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7 *Attorneys for Debtors and Debtors in*  
8 *Possession*

9 **UNITED STATES BANKRUPTCY COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN FRANCISCO DIVISION**

12  
13 In re:

14 SHIFT TECHNOLOGIES, INC., *et al.*,<sup>1</sup>  
15 Debtors.

Case No. 23-30687 (HLB) (Lead Case)

(Jointly Administered)

**DECLARATION OF DAVID PERESS  
REGARDING SALE OF DEBTORS'  
INTELLECTUAL PROPERTY AND  
RELATED ASSETS**

**[Related to Dkt. No. 366]**

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25 <sup>1</sup> The last four digits of Shift Technologies, Inc.'s tax identification number are 5852. Due to  
26 the large number of debtor entities in these Chapter 11 Cases, a complete list of the Debtors and  
27 the last four digits of their federal tax identification numbers is not provided herein. A complete list  
28 of such information may be obtained on the website of the Debtors' claims and noticing agent at  
<https://omniagentsolutions.com/Shift>. The Debtors' service address is P.O. Box 1664, San Bruno,  
CA 94066-1664.

1 I, David Peress, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

2 1. I am Executive Vice President of Hilco IP Services, LLC d/b/a Hilco Streambank  
3 (“Hilco Streambank”), an intangible asset advisory firm based in New York, New York, with  
4 offices in Massachusetts and the United Kingdom. Hilco Streambank has extensive experience in,  
5 and a reputation for, providing high quality intellectual property disposition services to large and  
6 complex companies in bankruptcy proceedings and other distressed situations. Hilco Streambank  
7 and its principals have coordinated the marketing and sale of intellectual property assets for  
8 numerous companies in the United States and globally. As part of those engagements, Hilco  
9 Streambank was responsible for, among other things, marketing intangible assets, identifying and  
10 negotiating terms with potential stalking horse bidders, identifying potential buyers, conducting  
11 bidding auctions, and negotiating the terms of sales.  
12

13 2. Hilco Streambank is the intellectual property advisor to Shift Technologies, Inc. and  
14 certain of its affiliates that are the debtors and debtors in possession (collectively, “Shift,” the  
15 “Debtors,” or the “Company”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”).  
16

17 3. I have personally led the marketing and sale of intellectual property assets in a  
18 variety of bankruptcy cases in multiple jurisdictions, including in California. In those cases, I was  
19 responsible for the marketing and sale of intangible assets on behalf of debtors and trustees,  
20 including valuable software, domain names, trademarks, patents, copyrights, customer lists and  
21 related data, archival materials, and related assets. I have over thirty years of experience advising  
22 financially distressed companies, their creditors, equity holders, and other stakeholders. I have  
23 enabled estates and creditors to obtain the highest value for the debtor’s intellectual property and  
24 associated tangible assets in a variety of cases and contexts.  
25

26 4. I submit this declaration (the “Declaration”) in support of the relief requested in the  
27 Debtors’ *Motion of The Debtors For Entry Of An Order Pursuant to 11 U.S.C. §§ 105(a), 363(b)*,  
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1 and 363(f), And Fed. R. Bankr. P. 6004 (I) (A) Approving Sale Procedures; (B) Authorizing Entry  
2 into One or More Stalking Horse Agreements; and (C) Setting Sale Hearing; and (II) Authorizing  
3 Debtors To Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims,  
4 Encumbrances, and Interests filed on December 28, 2023 [Dkt. No. 30] (the “Sale Motion”)<sup>2</sup>  
5 seeking, among other things, approval of the Asset Sales.  
6

7 5. Except as otherwise stated, all statements in this Declaration are based upon my  
8 review of relevant documents, my discussions with the Debtors and their professionals, including  
9 other members of Hilco Streambank, and my personal knowledge and experience.

10 **Hilco Streambank’s Marketing Efforts**  
11 **in Furtherance of Maximizing Value of the Assets**

12 6. In connection with its engagement by the Debtors, Hilco Streambank worked with  
13 the Debtors and their professionals to identify and assemble relevant data concerning the Assets,  
14 and to market the Assets to potential buyers. Hilco Streambank’s activities included:  
15

- 16 a. Working with the Debtors and their advisors to identify, collect, and secure all  
17 of the available information and data concerning the Assets;  
18 b. Developing marketing materials, including an information sheet and website  
19 landing page (the “Teaser”), and a detailed information memorandum (the  
20 “CIM”), which described the Assets, the history of their use and their availability  
21 for sale;  
22 c. Working with the Debtors to secure credentials for assets including social media  
23 pages and domain names;  
24 d. Synthesizing information concerning the Debtors’ Assets;  
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28 <sup>2</sup> Capitalized terms used but not defined herein shall have the respective meanings ascribed to them  
in the Sale Motion.

- e. Drafting and disseminating a press release via *PR Newswire* describing the Assets and their availability for sale;
- f. Coordinating an exclusive feature in the trade publication *Automotive News* describing the Assets and their availability for sale;
- g. Developing a contact list of potential buyers of the Assets;
- h. Having direct contact by phone or email with approximately 197 potential buyers of the Assets;
- i. Disseminating email marketing materials that were sent to approximately 31,000 contacts from Hilco Streambank's proprietary contact database;
- j. Advertising the Assets on Hilco Streambank's LinkedIn and Twitter pages;
- k. Establishing and populating a virtual data room (the "VDR") and arranging for the admission of approximately 40 parties to the VDR who executed a form of non-disclosure agreement acceptable to the Debtors;
- l. Soliciting "stalking horse" proposals, identifying a stalking horse bidder, and assisting the Debtors and their counsel in negotiating and documenting the Stalking Horse Bid (defined below);
- m. Developing an auction format for the Assets, including a bid form and bidder qualification guidelines (the "Bid Qualification Form");
- n. Managing the Auction of the Assets;
- o. Working with the Debtors and the Successful Bidders (defined below) of the Assets to document deliverables and terms of the Asset Sales; and
- p. Continuing to work with the Debtors and their professionals to close the Asset Sales.

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1 break-up fee in the total amount of \$30,000 (the “Break-Up Fee”), should the Debtors consummate  
2 an alternative transaction for the Stalking Horse Assets with another bidder, such Break-Up Fee  
3 representing 3% of the purchase price contemplated under the Stalking Horse Bid. Based on  
4 numerous discussions and negotiations with all of the interested parties, including the Stalking  
5 Horse Bidder, I do not believe that the Stalking Horse Bidder would have agreed to serve as a  
6 stalking horse at the value reflected in the Stalking Horse Bid absent the Break-Up Fee. In fact, the  
7 consideration offered by the Stalking Horse Bid exceeded by 40% the highest indications of interest  
8 that had been provided to me and my team prior to the entry into the Stalking Horse Bid.

10 10. In addition to creating an initial floor at an acceptable valuation, the Stalking Horse  
11 Bid contained terms and conditions that were agreeable to the Debtors, creating a market-based  
12 form of agreement that other bidders could adopt. As the Auction developed, it was clear that entry  
13 into the Stalking Horse Bid signaled to the market the desirability of the Stalking Horse Assets at  
14 values substantially higher than those that had been previously proposed. In that regard, parties  
15 came to the Auction with expectations appropriately scaled both in terms of value and form of  
16 transaction by enabling the Debtors to provide a baseline bid for the Stalking Horse Assets.

18 11. Based on my substantial experience in managing auction sales of intellectual  
19 property assets similar to the Assets and my personal knowledge of the Debtors’ sale and marketing  
20 efforts, in my opinion the agreement to pay the Break-Up Fee is fair and reasonable and in the best  
21 interests of the Debtors’ estates and its creditors.

23 12. In addition, I believe that the Break-Up Fee was designed to encourage, and in fact  
24 encouraged, bidding that culminated in an appreciably higher value for the Acquired Assets. On  
25 the basis of numerous discussions with interested parties over the course of more than  
26 approximately eight weeks of solicitation, I submit that the value of the Acquired Assets was  
27 maximized by the selection of the Stalking Horse Bidder, which enabled the Debtors to provide a  
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1 baseline bid against which all other potential bidders may bid for the Stalking Horse Assets. Prior  
2 to entry into the Stalking Horse Bid, the Debtors' discussions with potential bidders included  
3 indications of interest for the Stalking Horse Assets at lower valuation ranges than the Stalking  
4 Horse Bid. Accordingly, I believe that the Stalking Horse Bid, including the Break-Up Fee, was  
5 critical to yielding the best price for the Assets.  
6

7 13. As such, it is my opinion, based on my extensive experience managing similar sale  
8 processes of intellectual property assets, that the Debtors' payment of the Break-Up Fee under the  
9 conditions set forth in the Stalking Horse Bid, the Motion and this Order is (a) an actual and  
10 necessary cost of preserving the Debtors' estates, within the meaning of section 503(b) of the  
11 Bankruptcy Code, (b) of substantial benefit to the Debtors' estates and creditors and all parties in  
12 interest herein, (c) reasonable and appropriate, and (d) necessary to ensure that Buyer will continue  
13 to pursue the proposed Agreement to undertake the sale of the Assets.  
14

15 **Further Marketing Efforts to Generate an Auction**

16 14. Hilco Streambank and the Debtors notified potential buyers that any offers to  
17 acquire the Assets were required to be submitted in writing on or before February 1, 2024 (the "Bid  
18 Deadline"), together with a good-faith deposit equal to ten percent (10%) of the amount of the  
19 potential buyer's bid, along with the other requirements as set forth in the Sale Motion. As a result  
20 of the Stalking Horse Bid, to qualify as a bidder for the Stalking Horse Assets at the Auction, the  
21 Debtors set a minimum bid for all the Stalking Horse Assets of \$1,050,000, reflecting the  
22 consideration set forth in the Stalking Horse Bid, plus the Break-Up Fee, plus a \$20,000 initial  
23 overbid. For parties bidding on Assets other than the Stalking Horse Assets—namely codebases  
24 enabling the Debtors' technology solutions and legacy codebases from previous acquisitions and  
25 U.S. Patent No. 10664808—the Debtors set no minimum bid to participate.  
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1           15.     Ultimately, the Debtors received bids from ten (10) interested parties. I and my team,  
2 along with the Debtors and their counsel, worked to qualify the bids received from these interested  
3 parties. As a result of those efforts, and after consultation with the Committee, the bids of five (5)  
4 bidders were deemed qualified as contemplated by the Sale Procedures (the “Qualified Bidders”).  
5

6           16.     Each of the Qualified Bidders executed and delivered to the Debtors a Bid  
7 Qualification Form including the following affirmative statements<sup>3</sup> in accordance with the  
8 requirements to be deemed a Qualified Bidder contained in the Sale Procedures:

- 9           a. This Bid is irrevocable, as described herein at Section (3)(b);  
10          b. This Bid contains no contingencies, as described herein at Section (3)(d);  
11          c. This Bid is submitted in good faith, and I have not engaged in any collusion, as  
12 described herein at Section (3)(h);  
13          d. I have and will continue to comply with the Sale Procedures, as described herein  
14 at Section (3)(h);  
15          e. I am not entitled to any break-up, termination, or similar fee or payment (unless  
16 designated as a “stalking horse” bidder), as described herein at Section (3)(h);  
17 and  
18          f. I waive any substantial contribution claims related to this Bid, as described  
19 herein at Section (3)(h);  
20          g. I consent to the exclusive jurisdiction of the Bankruptcy Court with respect to  
21 all matters related to this Bid, as described herein at Section (3)(i).  
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28 <sup>3</sup> Capitalized terms and reference to sections contained in this paragraph 16 only refer to the Bid Qualification Form contained in the VDR and made available to all interested parties under NDA.



