BYLAWS  
OF  
WINTER SOLDIER, LLC

As is (or will be) reflected in the below-defined Company’s official minutes, the shareholders of Winter Soldier, LLC (“Winter Soldier” or the “Company”) have approved and adopted these bylaws (“Bylaws”) as of February 27, 2023. A copy of these Bylaws shall be made available to any of the Company’s shareholders upon written request made to any member of the board of directors (the “Board”).

# offices

## Principal Office / Branch Offices

Winter Soldier’s principal executive offices (i.e., its main office) must be located in the State of California. The Board may also, however, establish one or more branch offices in any location in which Winter Soldier is authorized to conduct business, whether in California or not.

# shareholders

## Annual Meetings

## Date, Time, Place, and Purpose

## [Corporations Code §§ 212; 600]

The Company’s annual shareholder meetings shall be held on and at such dates, times, and locations as the Board chooses, or any date, time, and location that all of the shareholders entitled to vote may decide.

At the annual meetings, directors shall be elected, and subject to the notice requirements set forth below, the shareholders may conduct any other business to which they are entitled.

## Failure to Hold an Annual Meeting

## [Corporations Code §§ 212; 600]

If Winter Soldier fails to hold the annual shareholder meeting within 60 days of the date designated for that meeting, or if no date has been designated, within 15 months following either the Company’s organization or the last annual shareholder meeting, any shareholder of the Company may petition the superior court in the county in which the Company’s principal California offices are located (or if the Company has no offices in California, then in Orange County). The court may then order the occurrence of the annual meeting.

Regardless of what the Company’s Articles of Incorporation (“Articles”) or these Bylaws state regarding the establishment of a quorum, in the event of such a court ordered meeting, the shares entitled to vote represented at the meeting, either in person or by proxy, shall constitute a quorum for the purpose of the meeting.

The court may issue any orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of shareholders entitled to vote, and the form of notice of the meeting.

The court shall also order Winter Soldier to reimburse the shareholder(s) who brought the petition for his/her/their reasonable attorneys’ fees and costs if the court grants the petition.

## Meetings Via Electronic Transmission

## [Corporations Code §§ 600; 603]

Shareholders shall have the absolute right to attend all shareholder meetings (whether annual or special) remotely/electronically as long as:

• (i) all the shareholders, including those physically present, can, in real time, hear and be heard by the other meeting participants; and

• (ii) Winter Soldier maintains a record of the votes cast by those shareholders who are participating remotely/electronically.

In addition, unless all of Winter Soldier’s shareholders unanimously consent in writing to forgo holding the meeting at a physical location, and instead all agree to meet remotely/electronically, Winter Soldier must notify the shareholders in the notice of the meeting that absent such unanimous agreement to meet remotely/electronically, the meeting will take place at a physical location. In cases where one or more shareholders do not wish to consent to holding a shareholder meeting solely by such remote/electronic means (i.e., a physical location will have to be selected), nothing shall prevent other shareholders who wish to appear remotely/electronically from doing so.

All such remote/electronic attendees of shareholder meetings shall be deemed present in person for purposes of providing and recording their votes.

## Notice of Shareholder Meetings [Corporations Code §§ 212; 601]

There are two types of shareholder meetings: annual meetings and special meetings. Special meetings of the shareholders are any meetings *other than* the annual shareholders meeting.

Subject to applicable waivers permitted in these Bylaws, notice of *any* shareholder meetings (i.e., whether annual or special) called by the Board must be provided at least 10 days, but no more than 60 days, before the meeting and must state the date, time, and place of the meeting.

While the notices for *annual* shareholder meetings must contain general statements regarding the matters the Board intends to have the shareholders vote upon, as well as the name(s) of any director nominee(s), *subject to the specific exceptions referenced at the beginning of the next paragraph*, if additional issues arise after notice of a shareholder meeting is sent, or if issues arise at a shareholder meeting that were not originally intended to be discussed and/or acted upon, those issues may still be presented to the shareholders and acted upon even though they were not contained in the notice.

The exceptions referenced in the prior paragraph (which permit certain matters to be discussed at the *annual* shareholder meetings even if such matters were not contained in the meetings’ notices) shall include:

• (i) a proposal to amend the Articles (Corp. Code §§ 601(f) and 902);

• (ii) a proposal to wind up and dissolve the Company (Corp. Code §§ 601(f) and 1900);

• (iii) a proposal to approve a conversion or reorganization (Corp. Code §§ 601(f), 1152, and 1201);

• (iv) a proposal regarding a liquidating distribution that runs afoul of the share preferences of preferred shareholders, if any (Corp. Code §§ 601(f); 1201); and/or

• (v) an election to approve a transaction involving a self-interested director (Corp. Code §§ 601(f) and 310).

With respect to *those* exceptions, they must be: (a) stated in the applicable notices; (b) unanimously approved to be discussed and acted upon by the shareholders if not stated in the notices; or (c) all the shareholders signed the requisite waivers/consents to notice (or the holding) of such meetings.

Since these Bylaws grant the shareholders an absolute right to attend annual and special meetings remotely/electronically, all notices of annual and special meetings must also include a brief description of the specific types of remote/electronic participation the shareholders may utilize to be considered present and able to participate and vote at the meetings.

Unlike the notice for an annual meeting, unless all the shareholders entitled to vote at that meeting otherwise agree, in the case of a *special* meeting, the notice must describe in general terms the business to be conducted. Absent such unanimous consent of the shareholders, no business may be conducted at a special meeting that was not at least generally stated in the notice.

Notice may be provided to the shareholders in person, via electronic transmission (e.g., fax or email, subject to the limitations contained in Corp. Code § 601(b)), via first-class mail, or if applicable, via any other method agreed upon by the shareholders or contained in these Bylaws. Notice shall be sent to the shareholders at their respective addresses of record on file with Winter Soldier, or at the fax number(s) and email address(es) provided by the shareholder(s). Absent a proper means of delivering notice to a shareholder, proper notice may be constructively given in the manner described in Corporations Code section 601(b). A proof of service regarding notice of the shareholder meeting (annual or special) signed by the officer/shareholder who provided notice, or any waiver of such notice signed by the shareholders, shall be included with the minutes of each shareholder meeting.

Notwithstanding the notice requirements contained in these Bylaws, if a shareholder attends an annual or special meeting without objecting to the defect(s), if any, concerning the notice at the beginning of the meeting, signs a waiver, or approves the minutes of the meeting in question, then the notice in question will be deemed effective, and that shareholder will have waived any right to object to any aspect of the notice.

