas Charter with the Texas Secretary of State or at such later time as specified in the Delaware Certificate of Conversion and the Texas Certificate of Conversion (the “**Effective Time**”).

ARTICLE II ORGANIZATION

2.1 Texas Governing Documents. At the Effective Time, the Texas Charter and the bylaws of the Texas Corporation in the form attached hereto as Exhibit D (the “**Texas Bylaws**” and, together with the Texas Charter, the “**Texas Governing Documents**”) shall be the articles of incorporation and bylaws of the Texas Corporation until amended and/or restated in accordance with the Texas Governing Documents and applicable law.

2.2 Directors and Officers. From and after the Effective Time, by virtue of the Conversion and without any further action on the part of the Delaware Corporation or its stockholders, (i) the members of the Board and the officers of the Delaware Corporation holding their respective offices in the Delaware Corporation existing immediately prior to the Effective Time shall continue in their respective offices as members of the Board and officers of the Texas Corporation and (ii) each committee of the Board as of immediately prior to the Effective Time shall be constituted as a committee of the Board of the Texas Corporation, and each member of each committee of the Board of the Delaware Corporation as of immediately prior to the Effective Time shall continue as a member of each corresponding committee of the Board of the Texas Corporation as of the Effective Time.

ARTICLE III EFFECT OF THE CONVERSION

3.1 Effect of Conversion. At the Effective Time, the effect of the Conversion will be as provided by this Plan and by the applicable provisions of the DGCL and the TBOC. Without limitation of the foregoing, for all purposes of the laws of the State of Delaware and the State of Texas, all of the rights, privileges, and powers of the Delaware Corporation, and all property, real, personal, and mixed, and all debts due to the Delaware Corporation, as well as all other things and causes of action belonging to the Delaware Corporation, shall remain vested in the Texas Corporation and shall be the property of the Texas Corporation, and all debts,

liabilities, and duties of the Delaware Corporation shall remain attached to the Texas Corporation, and may be enforced against the Texas Corporation to the same extent as if said debts, liabilities, and duties had originally been incurred or contracted by the Texas Corporation.

3.2 Conversion of Shares. At the Effective Time, by virtue of the Conversion and without any further action by the Delaware Corporation or its stockholders, (i) each share of Delaware Class A Common Stock issued and outstanding or held in treasury immediately before the Effective Time shall be converted into one share of Texas Class A Common Stock, and all options, warrants, restricted stock units or other right to receive, purchase or acquire a share of Delaware Class A Common Stock shall automatically be converted into an option, warrant, restricted stock unit or other entitlement to receive, purchase or acquire a share of Texas Class A Common Stock, (ii) each share of Delaware Class B Common Stock issued and outstanding or held in treasury immediately before the Effective Time shall be converted into one share of Texas Class B Common Stock, and all options, warrants, restricted stock units or other right to receive, purchase or acquire a Delaware Class B Common Stock shall automatically be converted into an option, warrant, restricted stock unit or other entitlement to receive, purchase or acquire a share of Texas Class B Common Stock and (iii) each common stock token representing a share of Delaware Class A Common Stock issued and outstanding immediately prior to the Effective Time shall automatically be converted into a common stock token representing a share of Texas Class A Common Stock. From and after the Effective Time, any stock certificates that immediately prior to the effective time represented issued and outstanding shares of Delaware Class A Common Stock or Delaware Class B Common Stock shall be deemed to represent shares of Texas Class A Common Stock or Texas Class B Common Stock, as applicable, to which such shares of Delaware Class A Common Stock or Delaware Class B Common Stock were converted pursuant to the Conversion. Notwithstanding anything to the contrary herein, shares of Texas Class A Common Stock or Texas Class B Common Stock, including those issued pursuant to the Conversion, may be issued as uncertificated shares.

ARTICLE IV

MISCELLANEOUS

4.1 Abandonment or Amendment. At any time prior to the filing of the Delaware Certificate of Conversion with the Delaware Secretary of State, the Delaware Corporation may abandon the proposed Conversion and terminate this Plan to the extent permitted by law or may amend this Plan.

4.2 Captions. The captions in this Plan are for convenience only and shall not be considered a part, or to affect the construction or interpretation, of any provision of this Plan.

4.3 Tax Reporting. The Conversion is intended to be a “reorganization” for purposes of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and this Plan of Conversion is hereby adopted as a “plan of reorganization” for purposes of the Section 368(a)(1)(F) of the Code.

4.4 Governing Law. This Plan shall be governed by, and construed and interpreted in accordance with, the laws of the State of Delaware.

IN WITNESS WHEREOF, this Plan has been executed on behalf of the Delaware Corporation by its officer thereunto duly authorized, as of the date first set forth above.

EXODUS MOVEMENT, INC.

By: /s/ Jon Paul Richardson

Name: Jon Paul Richardson

Title: Chief Executive Officer

**CERTIFICATE OF FORMATION OF
EXODUS MOVEMENT, INC.**

Exodus Movement, Inc., a corporation organized and existing under the laws of the State of Texas (the “**Company**”), hereby certifies as follows:

1. Exodus Movement, Inc., a Delaware corporation (the “**Delaware Corporation**”), with its registered office in the State of Delaware at 251 Little Falls Drive, City of Wilmington, County of New Castle, Delaware, 19808, was originally incorporated on July 25, 2016.
2. The Delaware Corporation was converted into a corporation incorporated under the laws of the State of Texas under the name “Exodus Movement, Inc.” on December 8, 2025 pursuant to a plan of conversion, under which the Delaware Corporation converted to the Company.

ARTICLE I

The name of the corporation is Exodus Movement, Inc. The Company is a for-profit corporation.

ARTICLE II

The address of the Company’s initial registered office in the State of Texas is 211 East 7th Street, Suite 620, Austin, Texas 78701. The name of its initial registered agent at such address is Corporation Service Company (d/b/a CSC-Lawyers Incorporating Service Company). The initial mailing address of the Company is 15418 Weir Street, #333, Omaha, Nebraska 68137.

ARTICLE III

The purpose of the Company is to engage in any lawful act or activity for which corporations may be organized under the Texas Business Organizations Code (“**TBOC**”), as the same exists or as may hereafter be amended from time to time.

ARTICLE IV

The total number of shares of capital stock the Company has authority to issue is (i) 327,500,000 shares of Common Stock, par value \$0.000001 per share (“**Common Stock**”), divided into two series, consisting of (a) 300,000,000 shares denominated “**Class A Common Stock**” and (b) 27,500,000 shares denominated “**Class B Common Stock**” and (ii) 5,000,000 shares of Preferred Stock, par value \$0.000001 per share (“**Preferred Stock**”).

ARTICLE V

A. COMMON STOCK

Unless otherwise indicated, references to “Sections” in this Article V, Part A refer to sections of this Article V, Part A. The terms and provisions of the Common Stock are as follows:

1. Definitions. For purposes of the Certificate of Formation, the following definitions shall apply:

(a) “**Board of Directors**” shall mean the board of directors of the Company.

(b) “**Certificate of Formation**” shall mean the certificate of formation of the Company, as the same may be amended or supplemented from time to time.

(c)“**Class B Shareholder**” shall mean the initial registered holder or Permitted Transferee of any shares of Class B Common Stock that are originally issued by the Company as of the effectiveness of the Reclassification.

(d)“**Common Stock**” shall mean collectively, the Class A Common Stock and the Class B Common Stock.

(e)“**Distribution**” shall mean the transfer of cash or other property without consideration whether by way of dividend or otherwise, other than dividends on Common Stock payable in Common Stock, or the purchase or redemption of shares of the Company by the Company or its subsidiaries for cash or property other than: (i) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Company or its subsidiaries at a price no greater than cost upon termination of their employment or services pursuant to agreements providing for the right of said repurchase, (ii) repurchases of Common Stock issued to or held by employees, officers, directors or consultants of the Company or its subsidiaries pursuant to rights of first refusal contained in agreements providing for such right, (iii) repurchases of capital stock of the Company in connection with the settlement of disputes with any shareholder *provided* that such repurchases are approved by the Board of Directors, and (iv) any other repurchase or redemption of capital stock of the Company approved by the holders of a majority of the voting power of the Common Stock (voting together as a single class) who are then providing services to the Company as officers or employees in good standing.

(f)“**Final Conversion Date**” shall mean the first date on which the total voting power of all outstanding shares of Class B Common Stock represents less than ten percent (10%) of the total voting power of the Company’s outstanding capital stock.

(g)“**Incapacity**” of a Class B Shareholder shall mean that such holder is incapable of managing his or her financial affairs under the criteria set forth in the applicable probate code or that such holder is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can reasonably be expected to result in death within twelve (12) months or which has lasted or can reasonably be expected to last for a continuous period of not less than twelve

(12) months as determined by a licensed medical practitioner selected by such holder and reasonably acceptable to the Board of Directors. If such holder is incapable of selecting a licensed medical practitioner, then such holder’s spouse shall make the selection on behalf of such holder, or in the absence or incapacity of such holder’s spouse, such holder’s adult children by majority vote shall make the selection on behalf of such holder, or in the absence of adult children of such holder or their inability to act by majority vote, a natural person then acting as the successor trustee of a revocable living trust which was created by such holder and which holds more shares of all classes of capital stock of the Company than any other revocable living trust created by such holder shall make the selection of such holder, or in the absence of any such successor trustee, the legal guardian or conservator or the estate of such holder shall make the selection on behalf of such holder. In the event of a dispute regarding whether a Class B Shareholder has suffered an Incapacity, no Incapacity of such holder will be deemed to have occurred unless and until an affirmative ruling regarding such Incapacity has been made by a court of competent jurisdiction.

(h)“**Recapitalization**” shall mean any stock dividend, stock split, combination of shares, reorganization, recapitalization, reclassification (for the avoidance of doubt, other than the Reclassification) or other similar event.

(i)“**Transfer**” of a share of Class B Common Stock shall mean any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law. A “**Transfer**” shall also include, without limitation, (i) a transfer of a share of Class B Common Stock to a broker or other nominee (regardless of whether or not there is a corresponding change in beneficial ownership) and (ii) the transfer of, or entering into a binding agreement with respect to, Voting Control

over a share of Class B Common Stock by proxy or otherwise; *provided, however*, that the following shall not be considered a “**Transfer**” within the meaning of this Section 1(i): (1) the grant of a proxy to officers or directors of the Company or to other persons approved by the Board of Directors at the request of the Board of Directors in connection with actions to be taken at an annual or special meeting of shareholders or pursuant to an action by shareholder written consent in lieu of a meeting; (2) entering into a support, voting, tender or similar agreement or arrangement (in each case, with or without the grant of a proxy) or consummating the actions or transactions contemplated therein if such agreement or arrangement has been approved by the Board of Directors; or (3) any sale, transfer or other disposition of Class B Common Stock approved by the Board of Directors.

(j) “**Voting Control**” with respect to a share of capital stock or other equity interest, as applicable, shall mean the power (whether exclusive or shared and whether directly or indirectly) to vote or direct the voting of such share or other equity interest, as applicable, by proxy, voting agreement, or otherwise.

2. **Conversion.**

(a) *Voluntary Conversion.* Each one (1) share of Class B Common Stock shall be convertible into one (1) fully paid and nonassessable share of Class A Common Stock at the option of the holder thereof at any time upon notice to the Company in writing or by electronic transmission or, if the Company has a transfer agent, to the transfer agent of the Company or upon the time, or the happening of an event, specified in such notice.

(b) *Automatic Conversion Upon Transfer.* Shares of Class B Common Stock shall automatically, without any further action, convert into an equal number of fully paid and nonassessable shares of Class A Common Stock upon a Transfer of such shares; *provided, however*, that no such automatic conversion shall occur in the case of (x) a Transfer of Class B Common Stock by a Class B Shareholder or such Class B Shareholder’s Permitted Transferees to another Class B Shareholder or such Class B Shareholder’s Permitted Transferees or (y) a Transfer of Class B Common Stock by a Class B Shareholder for tax or estate-planning purposes to any of the persons or entities listed in clauses (i) through (v) below (each, a “**Permitted Transferee**” and such Transfer, a “**Permitted Transfer**”) and from any such Permitted Transferee back to such Class B Shareholder and/or any other Permitted Transferee of such original Class B Shareholder established by or for such Class B Shareholder:

(i) a trust for the benefit of (a) such Class B Shareholder or (b) persons other than the Class B Shareholder so long as, in the case of clause (b), the Class B Shareholder has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust; *provided* such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the Class B Shareholder and, *provided, further*, that in the case of clause (b), in the event such Class B Shareholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(ii) a trust under the terms of which such Class B Shareholder has retained a “qualified interest” within the meaning of Section 2702(b)(1) of the Internal Revenue Code and/or a reversionary interest so long as the Class B Shareholder has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust; *provided* such Transfer does not involve any payment of cash, securities, property or other consideration (other than an interest in such trust) to the Class B Shareholder; *provided, however*, that in the event such Class B Shareholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(iii) an Individual Retirement Account, as defined in Section 408(a) of the Internal Revenue Code, or a pension, profit sharing, stock bonus or other type of plan or trust of which such Class B Shareholder is a participant or beneficiary and which satisfies the requirements for qualification under Section 401 of the Internal Revenue Code; *provided* that in each case such Class B Shareholder has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held in such account, plan or trust, and *provided, further*, that in the event such Class B Shareholder no longer has sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such account, plan or trust, each share of Class B Common Stock then held by such trust shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock;

(iv) a corporation, partnership or limited liability company in which such Class B Shareholder directly, or indirectly through one or more Permitted Transferees, owns shares, partnership interests or membership interests, as applicable, with sufficient Voting Control in the corporation, partnership or limited liability company, as applicable, or otherwise has legally enforceable rights, such that the Class B Shareholder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation, partnership or limited liability company; *provided* such Transfer does not involve any payment of cash, securities, property or other consideration to the Class B Shareholder; *provided* that in the event such Class B Shareholder no longer owns sufficient shares, partnership interests or membership interests, as applicable, or no longer has sufficient legally enforceable rights to ensure the Class B Shareholder retains sole dispositive power and exclusive Voting Control with respect to the shares of Class B Common Stock held by such corporation, partnership or limited liability company, as applicable, each share of Class B Common Stock then held by such corporation, partnership or limited liability company, as applicable, shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock; or

(v) with respect to any Class B Shareholder that is not a natural person, a parent or subsidiary of the Class B Shareholder (a “**Class B Affiliate**”); *provided* that in the event such Class B Affiliate is no longer controlled by a parent or subsidiary of the Class B Shareholder, each share of Class B Common Stock then held by such Class B Affiliate shall automatically convert into one (1) fully paid and nonassessable share of Class A Common Stock.