### **Generated Substantial Value for the Estates**

18. After the submission of approximately 16 topping bids, the Debtors selected bids from three (3) separate Qualified Bidders as the Successful Bids for certain of the Stalking Horse Assets, comprising aggregate consideration to the Debtors of \$2,300,000.00. The Assets subject to each respective bid, and the consideration for each, are summarized below, and more fully described in the purchase agreements of each Successful Bidder:

- <sup>4</sup> At the Auction, Primera submitted a \$1,000,000.00 bid for the Fair Assets, which the Debtors, in consultation with the Committee, accepted as the Successful Bid on the record at the Auction. After the Auction, Primera raised certain issues with the Debtors relating to the assets in the lot that was the subject of its Successful Bid. The Debtors subsequently, in consultation with the Committee, agreed to accept a \$900,000.00 offer for this lot from Primera as the Successful Bid for the Fair Assets.

1 xchangeleasing.com. A copy of the executed asset purchase agreement for these  
2 domain names with Mr. Painter is attached hereto as **Exhibit D**.

3 19. The Debtors requested that each Successful Bidder wire an additional deposit, if  
4 needed, in an amount sufficient to increase their initial deposit to 10% of the purchase price  
5 contemplated under each such Successful Bid, prior to the Sale Hearing. To the extent necessary,  
6 each Successful Bidder increased their deposit as instructed.

7  
8 20. At the Auction for the Stalking Horse Assets, after consultation with their advisors,  
9 Hilco Streambank, and the Committee, the Debtors informed the Qualified Bidders that the Auction  
10 would be partially adjourned to February 9, 2024, at 9:00 a.m. Pacific Time, solely with respect to  
11 the Assets not contemplated under the Stalking Horse Bid or the Successful Bids—namely, the  
12 Debtors’ codebases and U.S. Patent No. 10664808—as well as for Next Highest Bids for the Assets  
13 subject to the Successful Bids, and that any interested party may submit a further bid for such  
14 adjourned Assets by no later than February 8, 2024 at 12:00 p.m. Pacific Time (the “Codebase Bid  
15 Deadline”). The Debtors filed the *Notice of Adjournment of Auction for Certain Intellectual*  
16 *Property Assets* [Docket No. 366] indicating the same on February 5, 2024. Hilco Streambank  
17 provided such notice in the VDR on the same day.  
18

19 **Designation of a Backup Bidder**

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21 21. In light of the results of the Auction for the Stalking Horse Assets, the Debtors, after  
22 consulting their advisors, Hilco Streambank, and the Committee, have determined to designate the  
23 Stalking Horse Bidder as the Backup Bidder with regard to the Stalking Horse Assets, which  
24 Stalking Horse Bid was submitted in the amount of \$1,000,000.00. I believe that this designation  
25 of the Backup Bidder will provide benefit to the Debtors and their estates in that the designation of  
26 the Backup Bidder will serve as a backstop against any execution risk with regard to the closing of  
27 the Asset Sales contemplated under the Successful Bids.  
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1           25.     The Sale Hearing to consider entry of an order approving the Sale Motion is  
2 scheduled before the Court on February 22, 2024. At the Sale Hearing, the Debtors will seek  
3 approval of the Asset Sales to the Successful Bidders, and the payment of the Break-Up Fee to the  
4 Stalking Horse Bidder in accordance with the terms of the Stalking Horse Bid.

5  
6           26.     The Successful Bids, in the aggregate amount of \$2,420,000.00 represent the highest  
7 and best offers available for the Assets after the reasonable and thorough marketing process  
8 conducted by Hilco Streambank and the Debtors. The sale process was fulsome and robust, and  
9 generated a competitive auction. Further marketing of the Assets is unlikely to generate additional  
10 value. Moreover, the Debtors' designation of the Stalking Horse Bid was appropriate and  
11 maximized value, and the payment of the Break-Up Fee to the Stalking Horse Bidder is appropriate.  
12 I also believe that the designation of the Backup Bidder is appropriate to create a backstop against  
13 any execution risk related to the closing of any of the Asset Sales described herein. Accordingly,  
14 in my opinion, granting the relief requested in the Sale Motion is in the best interests of the Debtors'  
15 estates and creditors.  
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17                               *[Remainder of page intentionally blank]*  
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1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct. Executed this ninth day of February, 2024, in Quincy, Massachusetts.

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5 */s/ David Peress*

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David Peress  
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**EXHIBIT A**  
**(Stalking Horse Agreement)**

## INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of February 1, 2024 (“Effective Date”), by and between Now Presence, LLC, a California limited liability company (“Buyer”), and Shift Technologies, Inc., a Delaware corporation, and each of its undersigned affiliated debtors in the Bankruptcy Cases, to the extent such affiliated debtor owns any of the Acquired Assets (each, a “Seller,” and collectively, the “Sellers”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

### RECITALS

A. On October 9, 2023 (the “Petition Date”), each of the Sellers filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”) under Case No. 23-30687 (HLB) (Lead Case - Jointly Administered) (the “Bankruptcy Cases”). Sellers continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On December 28, 2023, Sellers filed the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 (I) (a) Approving Sale Procedures; (b) Authorizing Entry into One or More Stalking Horse Agreements; and (c) Setting Sale Hearing; and (II) Authorizing Debtors to Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Procedures Motion”).

C. On January 18, 2024, the Bankruptcy Court issued the *Order Regarding Sale Procedures Motion* (the “Sale Procedures Order”), a copy of which is attached hereto as Exhibit A, which authorized the Debtors to sell the Acquired Assets in accordance with the procedures set forth in the Motion, subject to the provisions of the Sale Procedures Order (the “Sale Procedures”).

D. The Sale Procedures Order established a deadline for Sellers to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Sale Procedures Order also provides that by February 9, 2024, Sellers will file with the Bankruptcy Court (i) declaration(s) in support of the sale of the Acquired Assets, which will include a copy of this Agreement, and (ii) a notice of the hearing for the Bankruptcy Court to consider final approval of the sale(s) of the Acquired Assets, scheduled to take place by videoconference on February 22, 2024, at 10:00 a.m. (Pacific Time), which will identify the Buyer(s), the Acquired Assets, and the [respective] Purchase Price[s] for the Acquired Assets. Sellers will request that upon approval of the sale(s), the Bankruptcy Court issue an *Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 Approving Sale of Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Order”), substantially in the form of the attached Exhibit B.

E. Sellers desire to sell to Buyer(s) all of the Acquired Assets, and Buyer desires to purchase from Sellers the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.

F. Pursuant to the Sale Procedures, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) (the “Deposit”) of the Purchase Price.

G. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code.

“Agreement” has the meaning set forth in the Preamble.

“Allocation” has the meaning set forth in Section 7.1(e).

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Seller agrees to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets.

“Auction” has the meaning ascribed to such term in the Sale Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Sale Procedures.

“Bankruptcy Cases” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Books and Records” means copies or originals of all files and records, archived files, artwork, development and design work, graphics and design work, technical files, and operational manuals and documentation specifically relating to the Acquired Assets, to the extent such



documents are in Sellers' possession or control, all in any form or medium, including electronic and computer files stored or maintained on Third Party Platforms.

"Break-Up Fee" means the sum of Thirty Thousand Dollars (\$30,000).

"Business Day" means any day of the year, other than a Saturday or Sunday, on which national banking institutions in San Francisco, California, are open to the public for conducting business and are not required or authorized by Law to close.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Termination Notice" has the meaning set forth in Section 10.1(c)(i).

"Closing" has the meaning set forth in Section 3.4.

"Closing Date" has the meaning set forth in Section 3.4.

"Closing Date Cash Payment" has the meaning set forth in Section 3.3.

"Closing Legal Impediment" has the meaning set forth in Section 8.3.

"Code" means the Internal Revenue Code of 1986, as amended.

"Competing Bids" has the meaning set forth in Section 6.2(a).

"Deposit" has the meaning set forth in the Recitals.

"Domain Names" means the Internet resource names and associated uniform resource locaters of Sellers that are owned by Sellers and set forth on Exhibit C.

"Effective Date" has the meaning set forth in the Preamble.

"Encumbrance" means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

"Governmental Authority" means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

"Hilco Streambank" means Hilco IP Services, LLC, d/b/a Hilco Streambank.

"Knowledge" means, with respect to any matter in question, in the case of Sellers, the actual knowledge of Ayman Moussa (CEO, Shift Technologies, Inc.) and Scott Hodgdon (General Counsel and Corporate Secretary, Shift Technologies, Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Sellers’ ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which any Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which any Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Cases, including, without limitation, the Auction and any announced liquidation of Sellers’ assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Sellers operate.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in Section 10.1(b)(ii).

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Sellers.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means (a) any taxable period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

“Pre-Closing Tax Period” means (a) any taxable period ending on or before the Closing Date and (b) the portion of any Straddle Period beginning on the first day of such Straddle Period and ending at the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Sale Procedures.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Sale Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Sale Procedures Motion but subject to the provisions of the Sale Procedures Order.

“Sale Procedures Order” has the meaning set forth in the Recitals.

“Sellers” has the meaning set forth in the Preamble.

“Sellers Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Social Media Accounts” means the online account registrations of Sellers described in Exhibit D.

“Straddle Period” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“Subsidiary” means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Successful Bidder” has the meaning set forth in the Sale Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or

collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and will not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “Section,” “Article,” or “Exhibit” are to the corresponding Section, Schedule, or Exhibit of or to this Agreement unless otherwise specified.

(f) Words such as “herein,” “hereof,” and “hereunder” refer to this Agreement as whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

## **ARTICLE II**

### **PURCHASE AND SALE**

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Sellers will sell, transfer, assign, convey, and deliver, or cause to be sold, transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and

Buyer will purchase, assume, and accept from Sellers, all right, title, and interest of Sellers in, to, or under the following (collectively, the “Acquired Assets”):

- (a) the Domain Names;
- (b) the Social Media Accounts;
- (c) the Books and Records; and
- (d) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Sellers and not specifically sold and transferred to Buyer.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Sellers from ceasing operations or winding up Sellers’ affairs and liquidating following the Closing, subject to their obligation to satisfy their obligations to Buyer under this Agreement. Upon the completion of the winding up of Sellers’ affairs and liquidation, and Sellers’ satisfaction of their obligations to Buyer hereunder, Sellers will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing on the Closing Date, Sellers will convey such Acquired Assets to Buyer as promptly as practicable after the Closing, but in no event later than ten (10) days after the Closing.