## Special Meetings of the Shareholders [Corporations Code §§ 212; 600; 601]

Only those officers and/or shareholders specifically referenced in Corporations Code section 600(d) may call a special meeting of the shareholders (e.g., the Board voting as a body, the Chairman, the President, or the shareholders holding—individually or in the aggregate—of at least 10% of the shares entitled to vote.

Likewise, subject to Corporations Code section 305(c), one or more shareholders holding (individually or in the aggregate) at least 5% of the shares entitled to vote at the meeting may call a special meeting exclusively to select directors (and for no other purpose) if, at that time, a majority of the directors were appointed rather than elected.

If the Board as a whole calls a special meeting of the shareholders, the special meeting may be set no less than 10 days, but no more than 60 days, after the notice is served on the shareholders entitled to vote. If, on the other hand, any of the above-referenced permitted officers/shareholders (other than the Board as a whole) wish to call a special meeting of the shareholders, they may do so in *either* of the following ways:

(1) The permitted officer(s)/shareholder(s) may provide written notice to Winter Soldier’s Chairman, President, a Vice President, or its Secretary via personal delivery, certified/registered mail, or by any other means requiring a signature upon delivery. Upon receipt, the corporate officer who receives the request shall have no more than 20 days to serve the notice upon all the shareholders entitled to vote at the special meeting. If the applicable corporate officer fails to provide the shareholders entitled to vote with notice of the special meeting within the above-referenced 20 days, the officer(s)/shareholder(s) calling the special meeting may petition the superior court in the county in which the Company’s principal executive offices are located (if in California), or if no such offices are in California, in any California county where the officer(s)/shareholder(s) calling the meeting are located.

(2) The permitted officer(s)/shareholder(s) may elect to forgo providing written notice to a corporate officer, and instead provide notice to the shareholders directly. In such cases, the special meeting may be set no less than 10 days, but no more than 60 days, after the notice is served on the shareholders entitled to vote at that meeting. In the event of such direct service to the shareholders, the Company shall abide by its duties set forth in Corporations Code section 1600.

In either case, the notice must contain:

• (i) a general description of the business to be conducted at the special meeting; and

• (ii) the date, time, and place of the special meeting (which itself must occur at least 35 days, but no more than 60 days, from the date the original request is sent to the Company’s Chairman, President, or Secretary).

## Quorum and Effect of Shareholder Vote [Corporations Code § 602]

At any shareholder meeting, a quorum shall consist of a majority of the shares entitled to vote at the meeting, whether represented in person or by proxy.

Unless otherwise required by law or by Winter Soldier’s Articles, the affirmative vote of a majority of the shares entitled to vote at a duly held shareholder meeting at which a quorum is present shall be the act of the shareholders.

## Loss of Quorum

## [Corporations Code § 602]

The shareholders present at a duly called or held meeting at which a quorum is initially present may continue to transact business even if enough shareholders withdraw from the meeting to leave less than a quorum. Any action(s) taken at such a meeting, however, will only go into effect if such action(s) were approved by a majority of the shares required to constitute a quorum. [*For illustration purposes only, suppose that the corporation has 20 shareholders, each controlling 5 shares. A quorum would consist of a minimum of 11 shareholders (i.e., 55 out of the 100 shares). Now, assume also that 14 of the 20 shareholders show up for a meeting. At such a meeting, a majority of the voting shareholders would be 8 of the 14 shareholders (controlling 40 of the 100 shares). If 4 shareholders leave during the meeting, leaving 10 shareholders (which is one short of a quorum), the remaining 10 shareholders could still conduct business, and decisions/actions could be taken provided that such decisions/actions were supported by 8 of the 10 remaining shareholders (40 shares).*]

## Adjourned Shareholder Meeting [Corporations Code § 601]

Despite the provisions of Corporations Code section 601(d), when a shareholder meeting is adjourned to another time or place, notice of the date, time, and place of the new meeting must be provided to the shareholders entitled to vote at the new meeting. Such notice must be provided by whomever provided notice of the original meeting, and it must be provided no more than 48 hours after the original meeting was adjourned, unless the new meeting was scheduled to take place less than 48 hours after adjournment of the original meeting, in which case the shareholders must receive notice of the new meeting at least 24 hours before the start of the new meeting.

At the new meeting, any business may be transacted that could have been transacted at the originally noticed meeting.

## Voting of Shares [Corporations Code §§ 700; 702-705; 708]

Unless provided in the Articles or in Corporations Code section 708 (regarding cumulative voting), each share entitled to vote shall be entitled to one vote on each matter to be voted on by the shareholders. In the case of director elections, if the name of a candidate was placed in nomination before the voting commenced and a shareholder gave notice at the meeting (also before voting commenced) that the shareholder intended to cumulate his/her/its votes, then all shareholders may cumulate their votes for the candidates in nomination. Cumulative voting shall be subject to the provisions of Corporations Code section 708.

Unless relating to director elections, any shareholder entitled to vote on any matter may vote part of his/her/its shares in favor of the proposal and either refrain from voting the remaining shares or vote them against the proposal. If, however, the shareholder fails to specify the number of shares to be voted affirmatively, the conclusive presumption shall be that the shareholder voted all of his/her/its shares in favor of the proposal.

If shares are held for another by an administrator, court-appointed receiver, executor, guardian, conservator, or custodian, such shares may be voted on by the holder without there being a transfer of the shares into the holder’s name. However, with respect to the shares being held in the name of a court-appointed receiver, the receiver may vote those shares (either in person or by proxy) only if authority to do so is specifically contained in the court order appointing the receiver. Likewise, if the shares are in the name of a minor, the minor may vote the shares in person or by proxy unless a guardian of the minor properly provides Winter Soldier with written notice of the guardianship.

If the shares are held in the name of a corporation, the shares may be voted as follows:

• (i) if the bylaws of that corporation so require, then by an officer, agent, or proxyholder;

• (ii) in the absence of such a provision in that corporation’s bylaws, then as the board of directors of that corporation may determine; or

• (iii) in the absence of such a determination, then by the chairperson of the board, president, or any vice president of the other corporation (or any person so chosen by one of those individuals).

Unless evidence is presented to the contrary, shares that are voted (or proxies that are signed) in the name of the corporation shall be presumptively valid in accordance with Corporations Code section 703(a). In no event, however, shall shares of the Company owned by any subsidiary be entitled to vote on any matter.

Finally, shares held in the name of a corporate fiduciary, or in the names of two or more persons, shall be voted in the manner set forth in Corporations Code sections 703(c) and 704.