For the avoidance of doubt, to the extent any shares are deemed to be held by a trustee of a trust described in (i) or (ii) above, the Transfer shall be a Permitted Transfer and the trustee shall be deemed a Permitted Transferee so long as the other requirements of (i) or (ii) above, as the case may be, are otherwise satisfied.

(c) *Automatic Conversion Upon Death or Incapacity of a Class B Shareholder.* Each one (1) share of Class B Common Stock held of record by a Class B Shareholder who is a natural person, or by such Class B Shareholder’s Permitted Transferees, shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class A Common Stock upon the death or Incapacity of such Class B Shareholder.

(d) *Automatic Conversion of all Outstanding Class B Common Stock.* Each one (1) share of Class B Common Stock shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class A Common Stock upon the date specified by affirmative vote of the holders of a majority of the voting power of the then outstanding shares of Class B Common Stock, voting as a single class.

(e) *Automatic Conversion Upon Termination as a Service Provider.* Each one (1) share of Class B Common Stock held of record by a Class B Shareholder who is a natural person, or by such Class B Shareholder’s Permitted Transferees, shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class A Common Stock at such time that such Class B Shareholder ceases to provide services to the Company as an officer, director, employee, or consultant.

(f)*Automatic Conversion Upon Final Conversion Date.* Each one (1) share of Class B Common Stock shall automatically, without any further action, convert into one (1) fully paid and nonassessable share of Class A Common Stock at the close of business on the Final Conversion Date.

(g)*Procedures.* The Company may, from time to time, establish such policies and procedures relating to the conversion of Class B Common Stock to Class A Common Stock and the general administration of this dual class stock structure, including the issuance of stock certificates with respect thereto, as it may deem reasonably necessary or advisable, and may from time to time request that holders of shares of Class B Common Stock furnish certifications, affidavits or other proof to the Company as it deems necessary to verify the ownership of Class B Common Stock and to confirm that a conversion to Class B Common Stock has not occurred, *provided*, that such policies and procedures shall not materially and adversely alter any of the rights of the shareholders under the Certificate of Formation.

(h)*Immediate Effect.* In the event of a conversion of shares of Class B Common Stock to shares of Class A Common Stock pursuant to this Section 2, such conversion(s) shall be deemed to have been made at the time that the Company or its transfer agent receives the notice required pursuant to Section 2(a), upon the date specified pursuant to Section 2(d), the time that the Transfer of such shares occurred, the time of the death or Incapacity of the Class B Shareholder or the time that the Class B Shareholder ceases to provide services to the Company, as applicable. Upon any conversion of Class B Common Stock to Class A Common Stock, all rights of the holder of shares of Class B Common Stock shall cease and the person or persons in whose name or names the certificate or certificates representing the shares of Class A Common Stock are to be issued, if any, shall be treated for all purposes as having become the record holder or holders of such number of shares of Class A Common Stock into which such shares of Class B Common Stock were convertible. Shares of Class B Common Stock that are converted into shares of Class A Common Stock as provided in this Section 2 shall be retired and may not be reissued.

3. Reservation of Stock Issuable Upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock solely for the purpose of effecting the conversion of the shares of Class B Common Stock such number of its shares of Class A Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of Class B Common Stock; and if at any time the number of authorized but unissued shares of Class A Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of Class B Common Stock, the Company will take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Class A Common Stock to such number of shares as shall be sufficient for such purpose.

4. Voting.

(a)*Class Voting.* Except as otherwise expressly provided herein or as required by law, the holders of Class A Common Stock and Class B Common Stock shall vote together and not as separate classes on all matters submitted to a vote or for the consent of the shareholders of the Company.

(b)*Voting Powers.* Each holder of shares of Class A Common Stock shall be entitled to one (1) vote for each share thereof held as of the applicable record date, and each holder of shares of Class B Common Stock shall be entitled to ten (10) votes for each share thereof held as of the applicable record date on any matters submitted to a vote or for the consent of the shareholders of the Company. To the maximum extent permitted by the TBOC, but subject to the rights, if any, of the holders of Preferred Stock as specified in this Certificate of Formation or in any certificate of designation, and further subject to the Bylaws of the Company (“**Bylaws**”) and the provisions of Article XI and Section 3 of Article VI of this Certificate of Formation, an affirmative vote of the holders of a majority of the total voting power represented by the outstanding capital stock of the Company entitled to vote thereon (voting together as a single class on an as-converted basis) shall be sufficient to approve, authorize, adopt, or to otherwise cause the Company to take, or affirm the Company’s taking of, any action, including any “fundamental

business transaction” as defined in the TBOC.

(c)*Adjustment in Authorized Common Stock or Preferred Stock.* Except as otherwise may be expressly provided by the terms of any series of Preferred Stock, the number of authorized shares of Common Stock or Preferred Stock (including, for the avoidance of doubt, the authorized shares of the Class A Common Stock or the Class B Common Stock) may be increased or decreased (but not below the number of shares of Common Stock or Preferred Stock then outstanding, as applicable) by an affirmative vote of the holders of a majority of the total voting power represented by the outstanding capital stock of the Company entitled to vote thereon (voting together as a single class on an as-converted basis), and without a separate class vote by the Common Stock or Preferred Stock, except as may be required by the TBOC.

5. Identical Rights. Except as otherwise expressly provided herein or required by applicable law, shares of Class A Common Stock and Class B Common Stock shall have the same rights and privileges and rank equally, share ratably and be identical in all respects as to all matters, including, without limitation:

(a)*Dividends and Distributions.* Shares of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per share basis, with respect to any Distribution paid or distributed by the Company, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the then outstanding shares of Class B Common Stock and by the affirmative vote of the holders of a majority of the then outstanding shares of Class A Common Stock, each voting separately as a class; *provided, however*, that in the event a Distribution is paid in the form of Class A Common Stock or Class B Common Stock (or rights to acquire such stock), then holders of Class A Common Stock shall receive Class A Common Stock (or rights to acquire such stock, as the case may be) and holders of Class B Common Stock shall receive Class B Common Stock (or rights to acquire such stock, as the case may be). Notwithstanding anything to the contrary herein, holders of Class B Common Stock shall be deemed to have been treated equally, identically and ratably, on a per share basis, with respect to any Distribution paid or distributed by the Company to the holders of Class A Common Stock and not to the holders of Class B Common Stock if such Distribution has been approved by the Board of Directors.

(b)*Subdivision or Combination or Other Recapitalization.* If the Company in any manner effects a Recapitalization, the then outstanding shares of Class A Common Stock and Class B Common Stock shall be treated equally, *provided* that if the Company in any manner subdivides or combines the then outstanding shares of Class A Common Stock or Class B Common Stock, the then outstanding shares of the other such class will be subdivided or combined in the same proportion and manner, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of Class B Common Stock, each voting as a separate class.

(c)*Equal Treatment in a Dissolution, Liquidation or Winding Up.* In connection with any liquidation, dissolution or winding up of the Company, shares of Class A Common Stock and Class B Common Stock shall be treated equally, identically and ratably, on a per share basis, with respect to any consideration into which such shares are converted or any consideration paid or otherwise distributed to shareholders of the Company, unless different treatment of the shares of each such class is approved by the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the voting power of the then outstanding shares of Class B Common Stock, each voting separately as a class. Any merger or consolidation of the Company with or into any other entity shall require approval by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of Class A Common Stock and by the affirmative vote of the holders of a majority of the voting power of the outstanding shares of Class B Common Stock, each voting separately as a class, unless (i) the shares of Class A Common Stock and Class B Common Stock remain outstanding and no other consideration is received in respect thereof or (ii)

such shares are converted on a pro rata basis into shares of the surviving or parent entity in such transaction having identical rights to the shares of Class A Common Stock and Class B Common Stock, respectively.

B. PREFERRED STOCK

The Preferred Stock may be issued from time to time in one or more series pursuant to a resolution or resolutions providing for such issue duly adopted by the Board of Directors (authority to do so being hereby expressly vested in the Board of Directors). The Board of Directors is further authorized, subject to limitations prescribed by law, to fix by resolution or resolutions the designations, powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of any series of Preferred Stock, including, without limitation, authority to fix by resolution or resolutions the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences of any such series, and the number of shares constituting any such series and the designation thereof, or any of the foregoing. The Board of Directors is further authorized to increase (but not above the total number of authorized shares of the class) or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, subject to the powers, preferences and rights, and the qualifications, limitations and restrictions thereof stated in the Certificate of Formation or the resolution of the Board of Directors originally fixing the number of shares of such series. Except as may be otherwise specified by the terms of any series of Preferred Stock, if the number of shares of any series of Preferred Stock is so decreased, then the Company shall take all such steps as are necessary to cause the shares constituting such decrease to resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

ARTICLE VI

1. General Powers. The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter, amend or repeal the Bylaws of the Company.

2. Number of Directors; Initial Directors; Term; Election.

(a)The number of directors that constitute the whole Board of Directors shall be fixed exclusively by resolution of the Board of Directors. The Board of Directors currently consists of five directors, and the names and addresses of such directors are:

Name	Address
Jon Paul Richardson	15418 Weir Street, #333, Omaha, Nebraska 68137
Daniel Castagnoli	15418 Weir Street, #333, Omaha, Nebraska 68137
Margaret Knight	15418 Weir Street, #333, Omaha, Nebraska 68137
Carol MacKinlay	15418 Weir Street, #333, Omaha, Nebraska 68137
Tyler Skelton	15418 Weir Street, #333, Omaha, Nebraska 68137

(b)Effective as of the first date on which the Class B Shareholders, collectively, cease to have Voting Control over shares representing at least a majority of the total voting power of the Company's outstanding capital stock (the "**Class B Threshold Date**"), the directors of the Company shall be divided into three classes as nearly equal in size as is practicable, hereby designated Class I, Class II, and Class III. The initial assignment of members of the Board of Directors to each such class shall be made by the Board of Directors. The term of office of the initial Class I directors shall expire at the first regularly

scheduled annual meeting of the shareholders following the Class B Threshold Date, the term of office of

the initial Class II directors shall expire at the second annual meeting of the shareholders following the Class B Threshold Date and the term of office of the initial Class III directors shall expire at the third annual meeting of the shareholders following the Class B Threshold Date. At each annual meeting of shareholders, commencing with the first regularly scheduled annual meeting of shareholders following the Class B Threshold Date, each of the successors elected to replace the directors of a class whose term shall have expired at such annual meeting shall be elected to hold office until the third annual meeting next succeeding his or her election and until his or her respective successor shall have been duly elected and qualified.

(c) Elections of directors need not be by written ballot unless otherwise provided in the Bylaws of the Company.

(d) From and after the Class B Threshold Date, except as provided by the TBOC and subject to the rights of the holders of any one or more series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors shall be filled only by a majority vote of the directors then in office.

3. Removal. Prior to the Class B Threshold Date, any director or the entire Board of Directors may be removed, with or without cause, by the holders of a majority of the voting power of the shares then entitled to vote at an election of directors; *provided* that, effective as of the Class B Threshold Date, shareholders may effect such removal only for cause and only by the affirmative vote of the holders of sixty-six and two-thirds percent (66 2/3%) of the voting power of the then outstanding voting securities of the Company, voting together as a single class.

ARTICLE VII

1. Action by Written Consent of Shareholders. Prior to the Class B Threshold Date, any action required by the TBOC to be taken at any annual or special meeting of shareholders of the Company, or any action which may be taken at any annual or special meeting of such shareholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Except as otherwise may be expressly provided by the terms of any series of Preferred Stock, effective as of the Class B Threshold Date, any action required or permitted by the TBOC to be taken at any annual or special meeting of shareholders of the Company, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by all holders of outstanding stock entitled to vote thereon.

2. Special Meetings. Except as otherwise may be expressly provided by the terms of any series of Preferred Stock, special meetings of shareholders of the Company may be called only by the Board of Directors, the chairperson of the Board of Directors, the chief executive officer or the president (in the absence of a chief executive officer) or by the holders of not less than fifty percent (50%) (or the highest percentage of ownership that may be set under the TBOC) of the Company's then outstanding shares of capital stock entitled to vote at such special meeting.

3. Advance Notice of Shareholder Business. Advance notice of shareholder nominations for the election of directors and of business to be brought by shareholders before any meeting of the shareholders of the Company shall be given in the manner provided in the Bylaws of the Company.

4. No Cumulative Voting. No shareholder will be permitted to cumulate votes at any election of directors.

ARTICLE VIII

To the fullest extent permitted by the TBOC, as the same exists or as may hereafter be amended from time to time, no director or officer of the Company shall be personally liable to the Company or its shareholders for monetary damages for breach of fiduciary duty as a director or officer, as applicable. If the TBOC is amended to authorize corporate action further eliminating or limiting the personal liability of directors or officers, then the liability of a director or officer of the Company shall be eliminated or limited to the fullest extent permitted by the TBOC, as so amended.