### ARTICLE III

#### PURCHASE PRICE; CLOSING

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Seller in cash the sum of One Million Dollars (\$1,000,000) (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Sale Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Seller or Buyer. The Deposit will be retained by Sellers at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment At the Closing, (a) Buyer will pay to Sellers, or to an account designated by Sellers, in cash by wire transfer of immediately available funds an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Sellers will direct Hilco Streambank to indefeasibly transfer the Deposit, and Closing

Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated by Sellers.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the "Closing") will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Seller may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the "Closing Date."

Section 3.5 Buyer's Deliveries to Sellers. At the Closing, Buyer will deliver to Sellers each of the following:

- (a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);

- (b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;

- (c) the certificates of Buyer to be received by Sellers pursuant to Section 9.1 and Section 9.2; and

- (d) such assignments in form reasonably satisfactory to Sellers as Sellers may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Sellers' Deliveries to Buyer. At the Closing, Sellers will deliver to Buyer each of the following:

- (a) a direction to Hilco Streambank, duly executed by Sellers, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);

- (b) each other Transaction Document to which any Seller is a party, duly executed by each such Seller;

- (c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;

- (d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Sellers' right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances;

(e) with respect to the Domain Names and the Social Media Accounts, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Sellers and Buyer; and

(f) the Books and Records.

## **ARTICLE IV**

### **REPRESENTATIONS AND WARRANTIES OF SELLERS**

Sellers hereby represent and warrant to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Each of Shift Technologies, Inc. and Shift Operations LLC is an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of such Seller's organization. Subject to the limitations imposed on such Seller as a result of the Bankruptcy Cases, (x) each such Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Each Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Seller as a result of the Bankruptcy Cases, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Cases, as applicable, this Agreement and the other Transaction Documents constitute, with respect to such Seller, the legal, valid, and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Cases, each Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 [Reserved.]

Section 4.4 [Reserved.]



Section 4.5 Legal Proceedings. As of the date hereof, except for the Bankruptcy Cases, there is no Proceeding or order pending or, to Sellers' Knowledge, threatened in writing against any Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.6 Brokers or Finders. Except for Hilco Streambank, Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which any Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.

Section 4.7 Free and Clear. Pursuant to the Sale Order, at Closing, Sellers' sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.8 "As-is, Where-is". Except for Sellers' representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS.** Sellers expressly disclaim all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Sellers have not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Sellers expressly disclaim.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of California, which is the jurisdiction of Buyer's organization. Buyer has the requisite power and authority to own or lease and to operate and use Buyer's properties and to carry on Buyer's business as now conducted.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles



of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.

Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Seller in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Sellers or any of their attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of any Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Sellers. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Sellers are selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Sellers are or will become liable following the Closing.

## ARTICLE VI

### ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Sellers covenant and agree that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Sellers will use commercially reasonable efforts, taking into account Sellers' status as debtors-in-possession in the Bankruptcy Cases, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Sellers will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

### Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Sellers have declared a Successful Bid pursuant to the Sale Procedures, Seller is permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Sellers have the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Sale Procedures or the Bankruptcy Code.

(b) Sellers will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Sellers select it as such in accordance with the Sale Procedures.

## ARTICLE VII

### ADDITIONAL AGREEMENTS

#### Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with the sale or transfer of the Acquired Assets ("Transfer Taxes"), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be borne entirely by Buyer. Accordingly, if Seller is required by Law to pay any such Transfer Taxes, Buyer will promptly reimburse Sellers for the amount of such Transfer Taxes actually paid by Sellers. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Sellers and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Sellers agree to furnish or cause to be furnished to each other (and, in the case of Sellers, to any successor-in-interest of Sellers, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Sellers); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Sellers have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Sellers or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all "bulk sales," "bulk transfer," and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Any personal property or similar Taxes applicable to the Acquired Assets for a Straddle Period will be apportioned between the Parties on the number of days of the Straddle Period included in the Pre-Closing Tax Period and the number of days of the Straddle Period in the Post-Closing Tax Period. Sellers will be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Sellers will pay to Buyer an amount equal to any such Taxes payable by Buyer that are attributable to the Pre-Closing Tax

Period, and Buyer will pay to Sellers an amount equal to any such Taxes that have been paid by Sellers that are not attributable to the Pre-Closing Tax Period. Such payments will be made on the Closing Date or, if later, on the date such Taxes are due (or thereafter, promptly after request by Buyer or Sellers if such Taxes are not identified by Buyer or Sellers on or prior to the Closing Date).

(e) [Reserved.]

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Sellers (or any Affiliate of Sellers) will continue in full force and effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Sellers will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Sellers be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Sellers will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

Section 7.4 Preservation of Books and Records. After the Closing Date, Buyer will provide Sellers (including any successor-in-interest to Sellers, such as a liquidating trust or other entity) and their Affiliates and Representatives (after reasonable notice and during normal business hours and without charge to Sellers other than the costs of copying, if any) reasonable access to, including the right to make copies of, all Books and Records, to the extent necessary to permit Seller to determine any matter relating to its rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter), for periods prior to the Closing and will preserve such books and records until the later of (i) such period as will be consistent with Buyer's records retention policy in effect from time to time, (ii) the retention period required by applicable Law, (iii) the conclusion of all bankruptcy proceedings relating to the Bankruptcy Case, and (iv) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access will include access to any information in electronic form to the extent reasonably available.

Buyer acknowledges that Seller has the right to retain originals or copies of all of Books and Records included in or related to the Acquired Assets for periods prior to the Closing.

## **ARTICLE VIII**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE**

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Sellers contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.6, the condition in this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Sellers' Performance. Sellers have performed and complied in all material respects with the covenants and agreements that Sellers are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a "Closing Legal Impediment"); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Sellers' Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE**

Sellers' obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Sellers (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date

as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer’s Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Sellers have taken all actions required to be taken by Sellers by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer’s Deliveries. Each of the deliveries required to be made to Sellers pursuant to Section 3.5 has been delivered.

Section 9.5 Bankruptcy Court Approvals The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## ARTICLE X TERMINATION

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written consent of Seller and Buyer; or
- (b) by either Seller or Buyer:
  - (i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;
  - (ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the “Outside Date”); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party



whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;

(iii) if the Sale Order is vacated;

(iv) if Seller enters into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Sale Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;

(v) Seller files any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or

(c) by Buyer:

(i) in the event of any breach by Sellers of any of Sellers' agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Sellers to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Sellers in writing (the "Buyer Termination Notice") of Buyer's intention to exercise Buyer's rights under this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Sellers are allegedly in breach;

(ii) if the Bankruptcy Cases are dismissed or converted to cases under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Seller:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Sellers Termination Notice; provided, however, that Sellers (1) are not themselves in material breach of any of Sellers' representations, warranties, covenants, or agreements contained herein, and (2) Sellers notify Buyer(s) in writing (the "Sellers Termination Notice") of Sellers' intention to exercise Sellers' rights under this Section 10.1(d)(i) as a result of the breach, and Sellers specify in the Sellers Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Sellers have provided Buyer with written notice that Sellers are prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within two (2) Business Days of Sellers providing Buyer with such notice.

Section 10.2 Effect of Termination; Liquidated Damages; Buyer Protections, Break-Up Fee.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Sellers as liquidated damages (and Sellers will be permitted to direct Hilco Streambank to disburse the Deposit to Sellers), and the retention thereof will constitute the sole and exclusive remedy of Sellers in the event of such a termination hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Sellers will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Sale Procedures, and the return thereof and, if payable under this Section 10.2, the Break-Up Fee, will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Sellers or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.

(b) If Sellers consummate an Alternative Transaction, as compensation for Buyer serving as the “stalking horse” and subjecting this Agreement to higher and better offers, and in consideration for Buyer having expended considerable time and expense in connection with this Agreement and the negotiation thereof and the identification and quantification of Sellers’ assets, Sellers will pay Buyer, in accordance with the terms hereof, the Break-Up Fee, subject to Bankruptcy Court approval. In such case, the Break-Up Fee will be paid to Buyer no later than five (5) Business Days following the date of consummation of an Alternative Transaction from the proceeds thereof, so long as no material breach by Buyer of this Agreement has occurred and remains uncured. Nothing in this Section 10.2(b) will relieve Buyer or Sellers of any Liability for a breach of this Agreement prior to the date of termination; provided, however, that Sellers’ liability hereunder for any and all such breaches will be capped at an amount equal to the Break-Up Fee. Upon payment of the Break-Up Fee to Buyer in accordance with this Section 10.2(b) and the return of the Deposit to the extent required under the terms of this Agreement, Sellers and their respective Representatives and Affiliates, on the one hand, and Buyer and its Representatives and Affiliates, on the other, will be deemed to have fully released and discharged each other from any Liability resulting from the termination of this Agreement, and neither Sellers, their Representatives, or Affiliates, on the one hand, nor Buyer, its Representatives, or Affiliates, on the other hand, or any other Person, will have any other remedy or cause of action under or relating to this Agreement or any applicable Law.

(c) The Break-Up Fee will be entitled to such priority as is set forth in the Sale Order.



(d) The payment of the Break-Up Fee as provided herein will be free and clear of any interest or claim that any other Person may have or assert in such Alternative Transaction proceeds or otherwise available cash.

(e) Pursuant to Paragraph M of the Sale Procedures, at the Auction, the minimum overbid increment for the Acquired Assets will be at least Fifty Thousand Dollars (\$50,000).

## **ARTICLE XI GENERAL PROVISIONS**

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

*To Buyer:*

Now Presence, LLC  
Att'n: Mr. Kai MacDonald  
18800 Von Karman Ave., Suite A  
Irvine, CA 92612

*To Sellers:*

Shift Technologies, Inc.  
Att'n: Ayman Moussa, CEO  
P.O. Box 1664  
San Bruno, CA 94066-1664

*with a copy (which will not constitute notice) to:*

Keller Benvenuti Kim LLP  
Att'n: Mr. Tobias S. Keller  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and written. This Agreement will be binding upon the Parties and their respective successors and assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in

this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Seller, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose "ink original" or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing ("Pre-Closing Covenants") contained in this Agreement or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided

for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Sellers' intellectual property advisor.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Effective Date.

***Buyer:***

Now Presence, LLC

By: Robert Friedman  
Robert Friedman (Feb 1, 2024 09:39 PST)  
Robert Friedman, its Manager

*[Signature page continues]*

***Sellers:***

Shift Technologies, Inc.

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Finance, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Transportation LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Marketplace Holdings, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Fair Dealer Services, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

CarLotz Group, Inc.

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Platform, Inc.