## Waiver of Notice or Consent by Absent Shareholders [Corporations Code § 601]

Subject to the voting requirements described in the following provision of these Bylaws, the transactions of any shareholder meeting, however called and noticed, and wherever held, are valid as though a properly noticed meeting, in the presence of a quorum, occurred, if either before or after the meeting, the requisite shareholders (i.e., representing the requisite number of shares) entitled to vote who were *not* present at the meeting, provide a waiver of notice or consent to the holding of the meeting.

All such waivers of notice or consent shall be filed with the corporate records or made a part of the minutes of the meeting.

Except as otherwise required by Corporations Code section 601(f), neither the business to be transacted nor the purpose of any regular or special meeting of shareholders needs to be specified in any written waiver of notice or consent.

## Shareholder Action by Written Consent in Lieu of a Meeting [Corporations Code § 603]

Assuming that a sufficient number of shareholders provide the requisite waivers/consents (as is described in the prior provision of these Bylaws), and with the exception of electing directors (other than to fill certain vacancies), any action that may be taken at any annual or special shareholder meeting may be taken without such a meeting, and without prior notice, if one or more shareholders, having at least the minimum number of votes that would otherwise be necessary to authorize or take that action at a meeting at which *all* the shares entitled to vote were present and voted, consent in writing to do so. [*In other words, except when electing directors, if a sufficient number of shareholders controlling a sufficient number of shares make a decision, then that decision will be deemed the decision of the Company provided that the post-decision notice/timing requirements described below are followed.*]

Directors may not be elected by written consent unless *all* of the shareholders entitled to vote for the directors sign the consent. Despite this limitation on the shareholders’ use of a written consent in lieu of a meeting, the shareholders may elect a director to fill a vacancy (other than a vacancy created by the involuntary removal of a director) by the written consent of a *majority* of the outstanding shares entitled to vote.

If any action is taken or approved without a meeting by fewer than all of Winter Soldier’s shareholders, a copy of the signed consent referenced above must be provided to those shareholders entitled to vote who did not sign the consent.

In cases where the waivers/consents are not unanimous, and where the action(s) approved in lieu of a meeting involve the matters listed below, there must be a 10-day notice period before such action(s) go into effect, during which the shareholders entitled to vote who did *not* provide waivers/consent must be notified of the action(s) approved. Such notice period shall apply to matters:

• (i) where a director had a financial interest (see Corp. Code § 310);

• (ii) relating to indemnification by the Company of an officer, director, employee, or agent, and arising out of a court, administrative, or investigative proceeding (see Corp. Code § 317);

• (iii) relating to a corporate conversion or reorganization (see Corp. Code §§ 1152 and 1201, respectively); or

• (iv) relating to a distribution or dissolution plan (see Corp. Code § 2007).

As to any other corporate actions approved by the shareholders without a meeting by less than unanimous consent, notice to the non-consenting shareholders must be “prompt.”

Revocations of consent shall be governed by Corporations Code section 603(c).

## Record Date [Corporations Code §§ 212(b)(7); 701]

The Board may fix a record date to determine which shareholders (or their proxies), at any given time, are entitled to:

• (i) notice of shareholder meetings;

• (ii) the right to vote at shareholder meetings;

• (iii) the right to receive distributions; and/or

• (iv) the right to exercise other benefits granted to the shareholders.

The record date fixed by the Board shall not be more than 60 days, nor less than 10 days, before the date of an applicable shareholder meeting, nor more than 60 days prior to any other action.

If the Board does not fix a record date, then the record date for determining which shareholders are: (a) entitled to notice of and/or a right to vote at a particular shareholder meeting shall be 5:00 p.m. PST on the business day prior to the date on which notice is given (or, if notice is waived, at 5:00 p.m. PST on the business day prior to the meeting); (b) entitled to give written consent to corporate action without a meeting when no prior action by the Board has been taken shall be the day on which the first written consent is given; and (c) otherwise entitled to (i.e., for any other purpose) shall be the later of 5:00 p.m. PST on the day that the Board adopts the resolution relating to those other purposes, or the 60th day prior to the date of such other action.

Absent contrary language in the Articles, and unless otherwise agreed to in writing amongst the shareholders in question, once a record date has passed (and prior to the shareholder meeting related to that record date), shareholders entitled to exercise the above-referenced rights (e.g., attend meetings, vote, receive dividends, etc.) shall retain those rights even if a transfer of shares occurs after the record date.

## Proxies [Corporations Code § 705]

Despite any language to the contrary contained in these Bylaws, and regardless of whether or not any provision in these Bylaws specifically references the right to vote by proxy, any shares entitled to vote at any shareholder meeting may be voted upon either in person or by proxy, and all such voting shall be presumptively valid.

Unless the shareholder’s proxy form specifically states otherwise, a proxy granted by the shareholder shall only be valid for 11 months and shall remain in full force unless revoked prior to the vote for which it was issued. Regardless of the postmark dates on the envelopes in which they were mailed, the dates contained on the proxy forms themselves shall presumptively determine their order of execution.

The death or incapacity of the shareholder shall not revoke a proxy unless, before the vote is counted, Winter Soldier receives written notice of the shareholder’s death or incapacity.

Revocation of a proxy may otherwise be accomplished by delivering a written notice of revocation to an officer of Winter Soldier.

A proxy that, by its own terms, states that it is irrevocable shall in fact be irrevocable for the period specified in the proxy if the proxy is held by any of the following:

• (i) a pledgee;

• (ii) a purchaser of an option related to the purchase of shares (Corp. Code § 705(e)(2));

• (iii) a creditor of the corporation or shareholder who extended credit (or continued to extend credit) in consideration of receiving the proxy (Corp. Code § 705(e)(3));

• (iv) an employee of the corporation—but only if the proxy was required by the contract of employment, was given in consideration of such contract of employment, and states the employee’s name and period of employment (Corp. Code § 705(e)(4));

• (v) a voting agreement (Corp. Code § 706);

• (vi) a beneficiary of a trust regarding shares held by the trust (Corp. Code § 705(e)(6)); and

• (vii) a creditor/obligee—but only if the proxy was given to secure the performance of a duty or to protect a legal or equitable title, until the occurrence of the events, by which its terms, discharge the obligation to which the proxy is securing.

And even regarding those instances of irrevocability, such proxies still become revocable when, for example, the pledge is redeemed, the option or agreement to purchase shares is terminated, the shareholder no longer owns shares in the Company (or the Company receives timely notification of the seller’s death), the person ceases to be a beneficiary of the trust, etc. Likewise, any proxy that is transferred to another person who has no knowledge of the proxy may be revoked if the share certificates are silent as to the irrevocability of proxies.