Neither any amendment nor repeal of this Article, nor the adoption of any provision of this Certificate of Formation inconsistent with this Article, shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or claim accruing or arising or that, but for this Article, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

ARTICLE IX

Subject to any provisions in the Bylaws of the Company related to indemnification of directors or officers of the Company, the Company shall indemnify, to the fullest extent permitted by applicable law, any director or officer of the Company who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”) by reason of the fact that he or she is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding. The Company shall be required to indemnify a person in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Board of Directors.

The Company shall have the power to indemnify, to the extent permitted by the TBOC, as it presently exists or may hereafter be amended from time to time, any employee or agent of the Company who was or is a party or is threatened to be made a party to any Proceeding by reason of the fact that he or she is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

A right to indemnification or to advancement of expenses arising under a provision of this Certificate of Formation or a bylaw of the Company shall not be eliminated or impaired by an amendment to this Certificate of Formation or the Bylaws of the Company after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

ARTICLE X

The Company elects not to be governed by Section 21.606 of the TBOC.

ARTICLE XI

Except as provided in Article VIII and Article IX above, the Company reserves the right to amend, alter, change or repeal any provision contained in the Certificate of Formation, in the manner now or hereafter prescribed by statute, and all rights conferred upon shareholders herein are granted subject to this reservation; *provided*, that, effective upon the Class B Threshold Date and notwithstanding any other

provision of the Certificate of Formation or any provision of law that might otherwise permit a lesser vote, the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the voting power of the then outstanding voting securities of the Company, voting together as a single class, shall be required to amend, alter, change or repeal any provision of the Certificate of Formation.

Effective upon the Class B Threshold Date and notwithstanding any provision of the Certificate of Formation, the Bylaws of the Company or any provision of law that might otherwise permit a lesser vote, the affirmative vote of sixty-six and two-thirds percent (66 2/3%) of the voting power of the then outstanding voting securities of the Company, voting together as a single class, shall be required for the shareholders of the Company to amend, alter, change or repeal any provision of the Bylaws of the Company.

ARTICLE XII

This document becomes effective when the document is accepted and filed by the secretary of state.

IN WITNESS WHEREOF, Exodus Movement, Inc. has caused this Certificate of Formation to be signed by its duly authorized officer on December 8, 2025.

By: /s/ Jon Paul Richardson

Name: Jon Paul Richardson

Title: Chief Executive Officer

**BYLAWS OF
EXODUS MOVEMENT, INC.
Adopted December 8, 2025
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ARTICLE I - MEETINGS OF SHAREHOLDERS

1.1 Place of Meetings. Meetings of shareholders of Exodus Movement, Inc. (the “**Company**”) shall be held at any place, within or outside the State of Texas, determined by the Company’s board of directors (the “**Board**”). The Board may, in its sole discretion, determine that a meeting of shareholders shall not be held at any place, but may instead be held solely by means of remote communication as authorized by Section 6.002(a) of the Texas Business Organizations Code (the “**TBOC**”). In the absence of any such designation or determination, shareholder meetings shall be held at the Company’s principal executive office. To the extent permitted by the TBOC, the Board may cancel, postpone, or reschedule any previously scheduled meeting of shareholders at any time, before or after the notice for such meeting has been given to the shareholders.

1.2 Annual Meeting. Unless directors are elected by written consent in lieu of an annual meeting, an annual meeting of shareholders shall be held for the election of directors and for the transaction of such other business as may properly come before the meeting, at such date and time as may be designated by resolution of the Board from time to time.

1.3 Special Meeting. Except as otherwise expressly provided by the terms of any series of Preferred Stock permitting the holders of such series of Preferred Stock to call a special meeting of the shareholders, special meetings of shareholders of the Company may be called only by the Board, the chairperson of the Board, the Chief Executive Officer or the president (in the absence of a chief executive officer) or by the holders of not less than 50% (or the highest percentage of ownership that may be set under the TBOC) of the Company’s then outstanding shares of capital stock entitled to vote at such special meeting.

If a special meeting of the shareholders has been called, the Company shall cause notice to be given to the shareholders entitled to vote at such meeting, in accordance with these bylaws, that a meeting will be held at the time requested by the person or persons calling the meeting. The notice of a special meeting shall include the purpose for which the meeting is called. Only such business shall be conducted at a special meeting of shareholders as shall have been brought before the special meeting pursuant to the notice of a special meeting. Nothing contained in this **Section**

1.3 shall be construed as limiting, fixing or affecting the time when a meeting of shareholders called by action of the Board may be held.

1.4 Advance Notice Procedures.

(i) Annual Meetings of Shareholders.

(a) Nominations of persons for election to the Board or the proposal of other business to be transacted by the shareholders at an annual meeting of shareholders may be made only (1) pursuant to the Company’s notice of meeting (or any supplement thereto); (2) by or at the direction of the Board; (3) as may be provided in the certificate of designations for any class or series of Preferred Stock; or (4) by any shareholder of the Company who (A) is a shareholder of record at the time of giving of the notice contemplated by **Section 1.4(i)(b)**; (B) is a shareholder of record on the record date for the determination of shareholders entitled to notice of the annual meeting; (C) is a shareholder of record on the record date for the determination of shareholders entitled to vote at the annual meeting (if such date is different from the record date for determining shareholders entitled to notice of the meeting); (D) is a shareholder of record at the time of the annual meeting; and (E) complies with the procedures set forth in this **Section 1.4(i)**.

(b) For nominations or other business to be properly brought before an annual meeting of shareholders by a shareholder pursuant to clause (4) of **Section 1.4(i)(a)**, the shareholder must have given timely notice in writing to the secretary and any such nomination or proposed business must constitute a proper matter for shareholder action. To be timely, a shareholder’s notice must be received by the secretary at the principal executive offices of the Company no earlier than 8:00 a.m., local time, on the 120th day and no later than 5:00 p.m., local time, on the 90th day prior to the day of the first anniversary of the preceding year’s annual meeting of shareholders. However, if no annual meeting of shareholders was held in the preceding year, or if the date of the applicable annual meeting has been changed by more than 25 days from the first anniversary of the preceding year’s annual meeting, then to be timely such notice must be received by the secretary at the principal executive offices of the Company no

earlier than 8:00 a.m., local time, on the 120th day prior to the day of the annual meeting and no later than 5:00 p.m., local time, on the 10th day following the day on which Official Notice of the date of the annual meeting was first given by the Company. In no event will the adjournment, rescheduling or postponement of any annual meeting, or any announcement thereof, commence a new time period (or extend any time period) for the giving of a shareholder's notice as described above. If the number of directors to be elected to the Board is increased and there is no Official Notice naming all of the nominees for director or specifying the size of the increased Board at least 10 days before the last day that a shareholder may deliver a notice of nomination pursuant to the foregoing provisions, then a shareholder's notice required by this **Section 1.4(i)(b)** will also be considered timely, but only with respect to nominees for any new positions created by such increase, if it is received by the secretary at the principal executive offices of the Company no later than 5:00 p.m., local time, on the 10th day following the day on which such Official Notice is first given. "**Official Notice**" means disclosure in a press release or by notice in writing or electronic transmission disseminated by or at the direction of the Company to all shareholders entitled to notice of shareholder meetings.

(c) A shareholder's notice to the secretary must set forth:

(1) as to each person whom the shareholder proposes to nominate for election as a director:

a) such person's name, age, business address, residence address and principal occupation or employment; the class and number of shares of the corporation that are held of record or are beneficially owned by such person and a description of any Derivative Instruments (defined below) held or beneficially owned thereby or of any other agreement, arrangement or understanding (including any short position or any borrowing or lending of shares), the effect or intent of which is to mitigate loss to, or to manage the risk or benefit of share price changes for, or to increase or decrease the voting power of such person; and all information relating to such person that would be required to be disclosed in solicitations of proxies for the contested election of directors of publicly traded corporations, or otherwise would be required, in each case pursuant to Section 14 of the Securities Exchange Act of 1934 (the "**1934 Act**") if the Company were publicly traded;

b) such person's written consent to being named in such shareholder's proxy statement as a nominee of such shareholder and to serving as a director of the Company if elected;

c) a reasonably detailed description of any direct or indirect compensatory, payment, indemnification or other financial agreement, arrangement or understanding that such person has, or has had within the past three years, with any person or entity other than the Company (including the amount of any payment or payments received or receivable thereunder), in each case in connection with candidacy or service as a director of the Company (a "**Third-Party Compensation Arrangement**"); and

d) a description of any other material relationships between such person and such person's respective affiliates and associates, or others acting in concert with them, on the one hand, and such shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination is made, and their respective affiliates and associates, or others acting in concert with them, on the other hand;

(2) as to any other business that the shareholder proposes to bring before the annual meeting:

a) a brief description of the business desired to be brought before the annual meeting;

b) the text of the proposal or business (including the text of any resolutions proposed for consideration and, if applicable, the text of any proposed amendment to these bylaws or the Company's certificate of formation);

c) the reasons for conducting such business at the annual meeting;

d) any material interest in such business of such shareholder

giving the notice and the beneficial owner, if any, on whose behalf the proposal is made, and their respective affiliates and associates, or others acting in concert with them; and

e) a description of all agreements, arrangements and understandings between such shareholder and the beneficial owner, if any, on whose behalf the proposal is made, and their respective affiliates or associates or others acting in concert with them, and any other person or persons (including their names) in connection with the proposal of such business by such shareholder; and

(3) as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made:

a) the name and address of such shareholder (as they appear on the Company's books), of such beneficial owner and of their respective affiliates or associates or others acting in concert with them;

b) for each class or series, the number of shares of stock of the Company that are, directly or indirectly, held of record or are beneficially owned by such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them;

c) a description of any agreement, arrangement or understanding between such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, and any other person or persons (including, in each case, their names) in connection with the proposal of such nomination or other business;

d) a description of any agreement, arrangement or understanding (including, regardless of the form of settlement, any derivative, long or short positions, profit interests, forwards, futures, swaps, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions and borrowed or loaned shares) that has been entered into by or on behalf of such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, with respect to the Company's securities (any of the foregoing, a "**Derivative Instrument**"), or any other agreement, arrangement or understanding that has been made the effect or intent of which is to create or mitigate loss to, manage risk or benefit of share price changes for or increase or decrease the voting power of such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, with respect to the Company's securities;

e) any rights to dividends on the Company's securities owned beneficially by such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, that are separated or separable from the underlying security;

f) any proportionate interest in the Company's securities or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership;

g) any performance-related fees (other than an asset-based fee) that such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them is entitled to based on any increase or decrease in the value of the Company's securities or Derivative Instruments, including, without limitation, any such interests held by members of the immediate family of such persons sharing the same household;

h) any significant equity interests or any Derivative Instruments in any principal competitor of the Company that are held by such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them;

i) any direct or indirect interest of such shareholder, such beneficial owner or their respective affiliates or associates or others acting in concert with them, in any contract with the Company, any affiliate of the Company or any principal competitor of the Company (in each case, including any

employment agreement, collective bargaining agreement or consulting agreement);

j) a representation and undertaking that the shareholder is a holder of record of stock of the Company as of the date of submission of the shareholder's notice and intends to appear in person or by proxy at the meeting to bring such nomination or other business before the meeting;

k) a representation and undertaking that such shareholder or any such beneficial owner intends, or is part of a group that intends, to (x) deliver a proxy statement or other proxy solicitation material or form of proxy to holders of at least the percentage of the voting power of the Company's then-outstanding stock required to approve or adopt the proposal or to elect each such nominee; or (y) otherwise solicit proxies from shareholders in support of such proposal or nomination;

l) any other information relating to such shareholder, such beneficial owner, or their respective affiliates or associates or others acting in concert with them, or director nominee or proposed business that, in each case, would be required to be disclosed in a proxy statement or other filing that would be required to be made in connection with the solicitation of proxies in support of such nominee (in a contested election of directors) or proposal pursuant to Section 14 of the 1934 Act if the Company were publicly traded; and

m) such other information relating to any proposed item of business as the Company may reasonably require to determine whether such proposed item of business is a proper matter for shareholder action.

(d) In addition to the requirements of this **Section 1.4**, to be timely, a shareholder's notice (and any additional information submitted to the Company in connection therewith) must further be updated and supplemented, if necessary, (1) so that the information provided or required to be provided in such notice is true and correct as of the record date(s) for determining the shareholders entitled to notice of, and to vote at, the meeting and as of the date that is 10 business days prior to the meeting or any adjournment, rescheduling or postponement thereof and (2) to provide any additional information that the Company may reasonably request. Such update and supplement or additional information, if applicable, must be received by the secretary at the principal executive offices of the Company, in the case of a request for additional information, promptly following a request therefor, which response must be delivered not later than such reasonable time as is specified in any such request from the corporation or, in the case of an update or supplement of any information, not later than five business days after the record date(s) for the meeting (in the case of any update and supplement required to be made as of the record date(s)), and not later than eight business days prior to the date for the meeting or any adjournment, rescheduling or postponement thereof (in the case of the update and supplement required to be made as of 10 business days prior to the meeting or any adjournment, rescheduling or postponement thereof). The failure to timely provide such update, supplement or additional information shall result in the nomination or proposal no longer being eligible for consideration at the meeting.