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Operations LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Insurance Services LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

Shift Marketplace, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

CarLotz, Inc., a Delaware Corporation

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

CarLotz Nevada, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate Secretary

[Signature page continues]

CarLotz California, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Logistics, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Orange Grove Fleet Solutions, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz, Inc., an Illinois Corporation

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Orange Peel, LLC

By: Scott G Hodgdon  
Scott G Hodgdon (Feb 1, 2024 09:44 PST)  
Scott Hodgdon, General Counsel & Corporate  
Secretary

**Exhibit A**

Sale Procedures Order

*Attached.*

**Exhibit B**

**(Proposed) Sale Order**

*Attached.*



## Exhibit C

### Domain Names

#### Shift.com Domain Names

Domain Name	Domain Registrar
drive-shift.com	MarkMonitor
drive-shift.io	MarkMonitor
drive-shift.net	MarkMonitor
drive-shift.org	MarkMonitor
drive-shit.com	MarkMonitor
driveshift.co	MarkMonitor
driveshift.com	MarkMonitor
driveshift.io	MarkMonitor
driveshift.us	MarkMonitor
driveshit.com	MarkMonitor
drveshift.com	MarkMonitor
hishift.com	MarkMonitor
shft.cr	MarkMonitor
shift-cars.com	MarkMonitor
shift.auto	MarkMonitor
shift.biz	MarkMonitor
shift.car	MarkMonitor
shift.cars	MarkMonitor
shift.co	MarkMonitor
shift.co.uk	MarkMonitor
shift.com	MarkMonitor
shift.cr	MarkMonitor
shiftcar.co	MarkMonitor
shiftcars.com	MarkMonitor
shiftenthusiast.com	MarkMonitor
shiftenthusiasts.com	MarkMonitor
shiftloan.com	MarkMonitor
shiftmessage.com	MarkMonitor
shiftpos.com	MarkMonitor
shyftcar.com	MarkMonitor
shyftcr.com	MarkMonitor
driveshiftinvite.com	NameCheap
driveshiftinvite.net	NameCheap
driveshiftinvite.org	NameCheap
ifyouknowyourshift.com	NameCheap
ifyouknowyourshit.com	NameCheap

ifyouknowyoushift.com	NameCheap
ifyouknowyoushit.com	NameCheap
shftcdn.com	NameCheap
shftcdn.io	NameCheap
shftcdn.net	NameCheap
shift-autos.com	NameCheap
shiftbeta.com	NameCheap
shiftcarsresearch.com	NameCheap
shiftcarsresearch.net	NameCheap
shiftcarsresearch.org	NameCheap
shiftcontractors.com	NameCheap
shiftcontractors.net	NameCheap
shiftdev.io	NameCheap
shiftenvdevelopment.com	NameCheap
shiftenvstaging.com	NameCheap
shiftenvtraining.com	NameCheap
shiftops.com	NameCheap
shiftopsenvdevelopment.com	NameCheap
shiftopsenvstaging.com	NameCheap
shiftopsenvtraining.com	NameCheap
shiftsandbox.com	NameCheap
shiftsandbox.net	NameCheap
shiftstatic.net	NameCheap
shiftusercontent.com	NameCheap
theshiftheadache.com	NameCheap
theshiftheadache.net	NameCheap
theshiftheadache.org	NameCheap
carfoxy.com	MarkMonitor
carsavi.com	MarkMonitor
carsavvi.com	MarkMonitor
carslovely.com	MarkMonitor
carsmartly.com	MarkMonitor
carssmartly.com	MarkMonitor
drivecanvas.io	MarkMonitor
drivelovely.com	MarkMonitor
icarsavvy.com	MarkMonitor
icarsmart.com	MarkMonitor
joinbreeze.com	MarkMonitor
mycarsavvy.com	MarkMonitor
xchangeleasing.com	MarkMonitor
frunkforce.com	NameCheap
frunkforce.dev	NameCheap
frunkforce.net	NameCheap

frunkforce.org	NameCheap
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### Fair.com Domain Names

Domain Name	Domain Registrar
fair.com	MarkMonitor
fair.engineering	MarkMonitor
fair.fail	MarkMonitor
fair.fyi	MarkMonitor
faircorp.net	MarkMonitor
fairfinancial.com	MarkMonitor
fairloan.com	MarkMonitor
fairmail.com	MarkMonitor
fairtechnologies.com	MarkMonitor
fairtradein.com	MarkMonitor

### Carlotz.com Domain Names

Domain	Registrar
carlotz.com	NameCheap
carlotzretailremarketing.com	NameCheap
ogfleet.com	NameCheap
orangegrovefleet.com	NameCheap

### Autoacquire.com Domain Names

Domain Name	Domain Registrar
autoacquire.com	NameCheap
autoacquire.ai	NameCheap
autoacquire.app	NameCheap
autoacquire.info	NameCheap
autoacquire.io	NameCheap
autoacquire.live	NameCheap
autoacquire.net	NameCheap
autoacquire.org	NameCheap
autoacquire.pro	NameCheap
autoacquire.us	NameCheap
autoacquire.xyz	NameCheap

## Exhibit D

### Social Media Accounts

Platform	Handle	Reach
Facebook	Shift	25k followers
Twitter	@driveshift	3k followers
LinkedIn	Shift	23k followers
Instagram	@driveshiftcars	4k followers

Platform	Handle	Reach
Twitter	Fair.com	10k followers

Platform	Handle	Reach
Facebook	CarLotz	3k followers
Twitter	@CarLotz411	4k followers
LinkedIn	CarLotz	7k followers
Instagram	@carlotz411	1k followers



# A025B (APA for IP Assets - Domain Names - Social Media Accounts) (KBK 1-31-2024)

Final Audit Report

2024-02-01

Created:	2024-02-01
By:	Jordon Parker (JParker@hilcoglobal.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAs0OmHzXve9HCnfRxVOneodiO2V5V6j3c

## "A025B (APA for IP Assets - Domain Names - Social Media Accounts) (KBK 1-31-2024)" History

-  Document created by Jordon Parker (JParker@hilcoglobal.com)  
2024-02-01 - 5:40:05 PM GMT- IP address: 68.160.246.196
-  Document emailed to scott.hodgdon@shift.com for signature  
2024-02-01 - 5:40:11 PM GMT
-  Email viewed by scott.hodgdon@shift.com  
2024-02-01 - 5:43:17 PM GMT- IP address: 68.96.65.231
-  Signer scott.hodgdon@shift.com entered name at signing as Scott G Hodgdon  
2024-02-01 - 5:44:22 PM GMT- IP address: 68.96.65.231
-  Document e-signed by Scott G Hodgdon (scott.hodgdon@shift.com)  
Signature Date: 2024-02-01 - 5:44:24 PM GMT - Time Source: server- IP address: 68.96.65.231
-  Agreement completed.  
2024-02-01 - 5:44:24 PM GMT








# A025B (APA for IP Assets - Domain Names - Social Media Accounts) (KBK 1-31-2024)

Final Audit Report

2024-02-01

Created:	2024-02-01
By:	Jordon Parker (JParker@hilcoglobal.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAe_VZaVd05ed0_ndFpxRmbz0M3bcM_dSa

## "A025B (APA for IP Assets - Domain Names - Social Media Accounts) (KBK 1-31-2024)" History

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2024-02-01 - 5:29:02 PM GMT- IP address: 68.160.246.196
-  Document emailed to Robert Friedman (rob@ffcapitalgroup.com) for signature  
2024-02-01 - 5:29:07 PM GMT
-  Email viewed by Robert Friedman (rob@ffcapitalgroup.com)  
2024-02-01 - 5:37:29 PM GMT- IP address: 174.193.199.62
-  Document e-signed by Robert Friedman (rob@ffcapitalgroup.com)  
Signature Date: 2024-02-01 - 5:39:26 PM GMT - Time Source: server- IP address: 98.164.51.9
-  Agreement completed.  
2024-02-01 - 5:39:26 PM GMT



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**EXHIBIT B**  
**(Shift Canada APA)**

## INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of February 8, 2024 (“Effective Date”), by and between Shift Technologies Inc., a British Columbia company (“Buyer”), and Shift Technologies, Inc., a Delaware corporation, and each of its undersigned affiliated debtors in the Bankruptcy Cases, to the extent such affiliated debtor owns any of the Acquired Assets (each, a “Seller,” and collectively, the “Sellers”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

### RECITALS

A. On October 9, 2023 (the “Petition Date”), each of the Sellers filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”) under Case No. 23-30687 (HLB) (Lead Case - Jointly Administered) (the “Bankruptcy Cases”). Sellers continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On December 28, 2023, Sellers filed the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 (I) (a) Approving Sale Procedures; (b) Authorizing Entry into One or More Stalking Horse Agreements; and (c) Setting Sale Hearing; and (II) Authorizing Debtors to Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Procedures Motion”).

C. On January 18, 2024, the Bankruptcy Court issued the *Order Regarding Sale Procedures Motion* (the “Sale Procedures Order”), a copy of which is attached hereto as Exhibit A, which authorized the Debtors to sell the Acquired Assets in accordance with the procedures set forth in the Motion, subject to the provisions of the Sale Procedures Order (the “Sale Procedures”).

D. The Sale Procedures Order established a deadline for Sellers to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Sale Procedures Order also provides that by February 9, 2024, Sellers will file with the Bankruptcy Court (i) declaration(s) in support of the sale of the Acquired Assets, which will include a copy of this Agreement, and (ii) a notice of the hearing for the Bankruptcy Court to consider final approval of the sale(s) of the Acquired Assets, scheduled to take place by videoconference on February 22, 2024, at 10:00 a.m. (Pacific Time), which will identify the Buyer(s), the Acquired Assets, and the [respective] Purchase Price[s] for the Acquired Assets. Sellers will request that upon approval of the sale(s), the Bankruptcy Court issue an *Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 Approving Sale of Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Order”), substantially in the form of the attached Exhibit B.

E. Sellers desire to sell to Buyer(s) all of the Acquired Assets, and Buyer desires to purchase from Sellers the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.



F. Pursuant to the Sale Procedures, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) (the “Deposit”) of the Purchase Price.

G. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## **ARTICLE I DEFINITIONS**

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code.

“Agreement” has the meaning set forth in the Preamble.

“Allocation” has the meaning set forth in Section 7.1(e).

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Seller agrees to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets or any group of assets that includes all or any material portion of the Acquired Assets or a reorganization of Seller pursuant to a plan approved the Bankruptcy Court.

“Auction” has the meaning ascribed to such term in the Sale Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Sale Procedures.

“Bankruptcy Cases” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Business Day” means any day of the year, other than a Saturday or Sunday, on which national banking institutions in San Francisco, California, are open to the public for conducting business and are not required or authorized by Law to close.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Termination Notice” has the meaning set forth in Section 10.1(c)(i).

“Closing” has the meaning set forth in 0.

“Closing Date” has the meaning set forth in 0.

“Closing Date Cash Payment” has the meaning set forth in Section 3.3.

“Closing Legal Impediment” has the meaning set forth in 0.

“Code” means the Internal Revenue Code of 1986, as amended.