## Voting Agreements

## [Corporations Code § 706]

A written agreement between two or more shareholders of Winter Soldier to vote their collective shares a certain way shall be enforceable. The parties to that agreement may, but need not, transfer the shares covered by such an agreement to a third party to vote the shares in compliance with the agreement.

Shares transferred by written agreement to trustees, if any, shall occur in compliance with Corporations Code section 706(b).

## Inspectors of Election [Corporations Code § 707]

Prior to the start of any shareholder meeting, the Board may appoint either one or three inspectors of election.

If no inspector(s) is/are appointed prior to the meeting, or if any inspector of election fails to appear or otherwise refuses to act in that capacity once the meeting starts, then upon a shareholder’s request, the Board may select replacement inspector(s). The decision, however, regarding whether there shall be one or three inspectors shall, in such cases, fall to the shareholders. In the case of three inspectors, the decision of at least two of them shall control.

The inspector(s) of election may not be current nominees for office.

Once selected, the inspector(s) of election shall:

• (i) determine the number of outstanding shares and the voting power of each;

• (ii) determine how many shares are represented at the meeting and whether a quorum has been reached;

• (iii) determine the authenticity, validity, and effect of proxies, if any;

• (iv) receive votes, ballots, and consents;

• (v) hear and determine all challenges related to the right to vote in the election;

• (vi) count and tabulate all votes or consents;

• (vii) determine when the polls shall close;

• (viii) determine and announce the results of the election; and

• (ix) perform their duties fairly, efficiently, impartially, and in good faith.

## Conduct of Meetings [Corporations Code § 212(b)(2)]

The Board may adopt rules regarding the manner in which shareholder meetings may be conducted provided that such rules do not violate applicable law or any other provision of these Bylaws. At every shareholder meeting, Winter Soldier’s President, or in the President’s absence, any other officer or director selected by the Board, shall preside over the meeting.

The presiding officer of the meeting shall decide the order of business to be conducted at the meeting, and if no rules regarding the conduct of the meetings have been adopted by the Board, the presiding officer shall determine those as well.

Winter Soldier’s Secretary, or in the Secretary’s absence, any other individual selected by the presiding officer of that meeting, shall keep the minutes of the meeting.

**board of directors**

**Number, Tenure, and Qualifications**[Corporations Code §§ 212; 301]

At all times, Winter Soldier shall have between three and five directors. The directors shall be elected on an annual basis by a vote of the shares entitled to vote at either the annual shareholder meeting or at a special meeting of the shareholders held for that purpose. Alternatively, as long as all of the shareholders consent, they may also hold such an election without a formal meeting by signing a “consent in lieu of meeting” form, specifying, at the very least, who the Company’s directors shall be for the next year.

The directors, whether elected or otherwise selected to fill a vacancy, shall remain in office until their terms expire and their successors have been elected and qualified. Of course, if any of the same directors are reelected, they shall continue to serve.

The shareholders may amend these Bylaws at any time to increase the number of directors or modify required director qualifications (if any). To the extent that Winter Soldier’s Board ever consists of five or more directors, however, the Bylaws cannot be amended to reduce that number to *fewer* than five if such a reduction is opposed by 16.75% or more of the shares entitled to vote.

At all times while serving on the Board, directors must: (a) be shareholders; and (b) be legally competent to perform necessary duties. Likewise, directors must .

**Powers & Duties**[Corporations Code §§ 300; 309]

Subject to the limitations contained in these Bylaws, the Articles, or in a “Shareholder Agreement” signed by all of the shareholders of Winter Soldier, the business and affairs of the corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board. Each director shall perform his or her duties in good faith and in the best interests of Winter Soldier.

The Board may delegate the management of some or all corporate operations to non-director officers and/or managers as long as all such corporate governance is performed under the direction of the Board.

**Resignations**[Corporations Code § 305]

A director may resign effective immediately or at a later specified time. Either way, the resignation must be made in writing and be delivered to the Chairman of the Board (if applicable), President, Secretary, or the Board as a whole (by serving all directors). If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

**Vacancies**[Corporations Code §§ 192; 302; 305]

A vacancy on the Board shall be deemed to have occurred upon:

• (i) the death, resignation, or removal of a director;

• (ii) an increase in the number of authorized directors;

• (iii) the removal of a director who has been declared by a court to be of unsound mind or who has been convicted of a felony; or

• (iv) the shareholders’ failure, at any meeting (annual or special) at which a director was to be elected, to elect the authorized number of directors who were supposed to be elected at that meeting.

Vacancies on the Board that arise for any reason, *including* *a director’s voluntary or involuntary removal*, may be filled by a majority vote of the directors left in office, or if the number of directors still in office is less than a quorum, then by:

• (i) the *unanimous* written consent of those directors who are left;

• (ii) the affirmative vote of a majority of the directors then in office at a meeting held under notice or waivers of notice complying with Corporations Code section 307; or

• (iii) a sole remaining director.

Similarly, the shareholders may fill such non-removal related vacancies not filled by the directors via either a majority vote of the shares entitled to vote at a duly held meeting at which a quorum is present, or upon the written consent of a majority of shares entitled to vote.

If, in the proper filling of Board vacancies under this provision, the Board’s appointees exceed the number of directors who were actually elected by the shareholders in the prior election, holders of at least 5% of the shares entitled to vote may call a special meeting of the shareholders for the purpose of replacing the entire Board and electing new directors. If such a meeting is not held in a timely fashion, the shareholders may petition the superior court (in the county where the Company’s executive offices in California are located, or otherwise in any county in California where the shareholder(s) bringing the petition resides) for an order forcing the holding of such a meeting.

**Removal**[Corporations Code §§ 302-304]

As was stated above, the Board can declare a vacancy and effectuate the forced removal of a director upon the occurrence of certain events, such as the director being declared by a court to be of unsound mind or upon his or her conviction of a felony. Likewise, if any director commits fraudulent or dishonest acts, or grossly abuses his or her power, authority, and/or discretion, any shareholder(s) holding at least 10% of the Company’s shares (of any class) may file a lawsuit in the superior court in the county where the Company’s principal executive offices in California are located (or, if the Company has no offices in California, then in the county where the shareholder(s) are located) to remove that director. In such a lawsuit, the shareholder(s) may seek an order barring that director from serving on the Board, and upon his or her removal, from seeking reelection for a period of time to be determined by the court. In all such lawsuits, the corporation itself shall be made a party to the action, and the shareholder(s) who brought the action shall be entitled to reimbursement for their attorneys’ fees and costs from the Company.