(ii) *Special Meetings of Shareholders.* Except to the extent required by the TBOC, and subject to **Section 1.3**, special meetings of shareholders may be called only in accordance with the Company's certificate of formation and these bylaws. Only such business will be conducted at a special meeting of shareholders as has been brought before the special meeting pursuant to the Company's notice of meeting. If the election of directors is included as business to be brought before a special meeting in the Company's notice of meeting, then nominations of persons for election to the Board at such special meeting may be made by any shareholder who (i) is a shareholder of record at the time of giving of the notice contemplated by this **Section 1.4(ii)**; (ii) is a shareholder of record on the record date for the determination of shareholders entitled to notice of the special meeting; (iii) is a shareholder of record on the record date for the determination of shareholders entitled to vote at the special meeting; (iv) is a shareholder of record at the time of the special meeting; and (v) complies with the procedures set forth in this **Section 1.4(ii)**. For nominations to be properly brought by a shareholder before a special meeting pursuant to this **Section 1.4(ii)**, the shareholder's notice must be received by the secretary at the principal executive offices of the Company no earlier than 8:00 a.m., local time, on the 120th day prior to the day of the special meeting and no later than 5:00 p.m., local time, on the 10th day following the day on which Official Notice of the date of the special meeting was first given. In no event will any adjournment, rescheduling or postponement of a special meeting or the announcement thereof

commence a new time period (or extend any time period) for the giving of a shareholder's notice. A shareholder's

notice to the Secretary must comply with the applicable notice requirements of **Section 1.4(a)(iii)**.

(iii) *Other Requirements.*

(a) To be eligible to be a nominee by any shareholder for election as a director of the Company at a meeting of shareholders, the proposed nominee must provide to the secretary, in accordance with the applicable time periods prescribed for delivery of notice under **Section 1.4(i)(b)** or **Section 1.4(i)**:

(1) a signed and completed written questionnaire (in the form provided by the secretary at the written request of the nominating shareholder, which form will be provided by the secretary within 10 days of receiving such request) containing information regarding such nominee's background and qualifications and such other information as may reasonably be required by the Company to determine the eligibility of such nominee to serve as a director of the Company or to serve as an independent director of the Company;

(2) a written representation and undertaking that, unless previously disclosed to the Company, such nominee is not, and will not become, a party to any voting agreement, arrangement, commitment, assurance or understanding with any person or entity as to how such nominee, if elected as a director, will vote on any issue;

(3) a written representation and undertaking that, unless previously disclosed to the Company, such nominee is not, and will not become, a party to any Third-Party Compensation Arrangement;

(4) a written representation and undertaking that, if elected as a director, such nominee would be in compliance, and will continue to comply, with the Company's corporate governance guidelines as disclosed on the Company's website, as amended from time to time; and

(5) a written representation and undertaking that such nominee, if elected, intends to serve a full term on the Board.

(b) At the request of the Board, any person nominated by the Board for election as a director must furnish to the secretary the information that is required to be set forth in a shareholder's notice of nomination that pertains to such nominee.

(c) No person will be eligible to be nominated by a shareholder for election as a director of the Company unless nominated in accordance with the procedures set forth in this **Section 1.4**. No business proposed by a shareholder will be conducted at a shareholder meeting except in accordance with this **Section 1.4**.

(d) The chairperson of the applicable meeting of shareholders will, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these bylaws or that business was not properly brought before the meeting. If the chairperson of the meeting should so determine, then the chairperson of the meeting will so declare to the meeting and the defective nomination will be disregarded or such business will not be transacted, as the case may be.

(e) Notwithstanding anything to the contrary in this **Section 1.4**, unless otherwise required by law, if the shareholder (or a qualified representative of the shareholder) does not appear in person at the meeting to present a nomination or other proposed business, such nomination will be disregarded or such proposed business will not be transacted, as the case may be, notwithstanding that proxies in respect of such nomination or business may have been received by the Company and counted for purposes of determining a quorum. For purposes of this **Section 1.4**, (1) to be considered a qualified representative of the shareholder, a person must be a duly authorized officer, manager or partner of such shareholder or must be authorized by a writing executed by such shareholder or an electronic transmission delivered by such shareholder to act for such shareholder as proxy at the meeting, and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting and (2) "principal executive offices" shall mean the address for the Company's principal executive offices as set forth on the cover page of its most recent Annual Report on Form 10-K.

filed with the U.S.

Securities and Exchange Commission, as such address may be updated by any subsequent report filed with the U.S. Securities and Exchange Commission or other public announcement by the Company.

(f) Without limiting this **Section 1.4**, a shareholder must also comply with all applicable requirements of the 1934 Act with respect to the matters set forth in this **Section 1.4**, it being understood that (1) any references in these bylaws to the 1934 Act are not intended to, and will not, limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to this **Section 1.4**; and (2) compliance with clause (4) of **Section 1.4(i)(a)** and with **Section 1.4(ii)** are the exclusive means for a shareholder to make nominations or submit other business (other than as provided in **Section 1.4(iii)(g)**).

(g) Notwithstanding anything to the contrary in this **Section 1.4**, the notice requirements set forth in these bylaws with respect to the proposal of any business (other than nominations) pursuant to this **Section**

1.4 will be deemed to be satisfied by a shareholder if (1) such shareholder has submitted a proposal to the Company in compliance with Rule 14a-8 under the 1934 Act; and (2) such shareholder's proposal has been included in a proxy statement that has been prepared by the Company to solicit proxies for the meeting of shareholders. Subject to Rule 14a-8 and other applicable rules and regulations under the 1934 Act, nothing in these bylaws will be construed to permit any shareholder, or give any shareholder the right, to include or have disseminated or described in the Company's proxy statement any nomination of a director or any other business proposal.

1.5 Notice of Shareholders' Meetings. Whenever shareholders are required or permitted to take any action at a meeting, a notice of the meeting in the form of a writing or electronic transmission shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which shareholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided in the TBOC, the certificate of formation or these bylaws, the notice of any meeting of shareholders shall be given not less than 10 nor more than 60 days before the date of the meeting to each shareholder entitled to vote at such meeting as of the record date for determining the shareholders entitled to notice of the meeting.

Notwithstanding the preceding paragraph, notice of a shareholder meeting regarding a "fundamental business transaction" (as defined in Section 1.002 of the TBOC) must be given to each shareholder of the Company not later than 21 days prior to such meeting, regardless of whether the shareholder is entitled to vote on the matter, in accordance with of the TBOC.

1.6 Quorum. Except as otherwise provided by law, the certificate of formation or these bylaws, at each meeting of shareholders the presence in person or by proxy of the holders of shares of stock having a majority of the voting power which could be cast by the holders of all outstanding shares of stock entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum. Where a separate vote by a class or series or classes or series is required, a majority of the voting power of the outstanding shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter, except as otherwise provided by law, the certificate of formation or these bylaws.

If, however, such quorum is not present or represented at any meeting of the shareholders, then either (i) the chairperson of the meeting, or (ii) the shareholders entitled to vote at the meeting, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, in accordance with **Section 1.7** of these bylaws, until a quorum is present or represented.

1.7 Adjourned Meeting; Notice. Any meeting of shareholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communications, if any, by which shareholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Company may transact any business which might have been

transacted at the original meeting; provided, however, if the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting. If after the adjournment a new record date for shareholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record

date for notice of such adjourned meeting in accordance with Section 6.101 of the TBOC and **Section 1.11** of these bylaws, and shall give notice of the adjourned meeting to each shareholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

1.8Conduct of Business. Meetings of shareholders shall be presided over by a chairperson designated by the Board, or in the absence of such designation by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by the Chief Executive Officer, or in the absence of the foregoing persons by the President, or in the absence of the foregoing persons by a Vice President, or in the absence of the foregoing persons by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting. The chairperson of any meeting of shareholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of business, and shall have the power to adjourn the meeting to another place, if any, date or time, whether or not a quorum is present.

1.9Voting. The shareholders entitled to vote at any meeting of shareholders shall be determined in accordance with the provisions of **Section 1.11** of these bylaws, subject to Sections 6.251 and 6.252 (relating to voting trusts and other voting agreements) and Subchapter D of Chapter 6 (relating to voting of ownership interests) of the TBOC.

Each shareholder entitled to vote at any meeting of shareholders shall be entitled to the number of votes per share for each share of capital stock held by such shareholder as of the applicable record date which has voting power upon the matter in question as set forth in the certificate of formation. Voting at meetings of shareholders need not be by written ballot and, unless otherwise required by law, need not be conducted by inspectors of election unless so determined by the holders of shares of stock having a majority of the votes which could be cast by the holders of all outstanding shares of stock entitled to vote thereon which are present in person or by proxy at such meeting. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission, *provided* that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the shareholder or proxy holder.

Except as otherwise required by law, the certificate of formation or these bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the shareholders. Except as otherwise required by law, the certificate of formation or these bylaws, directors shall be elected by a plurality of the voting power of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. Where a separate vote by a class or series or classes or series is required, in all matters other than the election of directors, the affirmative vote of the majority of the voting power of the shares of such class or series or classes or series present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of such class or series or classes or series, except as otherwise provided by law, the certificate of formation or these bylaws.

1.10Shareholder Action by Written Consent Without a Meeting. Prior to the Class B Threshold Date (as defined in the certificate of formation), any action required by the TBOC to be taken at any annual or special meeting of shareholders of the Company, or any action which may be taken at any annual or special meeting of such shareholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Except as otherwise may be expressly provided by the terms of any series of Preferred Stock, effective as of the Class B Threshold Date, any action required or permitted by the TBOC to be taken at any annual or special meeting of shareholders of the Company, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by all holders of outstanding stock entitled to vote thereon.

No written consent shall be effective to take the corporate action referred to therein unless written consents signed by a sufficient number of holders to take action are delivered to the Company in the manner required by Sections 6.201 and 6.202 of the TBOC within 60 days of the first date on which a written consent is so delivered to the Company. Any person executing a consent may provide, whether through instruction to an agent or otherwise,

that such a consent will be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made, if evidence of such instruction or provision is provided to the Company. Unless otherwise provided, any such consent shall be revocable prior to its becoming effective.

An electronic transmission consenting to an action to be taken and transmitted by a shareholder or proxy holder, or by a person or persons authorized to act for a shareholder or proxy holder, shall be deemed to be written and signed for purposes of this **Section 1.10**, *provided* that any such electronic transmission sets forth or is delivered with information from which the Company can determine (i) that the electronic transmission was transmitted by the shareholder or proxy holder or by a person or persons authorized to act for the shareholder or proxy holder and (ii) the date on which such shareholder or proxy holder or authorized person or persons transmitted such electronic transmission.

A consent given by electronic transmission is delivered to the Company upon the earliest of (i) when the consent enters an information processing system, if any, designated by the Company for receiving consents, so long as the electronic transmission is in a form capable of being processed by that system and the Company is able to retrieve that electronic transmission; (ii) when a paper reproduction of the consent is delivered to the Company's principal place of business or an officer or agent of the Company having custody of the book in which proceedings of meetings of shareholders are recorded; (iii) when a paper reproduction of the consent is delivered to the Company's registered office in the State of Texas by hand or by certified or registered mail, return receipt requested; or (iv) when delivered in such other manner, if any, provided by resolution of the Board. A consent given by electronic transmission is delivered under this **Section 1.10** even if no person is aware of its receipt. Receipt of an electronic acknowledgement from an information processing system establishes that a consent given by electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

In the event that the Board shall have instructed the officers of the Company to solicit the vote or written consent of the shareholders of the Company, an electronic transmission of a shareholder written consent given pursuant to such solicitation, to be effective, must be delivered by electronic mail or facsimile telecommunications to the Secretary or the President of the Company or to a person designated by the Company for receiving such consent, or delivered to an information processing system designated by the Company for receiving such consent.

Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that written consents signed by a sufficient number of holders to take the action were delivered to the Company as provided in Sections 6.201 or 6.202 of the TBOC. In the event that the action which is consented to is such as would have required the filing of a certificate under any provision of the TBOC, if such action had been voted on by shareholders at a meeting thereof, the certificate filed under such provision shall state, in lieu of any statement required by such provision concerning any vote of shareholders, that written consent has been given in accordance with Sections 6.201 or 6.202 of the TBOC.

For the avoidance of doubt, the provisions of **Section 1.4** concerning advance notice of shareholder business or the nomination or election of directors shall not apply to any action by shareholder written consent.

1.11Record Dates. In order that the Company may determine the shareholders entitled to notice of any meeting of shareholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the shareholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

If no record date is fixed by the Board, the record date for determining shareholders entitled to notice of and to vote at a meeting of shareholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held.

A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall

apply to any adjournment of the meeting; *provided, however*, that the Board may fix a new record date for determination of shareholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for shareholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of shareholders entitled to vote in accordance with the provisions of Section 6.101 of the TBOC and this **Section 1.11** at the adjourned meeting.

In order that the Company may determine the shareholders entitled to consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date has been fixed by the Board, the record date for determining shareholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is required by law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company in accordance with applicable law. If no record date has been fixed by the Board and prior action by the Board is required by law, the record date for determining shareholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

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

1.12 Proxies. Each shareholder entitled to vote at a meeting of shareholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such shareholder by proxy authorized by a document or by an electronic transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after eleven (11) months from its date, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Sections 21.368, 21.369 and 21.370 of the TBOC.

1.13 List of Shareholders Entitled to Vote. Not later than the eleventh (11th) day before the date of each meeting of the shareholders of the Company, an officer or agent having charge of the Company's stock transfer records shall prepare an alphabetical list of the shareholders entitled to vote at such meeting or any adjournment or postponement thereof showing the address and the type and number of shares held by each shareholder. Such list shall be kept on file at the registered office or the principal executive office of the Company and shall be subject to inspection by any shareholder at any time during regular business hours for a period of at least ten (10) days prior to such meeting. Alternatively, the list of shareholders may be kept on a reasonably accessible electronic network, if the information required to gain access to the list is provided with the notice of the meeting. In the event that the corporation determines to make the list available on an electronic network, the Company may take reasonable steps to ensure that such information is available only to shareholders of the corporation. The original share transfer records shall be *prima facie* evidence as to (a) the identity of the shareholders entitled to vote at any meeting of shareholders and the number of shares held by each of them and (b) the identity of the shareholders entitled by this **Section 1.13** to examine the list required by this **Section 1.13**.