“Competing Bids” has the meaning set forth in Section 6.2(a).

“Deposit” has the meaning set forth in the Recitals.

“Domain Names” means the Internet resource names and associated uniform resource locaters of Sellers that are owned by Sellers and set forth on Schedule 1.3.

“Effective Date” has the meaning set forth in the Preamble.

“Encumbrance” means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

“Governmental Authority” means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

“Hilco Streambank” means Hilco IP Services, LLC, d/b/a Hilco Streambank.

“Knowledge” means, with respect to any matter in question, in the case of Sellers, the actual knowledge of Ayman Moussa (CEO, Shift Technologies, Inc.) and Scott Hodgdon (General Counsel and Corporate Secretary, Shift Technologies Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Sellers’ ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which any Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which any Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Cases, including, without limitation, the Auction and any announced liquidation of Sellers’ assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Sellers operate.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in **Error! Reference source not found..**

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Sellers.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means (a) any taxable period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

“Pre-Closing Tax Period” means (a) any taxable period ending on or before the Closing Date and (b) the portion of any Straddle Period beginning on the first day of such Straddle Period and ending at the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Sale Procedures.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Sale Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Sale Procedures Motion but subject to the provisions of the Sale Procedures Order.

“Sale Procedures Order” has the meaning set forth in the Recitals.

“Sellers” has the meaning set forth in the Preamble.

“Sellers Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Social Media Accounts” means the online account registrations of Sellers described in Schedule 1.5.

“Straddle Period” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“Subsidiary” means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Successful Bidder” has the meaning set forth in the Sale Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and will not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “Section,” “Article,” “Schedule,” or “Exhibit” are to the corresponding Section, Article, Schedule, or Exhibit of or to this Agreement unless otherwise specified.

(f) Words such as “herein,” “hereof,” and “hereunder” refer to this Agreement as whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

## **ARTICLE II**

### **PURCHASE AND SALE**

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Sellers will sell, transfer, assign, convey, and deliver, or cause to be sold, transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and Buyer will purchase, assume, and accept from Sellers, all right, title, and interest of Sellers in, to, or under the following (collectively, the “Acquired Assets”):

- (a) the Domain Names;
- (b) the Social Media Accounts;
- (c) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Sellers and not specifically sold and transferred to Buyer.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Sellers from ceasing operations or winding up Sellers’ affairs and liquidating following the Closing. Upon the completion of the winding up of Sellers’ affairs and liquidation, Sellers will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing, Sellers will use commercially reasonable efforts to convey such Acquired Assets to Buyer as promptly as practicable after the Closing.

### **ARTICLE III**

#### **PURCHASE PRICE; CLOSING**

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Seller in cash the sum of ONE MILLION THREE HUNDRED SIXTY-FIVE THOUSAND (\$1,365,000) UNITED STATES DOLLARS (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Sale Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Seller or Buyer. The Deposit will be retained by Sellers at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment. At the Closing, (a) Buyer will pay to Sellers, or to an account designated by Sellers, in cash by wire transfer of immediately available funds an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Sellers will direct Hilco Streambank to indefeasibly transfer the Deposit, and Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated by Sellers.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the “Closing”) will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Seller may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the “Closing Date.”

Section 3.5 Buyer's Deliveries to Sellers. At the Closing, Buyer will deliver to Sellers each of the following:

- (a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;
- (c) the certificates of Buyer to be received by Sellers pursuant to Section 9.1 and Section 9.2; and
- (d) such assignments in form reasonably satisfactory to Sellers as Sellers may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Sellers' Deliveries to Buyer. At the Closing, Sellers will deliver to Buyer each of the following:

- (a) a direction to Hilco Streambank, duly executed by Sellers, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which any Seller is a party, duly executed by each such Seller;
- (c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;
- (d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Sellers' right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances; and
- (e) with respect to the Domain Names and the Social Media Accounts, if an Acquired Asset or Acquired Assets, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Sellers and Buyer.

## **ARTICLE IV**

### **REPRESENTATIONS AND WARRANTIES OF SELLERS**

Sellers hereby represent and warrant to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Each of Shift Technologies, Inc. and Shift Operations LLC is an entity duly organized, validly existing, and in good standing under the Laws



of the jurisdiction of such Seller's organization. Subject to the limitations imposed on such Seller as a result of the Bankruptcy Cases, (x) each such Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Each Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Seller as a result of the Bankruptcy Cases, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Cases, as applicable, this Agreement and the other Transaction Documents constitute, with respect to such Seller, the legal, valid, and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Cases, each Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 [Reserved.]

Section 4.4 [Reserved.]

Section 4.5 Legal Proceedings. As of the date hereof, except for the Bankruptcy Cases, there is no Proceeding or order pending or, to Sellers' Knowledge, threatened in writing against any Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.6 Brokers or Finders. Except for Hilco Streambank, Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which any Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.



Section 4.7 Free and Clear. Pursuant to the Sale Order, at Closing, Sellers' sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.8 "As-is, Where-is". Except for Sellers' representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS.** Sellers expressly disclaim all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Sellers have not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Sellers expressly disclaim.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby represents and warrants to Sellers that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is a corporation, duly organized, validly existing, and in good standing under the laws of the jurisdiction of Buyer's organization. Buyer has the requisite power and authority to own or lease and to operate and use Buyer's properties and to carry on Buyer's business as now conducted.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.

Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Seller in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Sellers or any of their attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of any Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Sellers. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Sellers are selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Sellers are or will become liable following the Closing.

## ARTICLE VI

### ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Sellers covenant and agree that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Sellers will use commercially reasonable efforts, taking into account Sellers' status as debtors-in-possession in the Bankruptcy Cases, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Sellers will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

#### Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Sellers have declared a Successful Bid pursuant to the Sale Procedures, Seller is permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Sellers have the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Sale Procedures or the Bankruptcy Code.

(b) Sellers will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Sellers select it as such in accordance with the Sale Procedures.

### ARTICLE VII

#### ADDITIONAL AGREEMENTS

##### Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with the sale or transfer of the Acquired Assets ("Transfer Taxes"), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be

borne entirely by Buyer. Accordingly, if Seller is required by Law to pay any such Transfer Taxes, Buyer will promptly reimburse Sellers for the amount of such Transfer Taxes actually paid by Sellers. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Sellers and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Sellers agree to furnish or cause to be furnished to each other (and, in the case of Sellers, to any successor-in-interest of Sellers, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Sellers); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Sellers have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Sellers or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all “bulk sales,” “bulk transfer,” and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Any personal property or similar Taxes applicable to the Acquired Assets for a Straddle Period will be apportioned between the Parties on the number of days of the Straddle Period included in the Pre-Closing Tax Period and the number of days of the Straddle Period in the Post-Closing Tax Period. Sellers will be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Sellers will pay to Buyer an amount equal to any such Taxes payable by Buyer that are attributable to the Pre-Closing Tax Period, and Buyer will pay to Sellers an amount equal to any such Taxes that have been paid by Sellers that are not attributable to the Pre-Closing Tax Period. Such payments will be made on the Closing Date or, if later, on the date such Taxes are due (or thereafter, promptly after request by Buyer or Sellers if such Taxes are not identified by Buyer or Sellers on or prior to the Closing Date).

(e) [Reserved.]

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Sellers (or any Affiliate of Sellers) will continue in full force and effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Sellers will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Sellers be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Sellers will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

## **ARTICLE VIII**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE**

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Sellers contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.6, the condition in this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Sellers' Performance. Sellers have performed and complied in all material respects with the covenants and agreements that Sellers are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a “Closing Legal Impediment”); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Sellers’ Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE**

Sellers’ obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Sellers (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer’s Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Sellers have taken all actions required to be taken by Sellers by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer’s Deliveries. Each of the deliveries required to be made to Sellers pursuant to Section 3.5 has been delivered.



Section 9.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE X**

### **TERMINATION**

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written consent of Seller and Buyer; or
- (b) by either Seller or Buyer:
  - (i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;
  - (ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;
  - (iii) if the Sale Order is vacated;
  - (iv) if Seller enters into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Sale Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;
  - (v) Seller files any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or
- (c) by Buyer:
  - (i) in the event of any breach by Sellers of any of Sellers' agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Sellers to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Sellers in writing (the "Buyer Termination Notice") of Buyer's intention to exercise Buyer's rights under

this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Sellers are allegedly in breach;

(ii) if the Bankruptcy Cases are dismissed or converted to cases under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Seller:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Sellers Termination Notice; provided, however, that Sellers (1) are not themselves in material breach of any of Sellers' representations, warranties, covenants, or agreements contained herein, and (2) Sellers notify Buyer(s) in writing (the "Sellers Termination Notice") of Sellers' intention to exercise Sellers' rights under this Section 10.1(d)(i) as a result of the breach, and Sellers specify in the Sellers Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Sellers have provided Buyer with written notice that Sellers are prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within one Business Day of Sellers providing Buyer with such notice.

## Section 10.2 Effect of Termination and Liquidated Damages.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Sellers as liquidated damages (and Sellers will be permitted to direct Hilco Streambank to disburse the Deposit to Sellers), and the retention thereof will constitute the sole and exclusive remedy of Sellers in the event of such a termination hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Sellers will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Sale Procedures, and the return thereof and will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Sellers or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.



**ARTICLE XI**  
**GENERAL PROVISIONS**

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

*To Buyer:*

SHIFT TECHNOLOGIES INC.  
Att'n: Rajiv Gandhi

c/o COX TAYLOR  
BARRISTERS AND SOLICITORS  
Third Floor, Burnes House  
26 Bastion Square  
Victoria, British Columbia V8W 1H9  
CANADA

*To Sellers:*

Shift Technologies, Inc.  
Att'n: Scott Hodgdon, General Counsel  
P.O. Box 1664  
San Bruno, CA 94066-1664

*with a copy (which will not constitute notice) to:*

Keller Benvenuti Kim LLP  
Att'n: Mr. Tobias S. Keller  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and written. This Agreement will be binding upon the Parties and their respective successors and assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Seller, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose "ink original" or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing ("Pre-Closing Covenants") contained in this Agreement or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

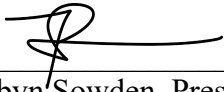
Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Sellers' intellectual property advisor.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Effective Date.

***Buyer:***

**SHIFT TECHNOLOGIES INC.**

By:   
Tobyn Sowden, President and Director

*[Signature page continues]*

***Sellers:***

Shift Technologies, Inc.

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Finance, LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Transportation LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Marketplace Holdings, LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Fair Dealer Services, LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

CarLotz Group, Inc.

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Platform, Inc.

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Operations LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Insurance Services LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

Shift Marketplace, LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

CarLotz, Inc., a Delaware Corporation

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

CarLotz Nevada, LLC

By: \_\_\_\_\_  
Scott Hodgdon  
General Counsel & Corporate Secretary

**Exhibit A**

Sale Procedures Order

*Attached.*

**Exhibit B**

**(Proposed) Sale Order**

*Attached.*

### **Schedule 1.1**

[Intentionally omitted.]