In addition, the shareholders may directly remove any (or all) of the directors *without* cause under the following conditions:

• (i) if the shareholders are seeking to remove the entire Board (i.e., all of the directors at once), then upon a vote of the majority of shares entitled to vote at a duly noticed meeting, or upon the written consent of a majority of shares entitled to vote; or

• (ii) if the shareholders are seeking to remove one or more directors (but not all of them), then by the same majorities referenced in “(i)” above, *unless* the number of shareholders who oppose such removal would be enough to elect the director(s) if voted cumulatively at an election of the entire Board.

**Meetings of the Board of Directors**[Corporations Code §§ 118; 307]

The Board shall hold an annual Board meeting to select Winter Soldier’s officers and conduct other corporate business immediately after (and at the same place as) the annual shareholders meeting. No notice shall be required for such meetings. From time to time, the Board may also, in its discretion, pass resolutions setting one or more other regular Board meetings which, once fixed, will also require no notice.

The Chairman of the Board (if there is one), the President, any Vice President, the Secretary, or any director may call a special meeting of the Board, subject to the notice requirements set forth below, to take action regarding (or to address) any matter that the individual(s) calling the special meeting deem(s) appropriate.

If specified in the notice, a Board meeting may be held anywhere within or outside the State of California. If a notice of a special Board meeting is silent as to the meeting’s location, however, the special meeting must be held at the Company’s principal executive offices.

Special meetings of the Board may be held on no less than four days’ written notice as long as notice is provided via first-class mail (postage prepaid). If, however, notice is provided via personal delivery, telephone (including a voice messaging system), fax, electronic mail, or other electronic means, then the special meeting may take place upon only 48 hours’ notice.

Notices of Board meetings do not need to specify the purpose of the meetings.

Attendance by a director at any Board meeting shall constitute a waiver of notice of that meeting unless the director attends the meeting for the express purpose of objecting to the conduct of any business because the meeting was not properly called, noticed, or convened. All waivers, consents, and approvals of minutes shall be filed with the Company’s corporate records.

**Meetings Via Electronic Transmission**

[Corporations Code §§ 20; 21; 307]

Subject to the requirements set forth below, directors may participate in Board meetings through the use of a telephone conferencing, live-video service (e.g., Skype, Zoom, etc.) (collectively, “Real Time Audio/Video”) or through other electronic transmission.

A director’s participation in a Board meeting through the use of Real Time Audio/Video shall constitute in-person presence at that meeting as long as all the Board members participating in the meeting are able to hear each other in real time. In the case of a director’s participation in a Board meeting via electronic transmission *other* than through Real Time Audio/Video, such participation shall constitute in-person presence at that meeting if each director participating in the meeting can concurrently communicate with all of the other directors, and each director has the ability to fully participate in all matters addressed at the meeting (e.g., each has the ability to propose business, voice objections, or otherwise opine on the business being conducted).

As required by Corporations Code section 21, the Board must take reasonable steps to ensure that directors participating and voting via electronic transmission are in fact who they purport to be.

**Quorum**[Corporations Code §§ 212; 307; 310; 317]

For the purpose of conducting Winter Soldier’s business, a quorum at a Board meeting shall consist of a majority of the authorized number of directors.

A majority of the directors present at a Board meeting, whether or not a quorum is present, may adjourn the meeting to another time and place. If the Board meeting is adjourned for more than 24 hours, however, notice identifying the time and place of the new meeting must be provided to the directors who were not present at the time of the adjournment, if any.

Except at a Board meeting addressing whether or not to indemnify one or more directors, where the interested director(s) (i.e., the director(s) to be indemnified) may *not* be counted for purposes of establishing a quorum, in all other instances interested directors may be counted for purposes of establishing a quorum at a Board meeting regardless of whether or not they are authorized to vote at that meeting.

A Board meeting at which a quorum is initially present may continue to transact business despite the withdrawal of one or more directors as long as any action taken at that meeting is approved by at least a majority of the required quorum (which was lost) for that meeting. [*For illustration purposes only, if the Company has seven directors (meaning that four directors constitutes a quorum, and three, a majority of the four, may act for the Board), if one director leaves a meeting, provided that all three of the remaining directors agree, the remaining three may still continue to conduct business and make decisions).*]

**Board Business**[Corporations Code § 307]

Unless otherwise stated in these Bylaws—including those provisions addressing transactions between any of Winter Soldier’s directors and the Company and/or determinations regarding the propriety of director indemnification—every decision or act made by a majority of the directors present at a Board meeting where a quorum was present shall constitute an act of the Company.

**Presiding at a Meeting**[See Corporations Code § 212]

The Chairman of the Board shall preside at all Board meetings. If the Company has no Chairman of the Board, or in that person’s absence, Winter Soldier’s President shall preside. In the absence of the President, whomever a majority of the directors participating in the Board meeting choose shall preside at the meeting.

**Action Without Meeting**[Corporations Code § 307]

The Board may take any action permitted to be taken without holding a meeting if all of the directors consent in writing to that action and if the number of directors then serving on Winter Soldier’s Board constitutes a quorum.

In all actions involving interested or common directors (within the meaning of Corp. Code § 310), if such interested or common directors abstain from providing written consent, the written consents of the other directors shall still constitute unanimous consent if the requirements of Corporations Code section 310 are otherwise met.

As always, such consents must be stored with the minutes of the Board meetings.

**Compensation**[Corporations Code § 212(b)(6)]

While no Board member shall, merely by virtue of his or her directorship, be entitled to receive compensation for serving on the Board, the Board shall have discretion to compensate one or more directors for agreeing to serve on the Board.

**Committees**[Corporations Code § 311]

Upon the consent and adoption of a resolution by a majority of the authorized number of directors, the Board may create one or more committees, each consisting of two or more directors, to serve at the pleasure of the Board, as well as to act in the name, and with the authority, of the Board.

The Board may establish rules governing the committees it creates as long as such rules do not otherwise violate these Bylaws or California law. All the provisions of these Bylaws regarding director actions, meetings, etc. shall apply to all committee meetings.

The Board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee shall require the consent of a majority of the authorized number of directors.

Under no circumstances, however, shall any of the Company’s committees ever have authority to:

• (i) approve any action for which California law requires shareholder approval;

• (ii) fill vacancies on the Board or in any committee;

• (iii) fix a director’s compensation;

• (iv) amend, repeal, or adopt new Bylaws;

• (v) amend or repeal any Board resolution that by its express terms is neither amendable nor repealable;

• (vi) make a shareholder distribution, unless at a rate, or in an amount, set forth in the Articles or where decided by the Board; or

• (vii) create other committees or appoint other individuals to any committees.