ARTICLE II - DIRECTORS

2.1 Powers. The business and affairs of the Company shall be managed by or under the direction of the Board, except as may be otherwise provided in the TBOC or the certificate of formation.

2.2 Number of Directors. The Board shall consist of one or more members, each of whom shall be a natural person. Unless the certificate of formation fixes the number of directors, the number of directors shall be determined from time to time by resolution of the Board. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

2.3 Election, Qualification and Term of Office of Directors. Prior to the Class B Threshold Date and except as provided in **Section 2.4** of these bylaws, and subject to **Sections 1.2** and **1.10** of these bylaws, directors shall

be elected at each annual meeting of shareholders. Directors need not be shareholders unless so required by the certificate of formation or these bylaws. The certificate of formation or these bylaws may prescribe other qualifications for directors. Each director shall hold office until such director's successor is elected and qualified or until such director's earlier death, resignation or removal. Effective as of the Class B Threshold Date, the directors of the Company shall be elected in accordance with the certificate of formation.

2.4 Resignation and Vacancies. Any director may resign at any time upon notice given in writing or by electronic transmission to the Company. A resignation is effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation which is conditioned upon the director failing to receive a specified vote for reelection as a director may provide that it is irrevocable. Unless otherwise provided in the certificate of formation or these bylaws, when one or more directors resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective.

Unless otherwise provided in the certificate of formation or these bylaws:

(i) Prior to the Class B Threshold Date, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the shareholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director.

(ii) From and after the Class B Threshold Date, except as provided by the TBOC and subject to the rights of the holders of any one or more series of Preferred Stock then outstanding, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors shall be filled only by a majority vote of the directors then in office. Whenever the holders of any class or classes of stock or series thereof are entitled to elect one or more directors by the provisions of the certificate of formation, vacancies and newly created directorships of such class or classes or series may be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected.

If at any time, by reason of death or resignation or other cause, the Company should have no directors in office, then any officer or any shareholder or an executor, administrator, trustee or guardian of a shareholder, or other fiduciary entrusted with like responsibility for the person or estate of a shareholder, may call a special meeting of shareholders in accordance with the provisions of the certificate of formation or these bylaws.

A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office and until such director's successor is elected and qualified, or until such director's earlier death, resignation or removal.

Except as otherwise provided by the TBOC, during a period between two successive annual meetings of shareholders, the board of directors may not fill more than two vacancies created by an increase in the number of directors.

2.5 Place of Meetings; Meetings by Telephone. The Board may hold meetings, both regular and special, either within or outside the State of Texas.

Unless otherwise restricted by the certificate of formation or these bylaws, members of the Board, or any committee designated by the Board or any subcommittee, may participate in a meeting of the Board, or any such committee or subcommittee, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

2.6 Conduct of Business. Meetings of the Board shall be presided over by the Chairperson of the Board, if any, or in his or her absence by the Vice Chairperson of the Board, if any, or in the absence of the foregoing persons by a chairperson designated by the Board, or in the absence of such designation by a chairperson chosen at the meeting. The Secretary shall act as secretary of the meeting, but in his or her absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

2.7 Regular Meetings. Regular meetings of the Board may be held without notice at such time and at

such place as shall from time to time be determined by the Board.

2.8Special Meetings; Notice. Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board, the Chief Executive Officer, the President, the Secretary or any two directors.

Notice of the time and place of special meetings shall be:

- (i) delivered personally by hand, by courier or by telephone;
- (ii) sent by United States first-class mail, postage prepaid; or
- (iii) given by electronic transmission, directed to each director at that director's address or telephone number, or by means of electronic transmission, as the case may be, as shown on the Company's records.

If the notice is delivered personally by hand, by courier, or by telephone, or given by means of electronic transmission, it shall be delivered, sent or otherwise directed to each director, as applicable, at least 24 hours before the time of the holding of the meeting. If the notice is sent by United States mail, it shall be deposited in the United States mail at least four days before the time of the holding of the meeting. Any oral notice may be communicated to the director. The notice need not specify the place of the meeting (if the meeting is to be held at the Company's principal executive office) nor the purpose of the meeting, to the fullest extent permitted by applicable law.

2.9Quorum; Voting. At all meetings of the Board, the presence of at least a majority of the total authorized directorships shall constitute a quorum for the transaction of business; *provided* that in no case shall the presence of less than 1/3 of the total authorized directorships constitute a quorum. If a quorum is not present at any meeting of the Board, then the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

The affirmative vote of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board, except as may be otherwise specifically provided by statute, the certificate of formation or these bylaws.

If the certificate of formation provides that one or more directors shall have more or less than one vote per director on any matter, every reference in these bylaws to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

2.10Board Action by Written Consent Without a Meeting. Unless otherwise restricted by the certificate of formation or these bylaws, any action required or permitted to be taken at any meeting of the Board, or of any committee or subcommittee thereof, may be taken without a meeting if all members of the Board or committee or subcommittee, as the case may be, consent thereto in writing or by electronic transmission. Any person (whether or not then a director) may provide, whether through instruction to an agent or otherwise, that a consent to action will be effective at a future time (including a time determined upon the happening of an event), no later than 60 days after such instruction is given or such provision is made and such consent shall be deemed to have been given for purposes of this **Section 2.10** at such effective time so long as such person is then a director and did not revoke the consent prior to such time. Any such consent shall be revocable prior to its becoming effective. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of the proceedings of the Board, or the committee or subcommittee thereof, in the same paper or electronic form as the minutes are maintained.

2.11Fees and Compensation of Directors. Unless otherwise restricted by the certificate of formation or these bylaws, the Board shall have the authority to fix the compensation of directors.

2.12Removal of Directors. Any director or the entire Board may be removed as provided in the certificate of formation.

No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of such director's term of office.

ARTICLE III - COMMITTEES

3.1 Committees of Directors. The Board may designate one or more committees, each committee to consist of one or more of the directors of the Company. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board or in these bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers that may require it; but no such committee shall have the power or authority to (i) amend the certificate of formation, except to (x) establish series of shares, (y) increase or decrease the number of shares in a series or (z) eliminate a series of shares as authorized by Section 21.155 of the TBOC, (ii) propose a reduction of stated capital under Sections 21.253 and 21.254 of the TBOC, (iii) approve a plan of merger, share exchange, or conversion of the corporation, (iv) recommend to shareholders the sale, lease, or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, (v) recommend to the shareholders a voluntary winding up and termination or a revocation of a voluntary winding up and termination, (vi) amend, alter, or repeal the bylaws or adopt new bylaws, (vii) fill vacancies on the board of directors, (viii) fill vacancies on or designate alternate members of a committee of the board of directors, (ix) fill a vacancy to be filled because of an increase in the number of directors, (x) elect or remove officers of the corporation or members or alternate members of a committee of the board of directors, (xi) set the compensation of the members or alternate members of a committee of the board of directors or (xii) alter or repeal a resolution of the board of directors that states that it may not be amended or repealed by a committee of the board of directors.

3.2 Committee Minutes. Each committee and subcommittee shall keep regular minutes of its meetings and report the same to the Board, or the committee, when required.

3.3 Meetings and Actions of Committees. A majority of the directors then serving on a committee or subcommittee shall constitute a quorum for the transaction of business by the committee or subcommittee, unless the certificate of formation, these bylaws, a resolution of the Board or a resolution of a committee that created the subcommittee requires a greater or lesser number, *provided* that in no case shall a quorum be less than 1/3 of the directors then serving on the committee or subcommittee. The vote of the majority of the members of a committee or subcommittee present at a meeting at which a quorum is present shall be the act of the committee or subcommittee, unless the certificate of formation, these bylaws, a resolution of the Board or a resolution of a committee that created the subcommittee requires a greater number. Meetings and actions of committees and subcommittees shall otherwise be governed by, and held and taken in accordance with, the provisions of:

- (i) **Section 2.5** (Place of Meetings; Meetings by Telephone);
- (ii) **Section 2.7** (Regular Meetings);
- (iii) **Section 2.8** (Special Meetings; Notice);
- (iv) **Section 2.9** (Quorum; Voting);
- (v) **Section 2.10** (Board Action by Written Consent Without a Meeting); and
- (vi) **Section 7.4** (Waiver of Notice)

with such changes in the context of those bylaws as are necessary to substitute the committee or subcommittee and its members for the Board and its members. *However:*

- (i) the time and place of regular meetings of committees and subcommittees may be determined either by resolution of the Board or by resolution of the committee or subcommittee;
- (ii) special meetings of committees and subcommittees may also be called by resolution of the Board or the committee or subcommittee; and

(iii) notice of special meetings of committees and subcommittees shall also be given to all alternate members, as applicable, who shall have the right to attend all meetings of the committee or subcommittee. The Board, or, in the absence of any such action by the Board, the committee or subcommittee, may adopt rules for the government of any committee or subcommittee not inconsistent with the provisions of these bylaws.

Any provision in the certificate of formation providing that one or more directors shall have more or less than one vote per director on any matter shall apply to voting in any committee or subcommittee, unless otherwise provided in the certificate of formation or these bylaws.

3.4Subcommittees. Unless otherwise provided in the certificate of formation, these bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE IV - OFFICERS

4.1Officers. The officers of the Company shall be a Chief Executive Officer, a President and a Secretary. The Company may also have, at the discretion of the Board, a Chairperson of the Board, a Vice Chairperson of the Board, one or more Vice Presidents, a Chief Financial Officer, Chief Operating Officer, a Treasurer, one or more Assistant Treasurers, one or more Assistant Secretaries and any such other officers as may be appointed in accordance with the provisions of these bylaws. Any number of offices may be held by the same person.

4.2Appointment of Officers. The Board shall appoint the officers of the Company, except such officers as may be appointed in accordance with the provisions of **Section 4.3** of these bylaws.

4.3Subordinate Officers. The Board may appoint, or empower the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President, to appoint, such other officers and agents as the business of the Company may require. Each of such officers and agents shall hold office for such period, have such authority and perform such duties as are provided in these bylaws or as the Board may from time to time determine.

4.4Removal and Resignation of Officers. Any officer may be removed, either with or without cause, by the Board or, for the avoidance of doubt, any duly authorized committee or subcommittee thereof or by any officer upon whom such power of removal has been conferred by the Board or, for the avoidance of doubt, any duly authorized committee or subcommittee thereof.

Any officer may resign at any time by giving written notice to the Company. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Company under any contract to which the officer is a party.

4.5Vacancies in Offices. Any vacancy occurring in any office of the Company shall be filled by the Board or as provided in **Section 4.3** of these bylaws.

4.6Representation of Securities of Other Corporations or Entities. Unless otherwise directed by the Board, the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President or any other person authorized by the Board, the Chief Executive Officer or, in the absence of a Chief Executive Officer, the President is authorized to vote, represent and exercise on behalf of the Company all rights incident to any and all shares or other securities or interests in, or issued by, any other entity or entities, and all rights incident to any management authority conferred on the Company in accordance with the governing documents of any entity or entities, standing in the name of the Company, including the right to act by written consent in lieu of a meeting. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

4.7Authority and Duties of Officers. Except as otherwise provided in these bylaws, the officers of the Company shall have such powers and duties in the management of the Company as may be designated from time to time by the Board and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board.

ARTICLE V - INDEMNIFICATION

5.1 Indemnification of Directors and Officers in Third Party Proceedings. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the TBOC, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a “**Proceeding**”) (other than an action by or in the right of the Company) by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such Proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person’s conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person’s conduct was unlawful.

5.2 Indemnification of Directors and Officers in Actions by or in the Right of the Company. Subject to the other provisions of this **Article V**, the Company shall indemnify, to the fullest extent permitted by the TBOC, as now or hereinafter in effect, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Company, or is or was a director or officer of the Company serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys’ fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Company; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

5.3 Successful Defense. To the extent that a present or former director or officer of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described in **Section 5.1** or **Section 5.2** of these bylaws, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys’ fees) actually and reasonably incurred by such person in connection therewith.

5.4 Indemnification of Others. Subject to the other provisions of this **Article V**, the Company shall have power to indemnify its employees and agents to the extent not prohibited by the TBOC or other applicable law. The Board shall have the power to delegate to any person or persons the determination of whether employees or agents shall be indemnified.

5.5 Advanced Payment of Expenses. Expenses (including attorneys’ fees) actually and reasonably incurred by an officer or director of the Company in defending any Proceeding shall be paid by the Company in advance of the final disposition of such Proceeding upon receipt of a written request therefor (together with documentation reasonably evidencing such expenses and any documentation as may be required by the TBOC) and an undertaking by or on behalf of the person to repay such amounts if it shall ultimately be determined that the person is not entitled to be indemnified under this **Article V** or the TBOC. Such expenses (including attorneys’ fees) actually and reasonably incurred by former directors and officers or other employees and agents of the Company or by persons serving at the request of the Company as directors, officers, employees or agents of another corporation, partnership, joint venture, trust or other enterprise may be so paid upon such terms and conditions, if any, as the Company deems appropriate. The right to advancement of expenses shall not apply to any Proceeding (or any part of any Proceeding) for which indemnity is excluded pursuant to these bylaws, but shall apply to any Proceeding (or any part of any

Proceeding) referenced in **Section 5.6(ii)** or **Section 5.6(iii)** of these bylaws prior to a determination that the person is not entitled to be indemnified by the Company.