## **Schedule 1.2**

[Intentionally omitted.]

### Schedule 1.3

#### Domain Names

##### Shift.com Domain Names

Domain Name	Domain Registrar
drive-shift.com	MarkMonitor
drive-shift.io	MarkMonitor
drive-shift.net	MarkMonitor
drive-shift.org	MarkMonitor
drive-shit.com	MarkMonitor
driveshift.co	MarkMonitor
driveshift.com	MarkMonitor
driveshift.io	MarkMonitor
driveshift.us	MarkMonitor
driveshit.com	MarkMonitor
drveshift.com	MarkMonitor
hishift.com	MarkMonitor
shft.cr	MarkMonitor
shift-cars.com	MarkMonitor
shift.auto	MarkMonitor
shift.biz	MarkMonitor
shift.car	MarkMonitor
shift.cars	MarkMonitor
shift.co	MarkMonitor
shift.co.uk	MarkMonitor
shift.com	MarkMonitor
shift.cr	MarkMonitor
shiftcar.co	MarkMonitor
shiftcars.com	MarkMonitor
shiftenthusiast.com	MarkMonitor
shiftenthusiasts.com	MarkMonitor
shiftloan.com	MarkMonitor
shiftmessage.com	MarkMonitor
shiftpos.com	MarkMonitor
shyftcar.com	MarkMonitor
shyftcr.com	MarkMonitor
driveshiftinvite.com	NameCheap
driveshiftinvite.net	NameCheap
driveshiftinvite.org	NameCheap
ifyouknowyourshift.com	NameCheap
ifyouknowyourshit.com	NameCheap

<b>ifyouknowyoushift.com</b>	NameCheap
<b>ifyouknowyoushit.com</b>	NameCheap
<b>shftcdn.com</b>	NameCheap
<b>shftcdn.io</b>	NameCheap
<b>shftcdn.net</b>	NameCheap
<b>shift-autos.com</b>	NameCheap
<b>shiftbeta.com</b>	NameCheap
<b>shiftcarsresearch.com</b>	NameCheap
<b>shiftcarsresearch.net</b>	NameCheap
<b>shiftcarsresearch.org</b>	NameCheap
<b>shiftcontractors.com</b>	NameCheap
<b>shiftcontractors.net</b>	NameCheap
<b>shiftdev.io</b>	NameCheap
<b>shiftenvdevelopment.com</b>	NameCheap
<b>shiftenvstaging.com</b>	NameCheap
<b>shiftenvtraining.com</b>	NameCheap
<b>shiftops.com</b>	NameCheap
<b>shiftopsenvdevelopment.com</b>	NameCheap
<b>shiftopsenvstaging.com</b>	NameCheap
<b>shiftopsenvtraining.com</b>	NameCheap
<b>shiftsandbox.com</b>	NameCheap
<b>shiftsandbox.net</b>	NameCheap
<b>shiftstatic.net</b>	NameCheap
<b>shiftusercontent.com</b>	NameCheap
<b>theshiftheadache.com</b>	NameCheap
<b>theshiftheadache.net</b>	NameCheap
<b>theshiftheadache.org</b>	NameCheap
<b>carfoxy.com</b>	MarkMonitor
<b>carsavi.com</b>	MarkMonitor
<b>carsavvi.com</b>	MarkMonitor
<b>carslovely.com</b>	MarkMonitor
<b>carsmartly.com</b>	MarkMonitor
<b>carssmartly.com</b>	MarkMonitor
<b>drivelovely.com</b>	MarkMonitor
<b>icarsavvy.com</b>	MarkMonitor
<b>icarsmart.com</b>	MarkMonitor
<b>joinbreeze.com</b>	MarkMonitor
<b>mycarsavvy.com</b>	MarkMonitor
<b>frunkforce.com</b>	NameCheap
<b>frunkforce.dev</b>	NameCheap
<b>frunkforce.net</b>	NameCheap
<b>Frunkforce.org</b>	NameCheap

#### **Schedule 1.4**

[Intentionally omitted.]

**Schedule 1.5**  
Social Media Accounts

Platform	Handle	Reach
Facebook	Shift	25k followers
Twitter	@driveshift	3k followers
LinkedIn	Shift	23k followers
Instagram	@driveshiftcars	4k followers

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**EXHIBIT C**  
**(Primera APA)**

## INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of February 9, 2024 (“Effective Date”), by and between Primera Management I, L.L.C., a Delaware limited liability company (“Buyer”), and Shift Technologies, Inc., a Delaware corporation, and each of its undersigned affiliated debtors in the Bankruptcy Cases (as defined below), to the extent such affiliated debtor owns any of the Acquired Assets (each, a “Seller,” and collectively, the “Sellers”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

### RECITALS

A. On October 9, 2023 (the “Petition Date”), each of the Sellers filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”) under Case No. 23-30687 (HLB) (Lead Case - Jointly Administered) (the “Bankruptcy Cases”). Sellers continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On December 28, 2023, Sellers filed the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 (I) (a) Approving Sale Procedures; (b) Authorizing Entry into One or More Stalking Horse Agreements; and (c) Setting Sale Hearing; and (II) Authorizing Debtors to Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Procedures Motion”).

C. On January 18, 2024, the Bankruptcy Court issued the *Order Regarding Sale Procedures Motion* (the “Sale Procedures Order”), a copy of which is attached hereto as Exhibit A, which authorized the Debtors to sell the Acquired Assets in accordance with the procedures set forth in the Motion, subject to the provisions of the Sale Procedures Order (the “Sale Procedures”).

D. The Sale Procedures Order established a deadline for Sellers to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Sale Procedures Order also provides that by February 9, 2024, Sellers will file with the Bankruptcy Court (i) declaration(s) in support of the sale of the Acquired Assets, which will include a copy of this Agreement, and (ii) a notice of the hearing for the Bankruptcy Court to consider final approval of the sale(s) of the Acquired Assets, scheduled to take place by videoconference on February 22, 2024, at 10:00 a.m. (Pacific Time), which will identify the Buyer(s), the Acquired Assets, and the [respective] Purchase Price[s] for the Acquired Assets. Sellers will request that upon approval of the sale(s), the Bankruptcy Court issue an *Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 Approving Sale of Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Order”), substantially in the form of the attached Exhibit B.

E. Sellers desire to sell to Buyer(s) all of the Acquired Assets, and Buyer desires to purchase from Sellers the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.

F. Pursuant to the Sale Procedures, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) (the “Deposit”) of the Purchase Price.

G. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code. Sellers and Buyer agree that Buyer is not an Affiliate of any of the Sellers.

“Agreement” has the meaning set forth in the Preamble.

“Allocation” has the meaning set forth in Section 7.1(e).

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Sellers agree to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets or any group of assets that includes all or any material portion of the Acquired Assets or a reorganization of Sellers pursuant to a plan approved the Bankruptcy Court.

“Auction” has the meaning ascribed to such term in the Sale Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Sale Procedures.

“Bankruptcy Cases” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.



“Business Day” means any day of the year, other than a Saturday or Sunday, on which national banking institutions in San Francisco, California, are open to the public for conducting business and are not required or authorized by Law to close.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Termination Notice” has the meaning set forth in Section 10.1(c)(i).

“Closing” has the meaning set forth in Section 3.4.

“Closing Date” has the meaning set forth in Section 3.4.

“Closing Date Cash Payment” has the meaning set forth in Section 3.3.

“Closing Legal Impediment” has the meaning set forth in Section 8.3.

“Code” means the Internal Revenue Code of 1986, as amended.

“Competing Bids” has the meaning set forth in Section 6.2(a).

“Deposit” has the meaning set forth in the Recitals.

“Domain Names” means the Internet resource names and associated uniform resource locaters of Sellers that are owned by Sellers and set forth on Schedule 1.3.

“Effective Date” has the meaning set forth in the Preamble.

“Encumbrance” means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

“Governmental Authority” means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

“Hilco Streambank” means Hilco IP Services, LLC, d/b/a Hilco Streambank.

“Knowledge” means, with respect to any matter in question, in the case of Sellers, the actual knowledge of Ayman Moussa (CEO, Shift Technologies, Inc.) and Scott Hodgdon (General Counsel and Corporate Secretary, Shift Technologies, Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Sellers’ ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which any Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which any Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Cases, including, without limitation, the Auction and any announced liquidation of Sellers’ assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Sellers operate.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in Section 10.1(b)(ii).

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Sellers.

“Patent” means the patent set forth on Schedule 1.4.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means (a) any taxable period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

“Pre-Closing Tax Period” means (a) any taxable period ending on or before the Closing Date and (b) the portion of any Straddle Period beginning on the first day of such Straddle Period and ending at the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Sale Procedures.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Sale Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Sale Procedures Motion but subject to the provisions of the Sale Procedures Order.

“Sale Procedures Order” has the meaning set forth in the Recitals.

“Sellers” has the meaning set forth in the Preamble.

“Sellers Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Social Media Accounts” means the online account registrations of Sellers described in Schedule 1.5.

“Straddle Period” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“Subsidiary” means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Successful Bidder” has the meaning set forth in the Sale Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Trademarks” means the trademarks, service marks, trade names, logos, slogans, designs, common law trademarks and service marks, and trademark and service mark registrations therefor that are owned by Sellers and are set forth in Schedule 1.6.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and will not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “Section,” “Article,” “Schedule,” or “Exhibit” are to the corresponding Section, Article, Schedule, or Exhibit of or to this Agreement unless otherwise specified.

(f) Words such as “herein,” “hereof,” and “hereunder” refer to this Agreement as whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

## ARTICLE II

### PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Sellers will sell, transfer, assign, convey, and deliver, or cause to be sold,

transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and Buyer will purchase, assume, and accept from Sellers, all right, title, and interest of Sellers in, to, or under the following (collectively, the “Acquired Assets”):

- (a) the Domain Names;
- (b) the Social Media Accounts; and
- (c) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Sellers and not specifically sold and transferred to Buyer. Sellers and Buyer acknowledge and agree that Buyer will not assume any Liabilities of Sellers relating to the ownership, possession, or operation of the Acquired Assets prior to the Closing, and that such Liabilities will remain with the Sellers. Buyer will assume all Liabilities arising from the ownership, possession, or operation of the Acquired Assets by Buyer immediately after the Closing.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Sellers from ceasing operations or winding up Sellers’ affairs and liquidating following the Closing. Upon the completion of the winding up of Sellers’ affairs and liquidation, Sellers will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing, Sellers will use commercially reasonable efforts to convey such Acquired Assets to Buyer as promptly as practicable after the Closing.

### ARTICLE III PURCHASE PRICE; CLOSING

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Sellers in cash the sum of nine hundred thousand dollars (\$900,000.00) (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Sale Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Sellers or Buyer. The Deposit will be retained by Sellers at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment. At the Closing, (a) Buyer will pay to Sellers, or to an account designated in writing by Sellers, in cash by wire transfer of immediately available funds, an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Sellers will direct Hilco Streambank to indefeasibly transfer the

Deposit, and Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated in writing by Sellers.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the “Closing”) will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Sellers may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the “Closing Date.”