**Transactions with the Company**[Corporations Code § 310]

No contract or other transaction between Winter Soldier and a director (or between Winter Soldier and any business or association) in which that director has a material financial interest shall be void or voidable merely because of the director’s relationship with that other business or association—or merely because of that director’s presence at a Board/committee meeting approving the contract or transaction—as long as one of the following is true:

• (i) the interested director fully disclosed all of the material facts regarding the contract or transaction—including the nature of the director’s interests—to the shareholders, and the shareholders approved the contract or transaction without counting, if applicable, the interested director’s shares;

• (ii) the interested director fully disclosed all of the material facts regarding the contract or transaction (including the nature of the director’s interests) to the Board/committee, (a) that then approved the contract or transaction by a sufficient vote without counting the vote of the interested director, and (b) the contract or transaction was fair and reasonable at the time of its approval; or

• (iii) as to contracts or transactions not approved as provided above, the individual or entity asserting the validity of the contract or transaction sustained and met the burden of proving that the contract or transaction was fair and reasonable to Winter Soldier at the time it was approved.

Unless otherwise explicitly stated in a “Shareholder Agreement” signed by Winter Soldier’s shareholders, a mere common directorship does not, on its own, constitute a “material financial interest” within the meaning of this provision of the Bylaws. Likewise, a director is not “interested” within the meaning of this provision of the Bylaws in a resolution fixing the compensation of another director as a director, officer, or employee of the Company despite the fact that the director in question is also receiving compensation from the Company.

**Emergencies**

[Corporations Code §§ 207; 212]

Corporations Code section 207(i)(5) identifies certain emergencies that could interfere with the Board’s ability to obtain a quorum or otherwise manage the operations and secure the affairs of the Company. Subject to any applicable provisions of the Company’s Articles, therefore, in the event of (or in anticipation of) such an emergency, the Board may take any of the following actions to ensure that Winter Soldier can continue to operate in the ordinary course of business:

• (i) modify lines of succession to accommodate the incapacity (resulting from the emergency) of any director, officer, employee, or agent;

• (ii) relocate the principal office or designate an alternative principal office;

• (iii) if notice ordinarily required by these Bylaws cannot be provided, then notice may be offered to the other directors in whatever practicable manner is available under the circumstances (e.g., radio, mobile phone, Internet, publication, etc.); and

• (iv) to achieve a necessary quorum at an emergency meeting, make an officer (or officers, if necessary) present at a Board meeting a temporary director, in order of rank (e.g., CEO, President, CFO, Secretary), or if a dispute arises as to the order of rank, then in order of seniority at the Company.

# OFFICERS

## Number and Term [Corporations Code § 310]

At all times, Winter Soldier shall have a President, Secretary, and Treasurer (often known as the Chief Financial Officer). The Board may create as many other offices, and select as many other officers, to serve Winter Soldier as it wishes to, and all officers selected by the Board shall serve at the pleasure of the Board. Directors may serve as officers.

If the office of President, Secretary, or Treasurer becomes vacant, the Board must fill that office as quickly as is reasonably practicable.

The same individual may hold more than one office at any given time.

## Removal or Resignation [Corporations Code §§ 212; 312]

Subject to an agreement between Winter Soldier and an officer, such as an employment agreement, officers shall serve at the pleasure of the Board, and thus may be removed at any time by the Board with or without cause.

Likewise, an officer may resign at any time, subject to the Company’s rights under an agreement to which the officer is a party. Resignations must be provided to a director and shall take effect either on the date it is received or at a later date specified in the notice. The Board shall not be required to “accept” an officer’s resignation for the resignation to be deemed effective.

## Powers & Duties of Officers

## Chair / President / CEO / COO [Corporations Code §§ 212; 312]

The President shall be the chief executive officer and chief operating officer of Winter Soldier and shall be responsible for implementing the Board’s vision for the Company’s growth, revenue, and profitability. To accomplish that responsibility, and subject to any specific limitations set forth elsewhere in these Bylaws, the President shall be responsible for overseeing and supervising Winter Soldier’s day-to-day operations, as well as exercising the management-related powers and duties that are typically vested in the office of president of a corporation or that are assigned by the Board.

If Winter Soldier has no Chairman of the Board, then the President shall preside over all Board and shareholder meetings.

## Secretary [Corporations Code §§ 212; 312; 1500]

In addition to performing the functions assigned by the Board, and subject to any specific limitations set forth elsewhere in these Bylaws, Winter Soldier’s Secretary shall be responsible for:

• (i) taking and maintaining the written minutes of all shareholder and Board meetings;

• (ii) maintaining a register of Winter Soldier’s shareholders;

• (iii) maintaining custody of the corporate seal, if any;

• (iv) ensuring that Winter Soldier’s books and records are properly maintained and stored in compliance with applicable law;

• (v) ensuring that all required notices (to shareholders and directors) are issued;

• (vi) ensuring that required filings are made with applicable *non tax-related* government entities (e.g., Statements of Information to the Secretary of State);

• (vii) upon the request of any director or shareholder, certifying whether copies of the Company’s Articles, Bylaws, and minutes are true;

• (viii) where the Company has opted for printed share certificates, co-signing, along with the Chairman of the Board or President, such share certificates; and

• (ix) making Winter Soldier’s books and records available for inspection or copying to those shareholders or directors entitled to see them, or in response to a lawfully served subpoena or request.

## Powers & Duties of Officers

## Treasurer / CFO [Corporations Code §§ 212; 312; 1500; 1501; 1601]

In addition to performing the functions assigned by the Board, and subject to any specific limitations set forth elsewhere in these Bylaws, Winter Soldier’s Treasurer/Chief Financial Officer, shall (along with anyone else granted such authority by Board resolution):

• (i) keep and maintain custody of Winter Soldier’s funds, securities, and books of account;

• (ii) manage the deposit of all corporate funds in the corporate account(s) selected by the Board;

• (iii) maintain an accurate accounting of all receipts and disbursements;

• (iv) disburse corporate funds as directed by the Board;

• (v) provide to any director an account of his or her activities as Chief Financial Officer and/or the Company’s financial condition;

• (vi) provide to any director the financial records of the Company;

• (vii) where required by Corporations Code section 1501(a), manage both the preparation of and delivery to the shareholders of an annual report regarding Winter Soldier’s financial condition; and

• (viii) provide to the shareholders (as required by Corp. Code § 1601) Winter Soldier’s accounting books and records.