5.6Limitation on Indemnification. Subject to the requirements in **Section 5.3** of these bylaws and the TBOC, the Company shall not be obligated to indemnify any person pursuant to this **Article V** in connection with any Proceeding (or any part of any Proceeding):

- (i) for which payment has actually been made to or on behalf of such person under any statute, insurance policy, indemnity provision, vote or otherwise, except with respect to any excess beyond the amount paid;
- (ii) for an accounting or disgorgement of profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended, or similar provisions of federal, state or local statutory law or common law, if such person is held liable therefor (including pursuant to any settlement arrangements);
- (iii) for any reimbursement of the Company by such person of any bonus or other incentive-based or equity-based compensation or of any profits realized by such person from the sale of securities of the Company, as required in each case under the Securities Exchange Act of 1934, as amended (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the “**Sarbanes-Oxley Act**”), or the payment to the Company of profits arising from the purchase and sale by such person of securities in violation of Section 306 of the Sarbanes-Oxley Act), if such person is held liable therefor (including pursuant to any settlement arrangements);
- (iv) initiated by such person, including any Proceeding (or any part of any Proceeding) initiated by such person against the Company or its directors, officers, employees, agents or other indemnitees, unless (a) the Board authorized the Proceeding (or the relevant part of the Proceeding) prior to its initiation, (b) the Company provides the indemnification, in its sole discretion, pursuant to the powers vested in the Company under applicable law, (c) otherwise required to be made under **Section 5.7** of these bylaws or (d) otherwise required by applicable law; or
- (v) if prohibited by applicable law.

5.7Determination; Claim. If a claim for indemnification or advancement of expenses under this **Article V** is not paid by the Company or on its behalf within 90 days after receipt by the Company of a written request therefor, the claimant shall be entitled to an adjudication by a court of competent jurisdiction of his or her entitlement to such indemnification or advancement of expenses. To the extent not prohibited by law, the Company shall indemnify such person against all expenses actually and reasonably incurred by such person in connection with any action for indemnification or advancement of expenses from the Company under this **Article V**, to the extent such person is successful in such action. In any such suit, the Company shall, to the fullest extent not prohibited by law, have the burden of proving that the claimant is not entitled to the requested indemnification or advancement of expenses.

5.8Non-Exclusivity of Rights. The indemnification and advancement of expenses provided by, or granted pursuant to, this **Article V** shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the certificate of formation or any statute, bylaw, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in such person’s official capacity and as to action in another capacity while holding such office. The Company is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advancement of expenses, to the fullest extent not prohibited by the TBOC or other applicable law.

5.9Insurance. The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the Company would have the power to indemnify such person against such liability under the provisions of the TBOC.

5.10Survival. The rights to indemnification and advancement of expenses conferred by this **Article V** shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

5.11Effect of Repeal or Modification. A right to indemnification or to advancement of expenses arising under a provision of the certificate of formation or a bylaw shall not be eliminated or impaired by an amendment to the certificate of formation or these bylaws after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

5.12Certain Definitions. For purposes of this **Article V**, references to the “**Company**” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this **Article V** with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this **Article V**, references to “**other enterprises**” shall include employee benefit plans; references to “**finances**” shall include any excise taxes assessed on a person with respect to an employee benefit plan; references to “**serving at the request of the Company**” shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “**not opposed to the best interests of the Company**” as referred to in this **Article V**.

ARTICLE VI - STOCK

6.1Stock Certificates; No Partly Paid Shares. The shares of the Company shall be represented by certificates, *provided* that the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Company. Unless otherwise provided by resolution of the Board, every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of, the Company by any two officers of the Company representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Company with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Company shall not have power to issue a certificate in bearer form. The Company may not issue the whole or any part of its shares as partly paid.

6.2Special Designation on Certificates. If the Company is authorized to issue more than one class of stock or more than one series of any class, then the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Company shall issue to represent such class or series of stock; *provided* that, except as otherwise provided in Section 3.202 of the TBOC, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate that the Company shall issue to represent such class or series of stock, a statement that the Company will furnish without charge to each shareholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Within a reasonable time after the issuance or transfer of uncertificated stock, the registered owner thereof shall be given a notice, in writing or by electronic transmission, containing the information required to be set forth or stated on certificates pursuant to this **Section 6.2** or Section 3.205 of the TBOC or with respect to this **Section 6.2** a statement that the Company will furnish without charge to each shareholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

6.3Lost Certificates. Except as provided in this **Section 6.3**, no new certificates for shares shall be

issued to replace a previously issued certificate unless the latter is surrendered to the Company and cancelled at the same time. The Company may issue a new certificate of stock or uncertificated shares in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Company may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

6.4 Dividends. The Board, subject to any restrictions contained in the certificate of formation or applicable law, may declare and pay dividends upon the shares of the Company's capital stock. Dividends may be paid in cash, in property or in shares of the Company's capital stock, subject to the provisions of the certificate of formation.

The Board may set apart out of any of the funds of the Company available for dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

6.5 Stock Transfer Agreements. The Company shall have power to enter into and perform any agreement with any number of shareholders of any one or more classes of stock of the Company to restrict the transfer of shares of stock of the Company of any one or more classes owned by such shareholders in any manner not prohibited by the TBOC.

6.6 Registered Shareholders. The Company:

(i) shall be entitled to treat the person registered on its books as the owner of any share or shares as the person exclusively entitled to receive dividends, vote, receive notifications and otherwise exercise all the rights and powers of an owner of such share or shares; and

(ii) shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of another person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Texas.

6.7 Transfers. Transfers of record of shares of stock of the Company shall be made only upon its books by the holders thereof, in person or by an attorney duly authorized, and, if such stock is certificated, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer.

ARTICLE VII - MANNER OF GIVING NOTICE AND WAIVER

7.1 Notice of Shareholders Meetings.

Notice of any meeting of shareholders shall be given in the manner set forth in the TBOC.

7.2 Waiver of Notice.

Whenever notice is required to be given under any provision of the TBOC, the certificate of formation or these bylaws, a written waiver, signed by the person entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time of the event for which notice is to be given, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting unless the person participates in or attends the meeting solely to object to the transaction of business at the meeting on the ground that the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the shareholders need be specified in any written waiver of notice or any waiver by electronic transmission unless so required by the certificate of formation or these bylaws.

ARTICLE VIII - GENERAL MATTERS

8.1 Fiscal Year. The fiscal year of the Company shall be fixed by resolution of the Board and may be changed by the Board.

8.2Seal. The Company may adopt a corporate seal, which shall be in such form as may be approved from time to time by the Board. The Company may use the corporate seal by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

8.3Annual Report. The Company shall cause an annual report to be sent to the shareholders of the Company to the extent required by applicable law. If and so long as there are fewer than 100 holders of record of the Company's shares, the requirement of sending an annual report to the shareholders of the Company is expressly waived (to the extent permitted under applicable law).

8.4Construction; Definitions. Unless the context requires otherwise, the general provisions, rules of construction and definitions in the TBOC shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "**person**" includes a corporation, any other entity and a natural person.

8.5 Forum Selection.

Unless the Company consents in writing to the selection of an alternative forum, the Texas Business Court in the Eleventh Division of the Texas Business Court (or, if the Texas Business Court does not have jurisdiction, the federal district court for the Southern District of Texas, Houston Division or the state district court of Harris County, Texas or another state court in Texas, provided, however, and for purposes of clarity, any suit, action or other proceeding shall only be brought before a state court in Harris County, Texas, to the extent and only to the extent that the Texas Business Court and the Federal Court do not have jurisdiction over the same) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Company, (b) any action asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director, shareholder, officer or other employee of the Company to the Company or the Company's shareholders, (c) any action asserting a claim against the Company or any current or former director, officer or other employee of the Company arising pursuant to any provision of the TBOC or the certificate of formation or these bylaws (as each may be amended from time to time), (d) any action asserting an "internal entity claim" (as defined in Section 2.115 of the TBOC) or (e) any other action or proceeding in which the Texas Business Court has jurisdiction, except for, as to each of (a) through (e) above, any claim as to which such court determines that there is an indispensable party not subject to the jurisdiction of such court (and the indispensable party does not consent to the personal jurisdiction of such court within 10 days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than such court or for which such court does not have subject matter jurisdiction. For the avoidance of doubt, nothing

contained in this first paragraph of **Section 8.5** shall apply to any action brought to enforce a duty or liability created by the Securities Act of 1933, as amended (the "**1933 Act**"), or the 1934 Act or any successor thereto.

Unless the Company consents in writing to the selection of an alternative forum, the federal district courts of the United States shall be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the 1933 Act.

Any person or entity purchasing or otherwise acquiring any interest in any security of the Company shall be deemed to have notice of and consented to the provisions of this **Section 8.5**.

8.6 Jury Trial Waiver

UNLESS THE COMPANY CONSENTS IN WRITING TO A JURY TRIAL, THE COMPANY AND EACH SHAREHOLDER, DIRECTOR, AND OFFICER OF THE COMPANY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT THAT THE COMPANY OR SUCH PERSON MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM ARISING OUT OF OR RELATING TO ANY "INTERNAL ENTITY CLAIM" AS THAT TERM IS DEFINED IN SECTION 2.115 OF THE TBOC, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OTHER LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM WITHIN THE SCOPE OF SECTION 8.5 OF THIS ARTICLE EIGHT AND EACH SHAREHOLDER AGREES THAT SUCH SHAREHOLDER'S HOLDING OR ACQUISITION OF SHARES OF STOCK OF THE COMPANY OR, TO THE EXTENT PERMITTED BY LAW, OPTIONS OR RIGHTS TO ACQUIRE SHARES OF STOCK OF THE COMPANY FOLLOWING THE ADOPTION OF THESE BYLAWS

CONSTITUTES SUCH SHAREHOLDER'S INTENTIONAL AND KNOWING WAIVER OF ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH CLAIMS.

ARTICLE IX - AMENDMENTS

These bylaws may be adopted, amended or repealed by the shareholders entitled to vote. However, the Company may, in its certificate of formation, confer the power to adopt, amend or repeal bylaws upon the directors. The fact that such power has been so conferred upon the directors shall not divest the shareholders of the power, nor limit their power to adopt, amend or repeal bylaws.

A bylaw amendment adopted by shareholders which specifies the votes that shall be necessary for the election of directors shall not be further amended or repealed by the Board.

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “Agreement”) is entered into and is effective as of [____], 2025 by and between Exodus Movement, Inc., a Texas corporation (the “Company”), and [____] (the “Indemnitee”).

RECITALS

WHEREAS, the Board of Directors has determined that the inability to attract and retain qualified persons as directors and officers is detrimental to the best interests of the Company’s shareholders and that the Company should act to assure such persons that there shall be adequate certainty of protection through insurance and indemnification against risks of claims and actions against them arising out of their service to and activities on behalf of the Company;

WHEREAS, the Company has adopted provisions in its Certificate of Formation (as amended and/or restated from time to time, the “Certificate of Formation”) and Bylaws (as amended and/or restated from time to time, the “Bylaws”) providing for indemnification and advancement of expenses of its directors and officers to the fullest extent permitted by the Texas Business Organizations Code (as the same exists or may hereafter be amended, the “TBOC”), and the Company wishes to clarify and enhance the rights and obligations of the Company and the Indemnitee with respect to indemnification and advancement of expenses;

WHEREAS, in order to induce and encourage highly experienced and capable persons such as the Indemnitee to serve and continue to serve as directors and officers of the Company and in any other capacity with respect to the Company as the Company may request, and to otherwise promote the desirable end that such persons shall resist what they consider unjustified lawsuits and claims made against them in connection with the good faith performance of their duties to the Company, with the knowledge that certain costs, judgments, penalties, fines, liabilities, and expenses incurred by them in their defense of such litigation are to be borne by the Company and they shall receive appropriate protection against such risks and liabilities, the Board of Directors of the Company has determined that the following Agreement is reasonable and prudent to promote and ensure the best interests of the Company and its shareholders; and

WHEREAS, the Company desires to have the Indemnitee continue to serve as a director or officer of the Company and in any other capacity with respect to the Company as the Company may request, as the case may be, free from undue concern for unpredictable, inappropriate, or unreasonable legal risks and personal liabilities by reason of the Indemnitee acting in good faith in the performance of the Indemnitee’s duty to the Company; and the Indemnitee desires to continue so to serve the Company, provided, and on the express condition, that he or she is furnished with the protections set forth hereinafter.

AGREEMENT

NOW, THEREFORE, in consideration of the Indemnitee’s continued service as a director or officer of the Company, the parties hereto agree as follows:

1. Definitions. For purposes of this Agreement:
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(a) A “Change in Control” will be deemed to have occurred if, with respect to any particular 24-month period, the individuals who, at the beginning of such 24-month period, constituted the Board of Directors of the Company (the “Incumbent Board”) cease for any reason to constitute at least a majority of the Board of Directors; provided, however, that any individual becoming a director subsequent to the beginning of such 24-month period whose election or appointment, or nomination for election by the shareholders of the Company, was approved or ratified by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a person other than the Board of Directors.

(b) “Disinterested Director” means a director of the Company who is “disinterested” and “independent” under the TBOC.

(c) “Expenses” includes, without limitation, expenses incurred in connection with the defense or settlement of, or participation in, any action, suit, arbitration, alternative dispute resolution mechanism, investigation, inquiry, judicial, administrative, or legislative hearing, or any other threatened, pending, or completed proceeding, whether brought by or in the right of the Company or otherwise, including any and all appeals thereof, whether of a civil, criminal, administrative, legislative, investigative, or other nature, including all reasonable and documented attorneys’ fees, court costs, transcript costs, fees of experts, witness fees and expenses, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, fees and expenses of accountants and other advisors, retainers and disbursements and advances thereon, the premium, security for, and other costs relating to any bond (including cost bonds, appraisal bonds, supersedes bond, other appeal bond or their equivalents), any federal, state, local or foreign taxes imposed on the Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, and any expenses of establishing a right to indemnification or advancement under Sections 9, 11, 13, and 16 hereof, but shall not include the amount of judgments, fines, ERISA excise taxes, or penalties actually levied against the Indemnitee, or any amounts paid in settlement by or on behalf of the Indemnitee.