Section 3.5 Buyer’s Deliveries to Sellers. At the Closing, Buyer will deliver to Sellers each of the following:

- (a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;
- (c) the certificates of Buyer to be received by Sellers pursuant to Section 9.1 and Section 9.2; and
- (d) such assignments in form reasonably satisfactory to Sellers as Sellers may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Sellers’ Deliveries to Buyer. At the Closing, Sellers will deliver to Buyer each of the following:

- (a) a direction to Hilco Streambank, duly executed by Sellers, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which any Seller is a party, duly executed by each such Seller;
- (c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;
- (d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Sellers’ right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances; and



(e) with respect to the Domain Names and the Social Media Accounts, if an Acquired Asset or Acquired Assets, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Sellers and Buyer.

## **ARTICLE IV**

### **REPRESENTATIONS AND WARRANTIES OF SELLERS**

Sellers hereby represent and warrant to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Each of Shift Technologies, Inc. and Shift Operations LLC is an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of such Seller's organization. Subject to the limitations imposed on such Seller as a result of the Bankruptcy Cases, (x) each such Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Each Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Sellers as a result of the Bankruptcy Cases, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Cases, as applicable, this Agreement and the other Transaction Documents constitute, with respect to such Seller, the legal, valid, and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Cases, each Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 [Reserved.]

Section 4.4 [Reserved.]

Section 4.5 Legal Proceedings. As of the date hereof, except for the Bankruptcy Cases, there is no Proceeding or order pending or, to Sellers' Knowledge, threatened in writing against any Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.6 Brokers or Finders. Except for Hilco Streambank, Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which any Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.

Section 4.7 Free and Clear. Pursuant to the Sale Order, at Closing, Sellers' sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.8 "As-is, Where-is". Except for Sellers' representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS.** Sellers expressly disclaim all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Sellers have not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Sellers expressly disclaim.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is a Delaware limited liability company, duly organized, validly existing, and in good standing under the laws of the jurisdiction of Buyer's organization. Buyer has the requisite power and authority to own or lease and to operate and use Buyer's properties and to carry on Buyer's business as now conducted.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles



of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.

Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Sellers in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Sellers or any of their attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of any Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Sellers. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Sellers are selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Sellers are or will become liable following the Closing.

## ARTICLE VI

### ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Sellers covenant and agree that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Sellers will use commercially reasonable efforts, taking into account Sellers' status as debtors-in-possession in the Bankruptcy Cases, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Sellers will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

### Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Sellers have declared a Successful Bid pursuant to the Sale Procedures, Sellers are permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Sellers have the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Sale Procedures or the Bankruptcy Code.

(b) Sellers will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Sellers select it as such in accordance with the Sale Procedures.

## ARTICLE VII

### ADDITIONAL AGREEMENTS

#### Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with the sale or transfer of the Acquired Assets (“Transfer Taxes”), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be borne entirely by Buyer. Accordingly, if any Seller is required by Law to pay any such Transfer Taxes, Buyer will promptly reimburse Sellers for the amount of such Transfer Taxes actually paid by Sellers. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Sellers and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Sellers agree to furnish or cause to be furnished to each other (and, in the case of Sellers, to any successor-in-interest of Sellers, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Sellers); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Sellers have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Sellers or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all “bulk sales,” “bulk transfer,” and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Any personal property or similar Taxes applicable to the Acquired Assets for a Straddle Period will be apportioned between the Parties on the number of days of the Straddle Period included in the Pre-Closing Tax Period and the number of days of the Straddle Period in the Post-Closing Tax Period. Sellers will be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Sellers will pay to Buyer an amount equal to any such Taxes payable by Buyer that are attributable to the Pre-Closing Tax Period, and Buyer will pay to Sellers an amount equal to any such Taxes that have been paid by Sellers that are not attributable to the Pre-Closing Tax Period. Such payments will be made on the Closing Date or, if later, on the date such Taxes are due (or thereafter, promptly after request by Buyer or Sellers if such Taxes are not identified by Buyer or Sellers on or prior to the Closing Date).

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Sellers (or any Affiliate of Sellers) will continue in full force and effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Sellers will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Sellers be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Sellers will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

## ARTICLE VIII

### CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Sellers contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.6, the condition in this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Sellers’ Performance. Sellers have performed and complied in all material respects with the covenants and agreements that Sellers are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a “Closing Legal Impediment”); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Sellers’ Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## ARTICLE IX

### CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE

Sellers’ obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Sellers (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer's Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Sellers have taken all actions required to be taken by Sellers by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer's Deliveries. Each of the deliveries required to be made to Sellers pursuant to Section 3.5 has been delivered.

Section 9.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## ARTICLE X TERMINATION

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

- (a) By mutual written consent of Sellers and Buyer; or
- (b) by either Sellers or Buyer:
  - (i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;
  - (ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;
  - (iii) if the Sale Order is vacated;
  - (iv) if Sellers enter into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Sale Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;



(v) Sellers file any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or

(vi) The Sale Order is not entered within forty-five (45) days after the Sellers and the Buyer have all executed this Agreement.

(c) by Buyer:

(i) in the event of any breach by Sellers of any of Sellers' agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Sellers to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Sellers in writing (the "Buyer Termination Notice") of Buyer's intention to exercise Buyer's rights under this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Sellers are allegedly in breach;

(ii) if the Bankruptcy Cases are dismissed or converted to cases under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Sellers:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Sellers Termination Notice; provided, however, that Sellers (1) are not themselves in material breach of any of Sellers' representations, warranties, covenants, or agreements contained herein, and (2) Sellers notify Buyer(s) in writing (the "Sellers Termination Notice") of Sellers' intention to exercise Sellers' rights under this Section 10.1(d)(i) as a result of the breach, and Sellers specify in the Sellers Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Sellers have provided Buyer with written notice that Sellers are prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within one Business Day of Sellers providing Buyer with such notice.

## Section 10.2 Effect of Termination and Liquidated Damages.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Sellers as liquidated damages (and Sellers will be permitted to direct Hilco Streambank to disburse the Deposit to Sellers), and the retention thereof will constitute the sole and exclusive remedy of Sellers in the event of such a termination hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Sellers will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Sale Procedures, and the return thereof will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Sellers or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.

## ARTICLE XI GENERAL PROVISIONS

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

*To Buyer:*

Primera Management I, L.L.C.  
Att'n: Ori Sasson  
1840 San Miguel Drive  
Walnut Creek, CA 94596

*with a copy (which will not constitute notice) to:*

SIP Law, P.C.  
Att'n: Maryam Naghavi  
1501 Filbert Street  
San Francisco, CA 94123



*To Sellers:*

Shift Technologies, Inc.  
Att'n: Ayman Moussa, CEO  
P.O. Box 1664  
San Bruno, CA 94066-1664

*with a copy (which will not constitute notice) to:*

Keller Benvenuti Kim LLP  
Att'n: Mr. Tobias S. Keller  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and written. This Agreement will be binding upon the Parties and their respective successors and assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Sellers, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose “ink original” or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing (“Pre-Closing Covenants”) contained in this Agreement or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

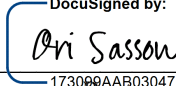
Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Sellers’ intellectual property advisor.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Effective Date.

***Buyer:***

Primera Management I, L.L.C.

By:  \_\_\_\_\_  
Ori Sasson, Partner

*[Signature page continues]*

***Sellers:***

Shift Technologies, Inc.

Shift Platform, Inc.

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Finance, LLC

Shift Operations LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Transportation LLC

Shift Insurance Services LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Marketplace Holdings, LLC

Shift Marketplace, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Fair Dealer Services, LLC

CarLotz, Inc., a Delaware Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Group, Inc.

CarLotz Nevada, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

*[Signature page continues]*

CarLotz California, LLC

CarLotz, Inc., an Illinois Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Logistics, LLC

Orange Peel, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Orange Grove Fleet Solutions, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

**Exhibit A**

**Sale Procedures Order**

*Attached.*

**Exhibit B**

**(Proposed) Sale Order**

*Attached.*

## **Schedule 1.1**

*[Intentionally left blank]*



## **Schedule 1.2**

*[Intentionally left blank]*

**Schedule 1.3****Domain Names****Fair.com Domain Names**

Domain Name	Domain Registrar
fair.com	MarkMonitor
fair.engineering	MarkMonitor
fair.fail	MarkMonitor
fair.fyi	MarkMonitor
faircorp.net	MarkMonitor
fairfinancial.com	MarkMonitor
fairloan.com	MarkMonitor
fairmail.com	MarkMonitor
fairtechnologies.com	MarkMonitor
fairtradein.com	MarkMonitor

#### **Schedule 1.4**

*[Intentionally left blank]*

## Schedule 1.5

### Social Media Accounts

Platform	Handle	Reach
Twitter	Fair.com	10k followers

**Schedule 1.6**

*[Intentionally left blank]*

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**EXHIBIT D**  
**(Painter Domains APA)**

## INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of February 5, 2024 (“Effective Date”), by and between Scott Painter, an individual (“Buyer”), and Shift Technologies, Inc., a Delaware corporation, and each of its undersigned affiliated debtors in the Bankruptcy Cases, to the extent such affiliated debtor owns any of the Acquired Assets (each, a “Seller,” and collectively, the “Sellers”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

### RECITALS

A. On October 9, 2023 (the “Petition Date”), each of the Sellers filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”) under Case No. 23-30687 (HLB) (Lead Case - Jointly Administered) (the “Bankruptcy Cases”). Sellers continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On December 28, 2023, Sellers filed the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 (I) (a) Approving Sale Procedures; (b) Authorizing Entry into One or More Stalking Horse Agreements; and (c) Setting Sale Hearing; and (II) Authorizing Debtors to Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Procedures Motion”).

C. On January 18, 2024, the Bankruptcy Court issued the *Order Regarding Sale Procedures Motion* (the “Sale Procedures Order”), a copy of which is attached hereto as Exhibit A, which authorized the Debtors to sell the Acquired Assets in accordance with the procedures set forth in the Motion, subject to the provisions of the Sale Procedures Order (the “Sale Procedures”).

D. The Sale Procedures Order established a deadline for Sellers to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Sale Procedures Order also provides that by February 9, 2024, Sellers will file with the Bankruptcy Court (i) declaration(s) in support of the sale of the Acquired Assets, which will include a copy of this Agreement, and (ii) a notice of the hearing for the Bankruptcy Court to consider final approval of the sale(s) of the Acquired Assets, scheduled to take place by videoconference on February 22, 2024, at 10:00 a.m. (Pacific Time), which will identify the Buyer(s), the Acquired Assets, and the [respective] Purchase Price[s] for the Acquired Assets. Sellers will request that upon approval of the sale(s), the Bankruptcy Court issue an *Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 Approving Sale of Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Order”), substantially in the form of the attached Exhibit B.