In addition to the foregoing, and in the absence of a Secretary, the Chief Financial Officer may perform all the duties of the Secretary until a new Secretary can be selected by the Board.

## Authority to Bind Company [Corporations Code §§ 208; 313 and Civil Code § 1190]

Except as may be specifically stated elsewhere in these Bylaws, as may be limited by Board resolution(s), or as may be required in the ordinary course of Winter Soldier’s business, no officer, director, agent, or representative of Winter Soldier shall have any authority to bind the Company in any contract, deed, instrument, conveyance, note, mortgage, or any other enforceable obligation without the Board’s express authorization. Such Board authorization may be general or specific, both with respect to the authorized action(s) and the authorized corporate representative(s).

## Salaries [Corporations Code § 212]

From time to time, the Board may fix the salaries/compensation of the officers. No officer of Winter Soldier shall be prevented from receiving compensation merely because he or she also happens to be a shareholder and/or director.

## Loans to Officers or Directors [Corporations Code §12375]

The Board shall have the right, in its discretion, to loan money or property to, and/or guarantee an obligation of, an officer and/or director of Winter Soldier if:

• (i) the Board determines that such a loan, guaranty, or plan may reasonably be expected to benefit Winter Soldier; *and*

• (ii) prior to the loan and/or guaranty’s consummation, a majority of the shares entitle to vote (excluding, if applicable, the shares of the interested shareholder) *or* a majority of the directors (excluding, if applicable, the vote of the interested director) approve the transaction.

The limitations described above do not apply to any advances (a) for business-related expenses, or (b) to the Company’s payment of life insurance premiums for officer/director policies (where the Company is guaranteed repayment of the premiums upon payout or cash surrender).

# SHARES AND STOCK CERTIFICATES

## Authority to Issue and Relative Rights Amongst Classes/Series [Corporations Code §§ 207; 400]

If authorized by its Articles, Winter Soldier may issue one or more classes/series of shares with full, limited, or no voting rights. The Articles may also contain additional rights, preferences, privileges, and restrictions associated with each class/series of shares.

No denial or limitation of voting rights shall be effective unless, at the time of sale or distribution of those shares, one or more classes/series of outstanding shares are entitled to full voting rights. Likewise, no denial or limitation of dividend or liquidation rights shall be effective unless, at the time, one or more classes/series of outstanding shares are entitled to unlimited dividend and liquidation rights.

Unless a particular class of shares is divided into one or more series, all shares of any one class shall have the same rights, preferences, privileges, and restrictions—e.g., regarding voting, conversion, redemption, etc. If a class is divided into one or more series, all the shares of any particular series shall have the same rights, preferences, privileges, and restrictions.

## Consideration [Corporations Code §§ 409; 410]

Shares in Winter Soldier may be issued only for the types of consideration permitted by the Corporations Code—i.e., (a) cash; (b) labor/services already performed on behalf of, or for the benefit of, the Company (i.e., sweat equity); (c) cancellation of debts or securities; and/or (d) tangible or intangible property actually received either by Winter Soldier or by any of its wholly owned subsidiaries.

Neither promissory notes of the purchaser (unless adequately secured by collateral *other* *than the shares acquired*), nor future services, shall constitute permissible consideration for shares of Winter Soldier. If, however, Winter Soldier decides to issue shares for which shareholders have not fully paid, it must do so in compliance with applicable law, including Corporations Code sections 407 and 409.

When shares are issued for any consideration *other than money*, the Board must state in a Board resolution its valuation of the fair monetary value of the consideration offered.

In the absence of fraud in the transaction, the judgment of the Board as to the monetary value of the consideration offered for shares shall be conclusive.

## Form of, and Shareholder Rights to, Stock Certificates [Corporations Code §§ 204; 410; 413; 416-419; 422; 1302]

Prior to issuing any shares in Winter Soldier, the Board will decide whether to provide the Company’s shareholders with stock certificates (i.e., certificated shares), or alternatively, to designate the Company’s shares as *uncertificated*.

If the Board decides to issue share certificates, each of Winter Soldier’s shareholders shall receive a paper certificate certifying the number of shares held by that shareholder. All such share certificates shall be signed by both the Company’s President and Secretary and shall contain all statements, legends, or other language required by the Corporations Code (e.g., Corp. Code §§ 417 and 418).

If the Company’s Articles are amended in a way that requires modification of the statements/legends contained on the certificates, the Board may demand that the shareholders surrender their certificates—all of which shall then be cancelled—in exchange for newly issued ones. If a shareholder refuses to surrender his/her/its certificates following a demand by the Board, the Board may, until that shareholder has complied with the demand, bar the shareholder from voting, receiving dividends, or exercising any other of that shareholder’s rights. The Board may, in its sole discretion, also elect to file a civil lawsuit to force the shareholder’s compliance (with the prevailing party being entitled to attorneys’ fees and costs).

If, however, the Board chooses to designate Winter Soldier’s shares as uncertificated, the Board shall, in compliance with Corporations Code section 416, track by electronic means or otherwise, the issuance, recordation, and transfer of its shares.

## Transfer of Shares [Commercial Code §§ 8401; 8402; 8404; 8207; Corporations Code §§ 411-412]

Shareholders must comply with all applicable restrictions regarding the transfer of shares set forth in these Bylaws and in any separate agreement signed by Winter Soldier’s shareholders (e.g., a “Shareholder Agreement”).

The Board shall be obligated to comply with applicable laws regarding the transfer of shares (and, if applicable, of share certificates), including those found in Commercial Code sections 8401, 8402, and 8404.

Winter Soldier shall treat all registered owners of the share certificates as the persons entitled to vote, receive notifications, and otherwise exercise all the rights and powers of an owner. Winter Soldier shall not be liable for any loss suffered as a result of the registration of a transfer of security, and the Company shall be entitled to the maximum consideration permitted by applicable law for transferred, paid for, and partially paid for shares.

## “Blockchain Technology” and “Security Tokens” [Corporations Code § 204]

To the extent that California law permits (or continues to permit) corporations to utilize “blockchain technology” (a “mathematically secured, chronological, and decentralized consensus ledger or database”) for recording/tracking the issuance or transfer of stock certificates, the identities and contact information of the shareholders, the number of shares held by each shareholder, etc. (e.g., see Corp. Code § 204, the current version of which is set to expire on January 1, 2022), and as long as the Articles permit the use of such technology, the Board shall have the discretion to take advantage of that technology.