(d) “Independent Counsel” means a law firm or a partner or member of a law firm, as applicable, that is experienced in matters of Texas corporation law and neither is presently nor in the past five years has been retained to represent (i) the Company or the Indemnitee in any matter material to either such party (other than with respect to matters concerning Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements) or (ii) any other party to the Proceeding giving rise to a request for indemnification hereunder. Notwithstanding the foregoing, the term “Independent Counsel” shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or the Indemnitee in an action to determine the Indemnitee’s right to indemnification under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel and to fully indemnify such counsel against any and all expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(e) “Proceeding” means any action, suit, arbitration, alternative dispute resolution mechanism, investigation, inquiry, judicial, administrative, or legislative hearing, or any other threatened, pending, or completed proceeding, whether brought by or in the right of the Company or otherwise, including any and all appeals, whether of a civil, criminal, administrative, legislative, investigative, or other nature, to which the Indemnitee was or is a party or is threatened to be made a party or is otherwise involved in by reason of the fact that the Indemnitee is or was a director, officer, employee, agent, or trustee of the Company or while a director, officer, manager, employee, agent, or trustee of the Company is or was serving at the request of the Company as a director, officer, employee, agent, or trustee of another corporation or of a partnership, joint venture, limited liability company, trust, or other enterprise, including service with respect to an employee benefit plan, or by reason of anything done or not done by the Indemnitee in any such capacity, whether or not the Indemnitee is serving in such capacity at the time any expense, liability, or loss is incurred for which indemnification or advancement can be provided under this Agreement.

2. Service by the Indemnitee. The Indemnitee shall serve and/or continue to serve as a director or officer of the Company faithfully and to the best of the Indemnitee’s ability so long as the Indemnitee is duly elected or appointed and until such time as the Indemnitee’s successor is elected and qualified or the Indemnitee is removed as permitted by applicable law or tenders a resignation in writing.

3. Indemnification and Advancement of Expenses. The Company shall indemnify and hold harmless the Indemnitee, and shall pay to or on behalf of the Indemnitee in advance of the final disposition of any Proceeding all Expenses incurred by the Indemnitee in defending any such Proceeding, to the fullest extent permitted by the TBOC, as the same exists or may hereafter be amended, all on the terms and conditions set forth in this Agreement. The rights of the Indemnitee to indemnification and advancement of Expenses provided hereunder shall include but shall not be limited to those rights hereinafter set forth, except that no indemnification or advancement of Expenses shall be paid to the Indemnitee:

(a) to the extent expressly prohibited by applicable law, the Certificate of Formation, or the Bylaws;

(b) for and to the extent that payment is actually made to the Indemnitee under a valid and collectible insurance policy or under a valid and enforceable indemnity clause, provision of the Certificate of Formation or Bylaws, or agreement of the Company or any other company or other enterprise (and the Indemnitee shall reimburse the Company for any amounts paid by the Company and subsequently so recovered by the Indemnitee); or

(c) in connection with an action, suit, or proceeding, or part thereof, voluntarily initiated by the Indemnitee (including claims and counterclaims, whether such counterclaims are asserted by (i) the Indemnitee, or (ii) the Company in an action, suit, or proceeding initiated by the Indemnitee), except a judicial proceeding or arbitration pursuant to Section 11 to enforce rights under this Agreement, unless the action, suit, or proceeding, or part thereof, was authorized or ratified by the Board of Directors of the Company or the Board of Directors otherwise determines that indemnification or advancement of Expenses is appropriate.

In addition, no advancement of Expenses shall be paid to the Indemnatee with respect to any Proceeding brought by or in the right of the Company against the Indemnatee that is authorized by the Board of Directors of the Company.

4. Action or Proceedings Other than an Action by or in the Right of the Company. Except as limited by Section 3 above, the Indemnatee shall be entitled to the indemnification rights provided in this Section if the Indemnatee was or is a party or is threatened to be made a party to, or was or is otherwise involved in, any Proceeding (other than an action by or in the right of the Company). Pursuant to this Section, the Indemnatee shall be indemnified against all expense, liability, and loss (including judgments, fines, ERISA excise taxes, penalties, amounts paid in settlement by or on behalf of the Indemnatee, and Expenses) actually and reasonably incurred by the Indemnatee in connection with such Proceeding, if the Indemnatee acted in good faith and in a manner the Indemnatee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had no reasonable cause to believe his or her conduct was unlawful.

5. Indemnity in Proceedings by or in the Right of the Company. Except as limited by Section 3 above, the Indemnatee shall be entitled to the indemnification rights provided in this Section if the Indemnatee was or is a party or is threatened to be made a party to, or was or is otherwise involved in, any Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section, the Indemnatee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnatee in connection with such Proceeding, or any claim, issue or matter therein, if the Indemnatee acted in good faith and in a manner the Indemnatee reasonably believed to be in or not opposed to the best interests of the Company; provided, however, that no such indemnification shall be made in respect of any claim, issue, or matter as to which the TBOC expressly prohibits such indemnification by reason of any adjudication of liability of the Indemnatee to the Company, unless and only to the extent that the Texas Business Court in the Eleventh Division of the Texas Business Court (the "Texas Business Court") or the court in which such Proceeding was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, the Indemnatee is fairly and reasonably entitled to indemnification for such Expenses as such court shall deem proper.

6. Indemnification for Costs, Charges, and Expenses of Successful Party. Notwithstanding any limitations of any other provision of this Agreement, including Section 3(c), the final sentence of Section 3, Section 4, and Section 5 above, to the extent that the Indemnatee has been successful, on the merits or otherwise, in whole or in part, in defense of any Proceeding, or in defense of any claim, issue, or matter therein, including, without limitation, the dismissal of any action without prejudice, or if it is ultimately determined, by final judicial decision of a court of competent jurisdiction from which there is no further right to appeal, that the Indemnatee is otherwise entitled to be indemnified against Expenses, the Indemnatee shall be indemnified against all Expenses actually and reasonably incurred by the Indemnatee in connection therewith. Indemnification under this Section 6 shall not be subject to satisfaction of any standard of conduct, and the Company may not assert the failure to satisfy a standard of conduct as a basis to deny indemnification or recover Expenses advanced, including in a suit brought pursuant to Section 11 hereof.

7. Partial Indemnification. If the Indemnatee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of the expense, liability, and loss (including judgments, fines, ERISA excise taxes, penalties, amounts paid in settlement by or on behalf of the Indemnatee, and Expenses) actually and reasonably incurred in connection with any Proceeding, or in connection with any judicial proceeding or arbitration pursuant to Section 11 to enforce rights under this Agreement, but not, however, for all of the total amount thereof, the Company shall nevertheless indemnify the Indemnatee for the portion of such expense, liability, and loss actually and reasonably incurred to which the Indemnatee is entitled.

8. Indemnification for Expenses as a Witness. Notwithstanding any other provision of this Agreement, to the maximum extent permitted by the TBOC, the Indemnatee shall be entitled to indemnification against all Expenses actually and reasonably incurred by the Indemnatee or on the Indemnatee's behalf if the Indemnatee appears as a witness or otherwise incurs legal expenses as a result of or related to the Indemnatee's official capacity in any Proceeding to which the Indemnatee neither is, nor is threatened to be made, a party.

9. Determination of Entitlement to Indemnification. To receive indemnification under this Agreement, the Indemnatee shall submit a written request to the Secretary of the Company. Such request shall include documentation or information that is necessary for such determination and is reasonably available to the Indemnatee, but in no case shall Indemnatee be required to convey any information that would cause Indemnatee to waive any privilege accorded by applicable law. Upon receipt by the Secretary of the Company of a written request by the Indemnatee for indemnification, the entitlement of the Indemnatee to indemnification, to the extent not required pursuant to the terms of Section 6 or Section 8 of this Agreement, shall be determined by the following person or persons who shall be empowered to make such determination (as selected by the Board of Directors, except with respect to Section 9(d) and Section 9(f) below): (a) the Board of Directors of the Company by a majority vote of Disinterested Directors, whether or not such majority constitutes a quorum; (b) a committee of Disinterested Directors designated by a majority vote of all Disinterested Directors, whether or not such majority constitutes a quorum; (c) Independent Counsel, selected by the Board of Directors or a committee of the Board of Directors by a vote in accordance with Section 9(a) or 9(b), in a written opinion to the Board of Directors, a copy of which shall be delivered to the Indemnatee; (d) if there are no Disinterested Directors, Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the Indemnatee; (e) the shareholders of the Company in a vote that excludes the voting power of each director that is not a Disinterested Director; or (f) in the event that a Change in Control has occurred, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the Indemnatee. For purposes of Section 9(d), such Independent Counsel shall be selected by the Board of Directors and approved by the Indemnatee. For purposes of Section 9(f), such Independent Counsel shall be selected by the Indemnatee. Upon failure of the Board of Directors so to select such Independent Counsel or upon failure of the Indemnatee so to approve or so to select, in the event a Change in Control has occurred, such Independent Counsel shall be selected upon application to a court of competent jurisdiction. The determination of entitlement to indemnification shall be made and, unless a contrary determination is made, such indemnification shall be paid in full by the Company not later than 90 calendar days after receipt by the Secretary of the Company of a written request for indemnification. If the person making such determination shall determine that the Indemnatee is entitled to indemnification as to part

(but not all) of the application for indemnification, such person shall reasonably prorate such partial indemnification among the claims, issues, or matters at issue at the time of the determination. Indemnatee shall cooperate with the determination with respect to Indemnatee's entitlement to indemnification, including providing, upon reasonable advance request, any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnatee and reasonably necessary for such determination. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnatee in so cooperating shall, to the fullest extent permitted by applicable law, be borne by the Company (irrespective of the determination as to Indemnatee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnatee harmless therefrom.

10. Presumptions and Effect of Certain Proceedings. The Secretary of the Company shall, promptly upon receipt of the Indemnatee's written request for indemnification, advise in writing the Board of Directors or such other person or persons empowered to make the determination as provided in Section 9 that the Indemnatee has made such request for indemnification. Upon making such request for indemnification, the Indemnatee shall be presumed to be entitled to indemnification hereunder and the Company shall have the burden of proof in making any determination contrary to such presumption. If the person or persons so empowered to make such determination shall have failed to make the requested determination with respect to indemnification within 60 calendar days after receipt by the Secretary of the Company of such request, then, to the fullest extent not prohibited by applicable law, a requisite determination of entitlement to indemnification shall be deemed to have been made and the Indemnatee shall be absolutely entitled to such indemnification, absent actual fraud in the request for indemnification. The termination of any Proceeding or of any claim, issue or matter therein, by judgment, order, settlement, or conviction, or upon a plea of guilty, *nolo contendere* or its equivalent, shall not, of itself (a) create a presumption that the Indemnatee did not act in good faith and in a manner the Indemnatee reasonably believed to be in or not opposed to the best interests of the Company, and with respect to any criminal Proceeding, had reasonable cause to believe his or her conduct was unlawful or (b) otherwise adversely affect the rights of the Indemnatee to indemnification, in each case, except as may be provided herein.

11. Remedies of the Indemnatee in Cases of Determination Not to Indemnify or to Advance Expenses; Right to Bring Suit. In the event that a determination is made that the Indemnatee is not entitled to indemnification hereunder or if payment is not timely made following a determination of entitlement to indemnification pursuant to Sections 9 and 10, or if an advancement of Expenses is not timely made pursuant to Section 16, the Indemnatee may at any time thereafter bring suit against the Company seeking an adjudication of entitlement to such indemnification or advancement of Expenses. Alternatively, the Indemnatee at the Indemnatee's option may seek an award in an arbitration to be conducted by a single arbitrator in the State of Texas pursuant to the Commercial Arbitration Rules of the American Arbitration Association, such award to be made within 60 calendar days following the filing of the demand for arbitration. The Company shall not oppose the Indemnatee's right to seek any such adjudication or award in arbitration. In any suit or arbitration brought by the Indemnatee to enforce a right to indemnification hereunder (but not in a suit or arbitration brought by the Indemnatee to enforce a right to an advancement of Expenses), it shall be a defense that the Indemnatee has not met any applicable standard of conduct for indemnification set forth in this Agreement (including the standard described in Section 4 or 5, as applicable) or the TBOC. In any suit or arbitration brought

by an Indemnitee who is not a director of the Company to enforce a right to an advancement of Expenses, it shall be a defense that the advancement of Expenses was properly denied pursuant to the terms of Section 16 hereof. Further, in any suit brought by the Company to recover an advancement of Expenses pursuant to the terms of an undertaking, the Company shall be entitled to recover such Expenses upon a final judicial decision of a court of competent jurisdiction from which there is no further right to appeal that the Indemnitee has not met the standard of conduct described above. Neither the failure of the Company (including the Disinterested Directors, a committee of Disinterested Directors, Independent Counsel, or its shareholders) to have made a determination prior to the commencement of such suit or arbitration that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the standard of conduct described above, nor an actual determination by the Company (including the Disinterested Directors, a committee of Disinterested Directors, Independent Counsel, or its shareholders) that the Indemnitee has not met the standard of conduct described above shall create a presumption that the Indemnitee has not met the standard of conduct described above, or, in the case of such a suit brought by the Indemnitee, be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of Expenses hereunder, or brought by the Company to recover an advancement of Expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Section 11 or otherwise shall be on the Company. Absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, if a determination is made or deemed to have been made pursuant to the terms of Section 9 or 10 that the Indemnitee is entitled to indemnification, the Company shall be bound by such determination and is precluded from asserting that such determination has not been made or that the procedure by which such determination was made is not valid, binding, and enforceable. The Company further agrees to stipulate in any court or before any arbitrator pursuant to this Section 11 that the Company is bound by all the provisions of this Agreement and is precluded from making any assertions to the contrary. If the court or arbitrator shall determine that the Indemnitee is entitled to any indemnification or advancement of Expenses hereunder, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by the Indemnitee in connection with such adjudication or award in arbitration (including, but not limited to, any appellate proceedings) to the fullest extent permitted by law, and in any suit brought by the Company to recover an advancement of Expenses pursuant to the terms of an undertaking, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by the Indemnitee in connection with such suit to the extent the Indemnitee has been successful, on the merits or otherwise, in whole or in part, in defense of such suit, to the fullest extent permitted by law.

12. Non-Exclusivity of Rights. The rights to indemnification and to the advancement of Expenses provided by this Agreement shall not be deemed exclusive of any other right that the Indemnitee may now or hereafter acquire under any applicable law, agreement, vote of shareholders or Disinterested Directors, provisions of a charter or bylaws (including the Certificate of Formation or Bylaws of the Company), or otherwise.

13. Expenses for Disputes Relating to Agreement. In the event that the Indemnitee is subject to or intervenes in any action, suit, or proceeding (i) in which the validity or enforceability of this Agreement is at issue or (ii) to recover damages for breach of, this Agreement, the Indemnitee, if the Indemnitee prevails in whole or in part in such action, suit, or proceeding, shall

be entitled to recover from the Company and shall be indemnified by the Company against any Expenses actually and reasonably incurred by the Indemnatee in connection therewith.

14. Continuation of Indemnity. All agreements and obligations of the Company contained herein shall continue during the period the Indemnatee is a director, officer, manager, employee, agent, or trustee of the Company or while a director, officer, manager, employee, agent, or trustee is serving at the request of the Company as a director, officer, manager, employee, agent, or trustee of another corporation or of a partnership, joint venture, limited liability company, trust, or other enterprise, including service with respect to an employee benefit plan, and shall continue thereafter with respect to any possible claims based on the fact that the Indemnatee was a director, officer, employee, agent, or trustee of the Company or, while a director, officer, manager, employee, agent or trustee of the Company, was serving at the request of the Company as a director, officer, manager, employee, agent, or trustee of another corporation or of a partnership, joint venture, limited liability company, trust, or other enterprise, including service with respect to an employee benefit plan. This Agreement shall be binding upon all successors and assigns of the Company (including any transferee of all or substantially all of its assets and any successor by merger or operation of law) and shall inure to the benefit of the Indemnatee's heirs, executors, and administrators.

15. Notification and Defense of Proceeding. Promptly after receipt by the Indemnatee of any summons, citation, subpoena, complaint, indictment, information or other document relating to notice of any Proceeding or matter which may be subject to indemnification or advancement as provided hereunder, the Indemnatee shall, if a request for indemnification or an advancement of Expenses in respect thereof is to be made against the Company under this Agreement, notify the Company in writing of the receipt thereof and include complete copies of any documents or materials received in connection therewith; but the omission so to notify the Company shall not relieve it from any liability that it may have to the Indemnatee. Notwithstanding any other provision of this Agreement, the Certificate of Formation or the Bylaws, with respect to any such Proceeding of which the Indemnatee notifies the Company:

(a) The Company shall be entitled to participate therein at its own expense;

(b) Except as otherwise provided in this Section 15(b), to the extent that it may wish, the Company, jointly with any other indemnifying party similarly notified, shall be entitled to assume the defense thereof, with counsel satisfactory to the Indemnatee. After notice from the Company to the Indemnatee of its election so to assume the defense thereof, the Company shall not be liable to the Indemnatee under this Agreement for any expenses of counsel subsequently incurred by the Indemnatee in connection with the defense thereof except as otherwise provided below. The Indemnatee shall have the right to employ the Indemnatee's own counsel in such Proceeding, but the fees and expenses of such counsel incurred after notice from the Company of its assumption of the defense thereof shall be at the expense of the Indemnatee unless (i) the employment of counsel by the Indemnatee has been authorized by the Company, (ii) the Indemnatee shall have reasonably concluded that there may be a conflict of interest between the Company and the Indemnatee in the conduct of the defense of such Proceeding, or (iii) the Company shall not within 60 calendar days of receipt of notice from the Indemnatee in fact have employed counsel to assume the defense of the Proceeding, in each of which cases the Indemnatee shall be entitled to advancement of all fees and expenses of the Indemnatee's counsel in accordance with Section 16

hereof and to indemnification against such fees and expenses in accordance with the applicable provisions of this Agreement. The Company shall not be entitled to assume the defense of any Proceeding brought by or on behalf of the Company or as to which the Indemnatee shall have made the conclusion provided for in (ii) above; and

(c) Notwithstanding any other provision of this Agreement, the Company shall not be liable to indemnify the Indemnatee under this Agreement for any amounts paid in settlement of any Proceeding effected without the Company's written consent, or for any judicial or other award, if the Company was not given an opportunity, in accordance with this Section 15, to participate in the defense of such Proceeding. The Company shall not settle any Proceeding in any manner that would impose any penalty or limitation on or disclosure obligation with respect to the Indemnatee, or that would directly or indirectly constitute or impose any admission or acknowledgment of fault or culpability with respect to the Indemnatee, without the Indemnatee's written consent. Neither the Company nor the Indemnatee shall unreasonably withhold any consent required under this Section 15(c).

16. Advancement of Expenses. All Expenses incurred by the Indemnatee in defending any Proceeding described in Sections 4 or 5 hereof shall be paid by the Company in advance of the final disposition of such Proceeding at the request of the Indemnatee. The Indemnatee's right to advancement shall not be subject to the satisfaction of any standard of conduct and advances shall be made without regard to the Indemnatee's ultimate entitlement to indemnification under the provisions of this Agreement or otherwise; provided, however, that, if the Indemnatee is not a director of the Company, the Company shall not advance or continue to advance Expenses to the Indemnatee if a determination is reasonably made that the facts known at the time such determination is made demonstrate, by clear and convincing evidence, that the Indemnatee acted in bad faith or in a manner that the Indemnatee did not reasonably believe to be in or not opposed to the best interests of the Company, or, with respect to any criminal Proceeding, that the Indemnatee had reasonable cause to believe his or her conduct was unlawful. Such determination shall be made: (i) by the Board of Directors by a majority vote of the directors who are not parties to such Proceeding, whether or not such majority constitutes a quorum or (ii) if there are no such directors, or if such directors so direct, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to the Indemnatee. To receive an advancement of Expenses under this Agreement, the Indemnatee shall submit a written request to the Secretary of the Company. Each such advancement of Expenses shall be made within 20 calendar days after the receipt by the Secretary of the Company of such written request. The Indemnatee shall qualify for such advancement of Expenses upon the execution and delivery to the Company of (x) this Agreement, which shall constitute an undertaking providing that Indemnatee undertakes to repay all amounts so advanced if it shall ultimately be determined, by final judicial decision of a court of competent jurisdiction from which there is no further right to appeal, that the Indemnatee is not entitled to be indemnified for such Expenses by the Company as provided by this Agreement or otherwise, and (y) any other materials required by the TBOC. The Indemnatee's undertaking to repay any such amounts is not required to be secured. The Indemnatee's entitlement to Expenses under this Agreement shall include those incurred in connection with any action, suit, or proceeding by the Indemnatee seeking an adjudication or award in arbitration pursuant to Section 11 of this Agreement (including the enforcement of this provision) to the extent the court or arbitrator shall finally determine that the Indemnatee is entitled to an advancement of Expenses hereunder.

17. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal, or unenforceable as applied to any person or entity or circumstance for any reason whatsoever, then, to the fullest extent permitted by law (a) the validity, legality, and enforceability of such provision in any other circumstance and of the remaining provisions of this Agreement (including, without limitation, all portions of any paragraphs of this Agreement containing any such provision held to be invalid, illegal, or unenforceable, that are not by themselves invalid, illegal, or unenforceable) and the application of such provision to other persons or entities or circumstances shall not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, all portions of any paragraph of this Agreement containing any such provision held to be invalid, illegal, or unenforceable, that are not themselves invalid, illegal, or unenforceable) shall be construed so as to give effect to the intent of the parties that the Company provide protection to the Indemnitee to the fullest extent set forth in this Agreement.

18. Headings; References; Pronouns. The headings of the sections of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof. References herein to section numbers are to sections of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the singular or plural as appropriate.

19. Insurance.

(a) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, agents or trustees of the Company or of any other corporation or of a partnership, joint venture, trust, or other enterprise (including an employee benefit plan), Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee, agent or trustee under such policy or policies. If, at the time of the receipt of a notice of a claim pursuant to the terms hereof, the Company has director and officer liability insurance in effect, the Company shall give prompt notice of the commencement of such Proceeding to the insurers in accordance with the procedures set forth in the respective policies. The Company shall thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such Proceeding in accordance with the terms of such policies.

(b) In the event of a Change in Control or the Company's becoming insolvent, the Company shall maintain in force any and all insurance policies then maintained by the Company providing liability insurance for directors, officers, employees, agents or trustees of the Company or of any other corporation or of a partnership, joint venture, trust, or other enterprise (including an employee benefit plan), for a fixed period of six years thereafter (a "Tail Policy"). Such coverage shall be non-cancellable and shall be placed and serviced for the duration of its term by the Company's incumbent insurance broker. Such broker shall place the Tail Policy with the incumbent insurance carriers using the policies that were in place at the time of the Change in Control or insolvency (unless the incumbent carriers will not offer such policies, in which case the Tail Policy placed by the Company's insurance broker shall be substantially comparable in scope and amount as the expiring policies, and the insurance carriers for the Tail Policy shall have an AM Best rating that is the same or better than the AM Best ratings of the expiring policies).

20. Other Provisions.

(a) This Agreement and all disputes or controversies arising out of or related to this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Texas, without regard to the laws of any other jurisdiction that might be applied because of conflicts of laws principles of the State of Texas, unless otherwise required by the law of the state in which the Indemnitee primarily resides and works.

(b) Except with respect to any arbitration commenced by Indemnitee pursuant to Section 11 of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (i) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Texas Business Court (or, if the Texas Business Court does not have jurisdiction, the federal district court for the Southern District of Texas, Houston Division or the state district court of Harris County, Texas or another state court in Texas, provided, however, and for purposes of clarity, any suit, action or other proceeding shall only be brought before a state court in Harris County, Texas, to the extent and only to the extent that the Texas Business Court and the federal district court do not have jurisdiction over the same), and not in any other state or federal court in the United States of America or any court in any other country, (ii) consent to submit to the exclusive jurisdiction of the Texas Business Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (iii) consent to service of process at the address set forth in Section 20(g) of this Agreement with the same legal force and validity as if served upon such party personally within the State of Texas, (iv) waive any objection to the laying of venue of any such action or proceeding in the Texas Business Court and (v) waive, and agree not to plead or to make, any claim that any such action or proceeding brought in the Texas Business Court has been brought in an improper or inconvenient forum.

(c) UNLESS THE COMPANY CONSENTS IN WRITING TO A JURY TRIAL, THE COMPANY AND INDEMNITEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT THAT THE COMPANY OR INDEMNITEE MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, COUNTERCLAIM, CROSS-CLAIM OR THIRD-PARTY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE MATTERS RELATING HERETO OR ANY OBLIGATIONS HEREUNDER.

(d) This Agreement may be executed in one or more counterparts, each of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

(e) This Agreement shall not be deemed an employment contract between the Company and any Indemnitee, and, if the Indemnitee is an officer of the Company, the Indemnitee specifically acknowledges that the Indemnitee may be discharged at any time for any reason, with or without cause, and with or without severance compensation, except as may be otherwise provided in a separate written contract between the Indemnitee and the Company.

(f) In the event of payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee (excluding insurance obtained on the Indemnitee's own behalf), and the Indemnitee shall execute

all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

(g) This Agreement may not be amended, modified, or supplemented in any manner, whether by course of conduct or otherwise, except by an instrument in writing specifically designated as an amendment hereto, signed on behalf of each party; provided, however, that no amendment, modification, or repeal of this Agreement or any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in his or her official capacity. No failure or delay of either party in exercising any right or remedy hereunder shall operate as a waiver thereof, and no single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, shall preclude any other or further exercise thereof or the exercise of any other right or power.

(h) All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (1) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, (2) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed, (3) mailed by reputable overnight courier and receipted for by the party to whom said notice or other communication shall have been directed or (4) sent by facsimile transmission, with receipt of oral confirmation that such transmission has been received:

(i) If to the Indemnitee, at such as address as the Indemnitee shall provide to the Company.

(ii) If to the Company, to:

Exodus Movement, Inc.
15418 Weir Street #333
Omaha, NE 68137
Attention: Chief Legal Officer
Email: veronica.mc@exodus.io

or to any other address as may have been furnished to Indemnitee by the Company.

(i) To the fullest extent permitted by applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, shall contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement and/or for Expenses, in connection with any Proceeding in such proportion as is deemed fair and reasonable in light of all of the circumstances in order to reflect (1) the relative benefits received by the Company and Indemnitee in connection with the event(s) and/or transaction(s) giving rise to such Proceeding; and/or (2) the relative fault of the Company (and its directors, officers, employees and agents) and Indemnitee in connection with such event(s) and/or transactions.

(j) This Agreement shall continue until and terminate upon the later of: (1) 10 years after the date that Indemnatee shall have ceased to serve as a director or officer, as applicable, of the Company or (2) one year after the final termination of any Proceeding, including any appeal, then pending in respect of which Indemnatee is granted rights of indemnification or advancement hereunder and of any proceeding, including any appeal, commenced by Indemnatee pursuant to Section 11 of this Agreement relating thereto.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Company and the Indemnatee have caused this Agreement to be executed as of the date first written above.

EXODUS MOVEMENT, INC.

By:
Name:
Title:

Indemnatee:

SIGNATURE PAGE TO INDEMNIFICATION AGREEMENT