Likewise, to the extent permitted by law and in compliance with any other limitations on the transfer of the Company’s shares, and provided that the Articles contain the requisite language, Winter Soldier may also utilize “security tokens” (e.g., such as in obtaining funding via crowd funding portals) as a means of issuing shares in the Company.

## Missing Certificates [Corporations Code § 419; Commercial Code § 8405]

If a shareholder claims to have lost, had stolen, or destroyed his/her/its share certificate, Winter Soldier may issue a new certificate in place of the one that was lost, stolen, or destroyed. At the Board’s option, however, the Board may require the shareholder to provide the Company with a bond (or other adequate security) sufficient to indemnify Winter Soldier against any claim that may be made against it (including any expense or liability) arising out of the alleged loss, theft, or destruction of the share certificate or the issuance of a new one (e.g., liability involving a protected purchaser within the meaning of Commercial Code § 8405).

# CORPORATE SEAL, FISCAL YEAR, INSPECTION OF RECORDS, AND ANNUAL REPORTS

## Corporate Seal [Corporations Code § 207]

If Winter Soldier chooses to adopt a corporate seal, the Secretary shall maintain custody of it and affix it on corporate documents that the Board may instruct the Secretary to affix it upon. Failure to affix the Company’s seal on any document, however, shall not affect the validity of that document.

If adopted, Winter Soldier’s seal shall be as follows:

[STAMP THE SEAL HERE]

## Fiscal Year

Winter Soldier’s fiscal year shall commence every year on the 1st day of January and shall end each year on the 31st day of December.

## Maintaining Books & Records and Making Required Filings [Corporations Code §§ 213; 1500; 1502]

The Board shall keep, either in written form or in any other form capable of being converted into written form, (a) correct books and records of account for Winter Soldier, (b) the minutes of all Board or committee meetings, and (c) the minutes of all shareholder meetings.

The Board shall keep its Bylaws, Articles, books, records, and minutes at the Company’s principal executive office or at the offices of Winter Soldier’s corporate attorneys and/or accountants.

The Board shall ensure that all required annual filings are made on the Company’s behalf, including the Statement of Information, which must be filed with the Secretary of State.

## Inspection of Books, Records, and Minutes [Corporations Code §§ 213; 1500-1501; 1600-1602; 2200]

Where and as required by applicable law, or in these Bylaws, the Company’s Articles, by Board resolution, or in any written agreement signed by the Shareholders (e.g., a “Shareholder Agreement”), the Board shall make the books, records, and minutes of the Company available to any shareholder and/or director for inspection and copying.

## Annual Shareholder Report [Corporations Code § 1501]

While Winter Soldier shall *not* be required to prepare and send to the shareholders the annual financial statement/report referenced in Corporations Code section 1501, upon the written request of any shareholder made more than 120 days after the close of that fiscal year, Winter Soldier shall have 30 days to deliver or mail the Company’s financial statement/report to the shareholder making the request. The financial statement/report shall consist of a balance sheet as of the end of the prior fiscal year, as well as an income statement and a statement of cash flows for that same prior fiscal year. Included with the financial statement/report referenced in section 1501, the Board must also provide a written statement from Winter Soldier’s independent accountant(s) indicating whether or not the accountant(s) prepared the financial statement/report after auditing the Company’s books and records.

Similarly, shareholder(s) holding at least 5% of the shares of any class may make a written request to the Board for: (a) a corporate income statement for the three-, six-, or nine-month period of the current fiscal year that ended more than 30 days prior to the date of the request; (b) a corporate balance sheet as of the end of the period elected above; and (c) the above-referenced financial statement/report for the prior fiscal year. As above, Winter Soldier shall have 30 days to deliver or mail the financial statement/report to the shareholder(s) making the request. A copy of the financial statement/report shall be kept on file for 12 months in the Company’s principal executive office, and shall be, upon the request of any shareholder, provided to that shareholder.

This provision of the Bylaws shall not relieve Winter Soldier of its responsibility to deliver to the shareholders all financial information that applicable law may require it to prepare and deliver to the shareholders.

# INDEMNIFICATION AND INSURANCE

## Indemnification Rights [Corporations Code §§ 204; 317]

Subject to the express limitations set forth in Corporations Code section 317(c)(1)-(3), Winter Soldier shall indemnify an agent of the Company who was, is, or has been threatened to be a party, participant, or witness to any actual, threatened, or completed legal or administrative action or proceeding, whether civil or criminal, related to his or her official capacity as an agent for Winter Soldier. Such indemnity shall consist of either reimbursing, or paying as they become due, the agent’s expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding. Such indemnification shall only be available to agents who acted in good faith and in what the agent believed to be in Winter Soldier’s best interest (or in the case of a criminal proceeding, the agent believed his or her actions were lawful at the time). No shareholder approval shall be required if the Board elects to advance the agent’s expenses as they come due because such advancement shall not constitute a loan to the agent within the meaning of Corporations Code section 315. [*For purposes of these Bylaws, the words “agent,” “proceeding,” and expense(s)” shall have the same meanings as described in Corp. Code § 317.*]

An agent’s rights to indemnity under this provision of the Bylaws shall be in addition to, and not exclusive of, any other rights to which he or she might be entitled, such as those rights granted under a contract or insurance policy.

## Insurance [Corporations Code § 317]

Subject to the relatively narrow limitation imposed by law, Winter Soldier may, in its sole discretion, elect to purchase and maintain one or more insurance policies aimed at indemnifying the Company’s agents from any claims made against its agents (who were acting in their capacities as agents of the Company), even in cases where the law does not otherwise permit Winter Soldier to indemnify its agents (e.g., certain intentional acts referenced in Corp. Code §§ 204(a)(10) and 317).

# AMENDMENTS, INVALIDITY, AND CONSTRUCTION

## Amendment of Bylaws by the Shareholders [Corporations Code §§ 207; 211; 212]

Subject to applicable law, the shareholders have an absolute right to adopt, amend, or repeal these Bylaws by the vote of a majority of the shares entitled to vote.

## Amendment of Bylaws by the Board [Corporations Code §§ 204; 211; 212]

The Board shall have no authority to amend these Bylaws. This limitation, however, shall not prevent the Board from acting in an emergency, as is permitted elsewhere in these Bylaws.

## Invalidity

If any provision of these Bylaws is held to be invalid or unenforceable, the provision in question shall be modified as minimally as is possible to render the provision valid and enforceable without affecting the validity or enforceability of any other provision.

## Construction and Definitions

Unless otherwise stated in these Bylaws, the definitions of terms contained in the Bylaws shall have the same meanings as provided in the Corporations Code.

In any conflict between these Bylaws and the Articles, the Articles shall control.