E. Sellers desire to sell to Buyer(s) all of the Acquired Assets, and Buyer desires to purchase from Sellers the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.

F. Pursuant to the Sale Procedures, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) (the “Deposit”) of the Purchase Price.

G. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code.

“Agreement” has the meaning set forth in the Preamble.

“Allocation” has the meaning set forth in Section 7.1(e).

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Seller agrees to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets or any group of assets that includes all or any material portion of the Acquired Assets or a reorganization of Seller pursuant to a plan approved the Bankruptcy Court.

“Auction” has the meaning ascribed to such term in the Sale Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Sale Procedures.

“Bankruptcy Cases” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.



“Business Day” means any day of the year, other than a Saturday or Sunday, on which national banking institutions in San Francisco, California, are open to the public for conducting business and are not required or authorized by Law to close.

“Buyer” has the meaning set forth in the Preamble.

“Buyer Termination Notice” has the meaning set forth in Section 10.1(c)(i).

“Closing” has the meaning set forth in Section 3.4.

“Closing Date” has the meaning set forth in Section 3.4.

“Closing Date Cash Payment” has the meaning set forth in Section 3.3.

“Closing Legal Impediment” has the meaning set forth in Section 8.3.

“Code” means the Internal Revenue Code of 1986, as amended.

“Competing Bids” has the meaning set forth in Section 6.2(a).

“Deposit” has the meaning set forth in the Recitals.

“Domain Names” means the Internet resource names and associated uniform resource locaters of Sellers that are owned by Sellers and set forth on Schedule 1.3.

“Effective Date” has the meaning set forth in the Preamble.

“Encumbrance” means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

“Governmental Authority” means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

“Hilco Streambank” means Hilco IP Services, LLC, d/b/a Hilco Streambank.

“Knowledge” means, with respect to any matter in question, in the case of Sellers, the actual knowledge of Ayman Moussa (CEO, Shift Technologies, Inc.) and Scott Hodgdon (General Counsel and Corporate Secretary, Shift Technologies, Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Sellers’ ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which any Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which any Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Cases, including, without limitation, the Auction and any announced liquidation of Sellers’ assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Sellers operate.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in Section 10.1(b)(ii).

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Sellers.

“Patent” means the patent set forth on Schedule 1.4.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means (a) any taxable period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

“Pre-Closing Tax Period” means (a) any taxable period ending on or before the Closing Date and (b) the portion of any Straddle Period beginning on the first day of such Straddle Period and ending at the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Sale Procedures.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Sale Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Sale Procedures Motion but subject to the provisions of the Sale Procedures Order.

“Sale Procedures Order” has the meaning set forth in the Recitals.

“Sellers” has the meaning set forth in the Preamble.

“Sellers Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Social Media Accounts” means the online account registrations of Sellers described in Schedule 1.5.

“Straddle Period” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“Subsidiary” means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Successful Bidder” has the meaning set forth in the Sale Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Trademarks” means the trademarks, service marks, trade names, logos, slogans, designs, common law trademarks and service marks, and trademark and service mark registrations therefor that are owned by Sellers and are set forth in Schedule 1.6.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and will not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “Section,” “Article,” “Schedule,” or “Exhibit” are to the corresponding Section, Article, Schedule, or Exhibit of or to this Agreement unless otherwise specified.

(f) Words such as “herein,” “hereof,” and “hereunder” refer to this Agreement as whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

## ARTICLE II

### PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Sellers will sell, transfer, assign, convey, and deliver, or cause to be sold, transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and

Buyer will purchase, assume, and accept from Sellers, all right, title, and interest of Sellers in, to, or under the following (collectively, the “Acquired Assets”):

- (a) the Domain Names;
- (b) the Social Media Accounts;
- (c) the Trademarks; and
- (d) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Sellers and not specifically sold and transferred to Buyer.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Sellers from ceasing operations or winding up Sellers’ affairs and liquidating following the Closing. Upon the completion of the winding up of Sellers’ affairs and liquidation, Sellers will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing, Sellers will use commercially reasonable efforts to convey such Acquired Assets to Buyer as promptly as practicable after the Closing.

### **ARTICLE III**

#### **PURCHASE PRICE; CLOSING**

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Seller in cash the sum of thirty-five thousand dollars (\$35,000.00) (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Sale Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Seller or Buyer. The Deposit will be retained by Sellers at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment. At the Closing, (a) Buyer will pay to Sellers, or to an account designated by Sellers, in cash by wire transfer of immediately available funds an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Sellers will direct Hilco Streambank to indefeasibly transfer the Deposit, and Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated by Sellers.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the “Closing”) will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Seller may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the “Closing Date.”

Section 3.5 Buyer’s Deliveries to Sellers. At the Closing, Buyer will deliver to Sellers each of the following:

- (a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;
- (c) the certificates of Buyer to be received by Sellers pursuant to Section 9.1 and Section 9.2; and
- (d) such assignments in form reasonably satisfactory to Sellers as Sellers may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Sellers’ Deliveries to Buyer. At the Closing, Sellers will deliver to Buyer each of the following:

- (a) a direction to Hilco Streambank, duly executed by Sellers, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);
- (b) each other Transaction Document to which any Seller is a party, duly executed by each such Seller;
- (c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;
- (d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Sellers’ right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances; and

**ARTICLE IV** with respect to the Domain Names and the Social Media Accounts, if an Acquired Asset or Acquired Assets, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Sellers and Buyer.

## **REPRESENTATIONS AND WARRANTIES OF SELLERS**

Sellers hereby represent and warrant to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Each of Shift Technologies, Inc. and Shift Operations LLC is an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of such Seller's organization. Subject to the limitations imposed on such Seller as a result of the Bankruptcy Cases, (x) each such Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Each Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Seller as a result of the Bankruptcy Cases, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Cases, as applicable, this Agreement and the other Transaction Documents constitute, with respect to such Seller, the legal, valid, and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Cases, each Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 [Reserved.]

Section 4.4 [Reserved.]

Section 4.5 Legal Proceedings. As of the date hereof, except for the Bankruptcy Cases, there is no Proceeding or order pending or, to Sellers' Knowledge, threatened in writing against



any Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.6 Brokers or Finders. Except for Hilco Streambank, Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which any Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.

Section 4.7 Free and Clear. Pursuant to the Sale Order, at Closing, Sellers' sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.8 "As-is, Where-is". Except for Sellers' representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS.** Sellers expressly disclaim all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Sellers have not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Sellers expressly disclaim.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is an individual.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.



Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Seller in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Sellers or any of their attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of any Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Sellers. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Sellers are selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Sellers are or will become liable following the Closing.

## ARTICLE VI

### ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Sellers covenant and agree that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Sellers will use commercially reasonable efforts, taking into account Sellers' status as debtors-in-possession in the Bankruptcy Cases, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Sellers will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

### Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Sellers have declared a Successful Bid pursuant to the Sale Procedures, Seller is permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Sellers have the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Sale Procedures or the Bankruptcy Code.

(b) Sellers will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Sellers select it as such in accordance with the Sale Procedures.

## ARTICLE VII

### ADDITIONAL AGREEMENTS

#### Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with the sale or transfer of the Acquired Assets ("Transfer Taxes"), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be borne entirely by Buyer. Accordingly, if Seller is required by Law to pay any such Transfer Taxes, Buyer will promptly reimburse Sellers for the amount of such Transfer Taxes actually paid by Sellers. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Sellers and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Sellers agree to furnish or cause to be furnished to each other (and, in the case of Sellers, to any successor-in-interest of Sellers, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Sellers); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Sellers have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Sellers or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all "bulk sales," "bulk transfer," and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Any personal property or similar Taxes applicable to the Acquired Assets for a Straddle Period will be apportioned between the Parties on the number of days of the Straddle Period included in the Pre-Closing Tax Period and the number of days of the Straddle Period in the Post-Closing Tax Period. Sellers will be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Sellers will pay to Buyer an amount equal to any such Taxes payable by Buyer that are attributable to the Pre-Closing Tax

Period, and Buyer will pay to Sellers an amount equal to any such Taxes that have been paid by Sellers that are not attributable to the Pre-Closing Tax Period. Such payments will be made on the Closing Date or, if later, on the date such Taxes are due (or thereafter, promptly after request by Buyer or Sellers if such Taxes are not identified by Buyer or Sellers on or prior to the Closing Date).

(e) [Reserved.]

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Sellers (or any Affiliate of Sellers) will continue in full force and effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Sellers will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Sellers be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Sellers will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

## ARTICLE VIII

### CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Sellers contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.6, the condition in

this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Sellers’ Performance. Sellers have performed and complied in all material respects with the covenants and agreements that Sellers are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a “Closing Legal Impediment”); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Sellers’ Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE**

Sellers’ obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Sellers (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer’s Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Sellers have taken all actions required to be taken by Sellers by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer's Deliveries. Each of the deliveries required to be made to Sellers pursuant to Section 3.5 has been delivered.

Section 9.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE X**

### **TERMINATION**

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written consent of Seller and Buyer; or
- (b) by either Seller or Buyer:
  - (i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;
  - (ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the "Outside Date"); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;
  - (iii) if the Sale Order is vacated;
  - (iv) if Seller enters into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Sale Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;
  - (v) Seller files any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or
- (c) by Buyer:



(i) in the event of any breach by Sellers of any of Sellers' agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Sellers to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Sellers in writing (the "Buyer Termination Notice") of Buyer's intention to exercise Buyer's rights under this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Sellers are allegedly in breach;

(ii) if the Bankruptcy Cases are dismissed or converted to cases under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Seller:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Sellers Termination Notice; provided, however, that Sellers (1) are not themselves in material breach of any of Sellers' representations, warranties, covenants, or agreements contained herein, and (2) Sellers notify Buyer(s) in writing (the "Sellers Termination Notice") of Sellers' intention to exercise Sellers' rights under this Section 10.1(d)(i) as a result of the breach, and Sellers specify in the Sellers Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Sellers have provided Buyer with written notice that Sellers are prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within one Business Day of Sellers providing Buyer with such notice.

## Section 10.2 Effect of Termination and Liquidated Damages.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Sellers as liquidated damages (and Sellers will be permitted to direct Hilco Streambank to disburse the Deposit to Sellers), and the retention thereof will constitute the sole and exclusive remedy of Sellers in the event of such a termination

hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Sellers will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Sale Procedures, and the return thereof and will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Sellers or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

*To Buyer:*

Scott Painter  
1111 Linda Flora Dr  
Los Angeles, CA 90049

*To Sellers:*

Shift Technologies, Inc.  
Att'n: Ayman Moussa, CEO  
P.O. Box 1664  
San Bruno, CA 94066-1664

*with a copy (which will not constitute notice) to:*

Keller Benvenuti Kim LLP  
Att'n: Mr. Tobias S. Keller  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and written. This Agreement will be binding upon the Parties and their respective successors and



assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Seller, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose "ink original" or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing ("Pre-Closing Covenants") contained in this Agreement

or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Sellers' intellectual property advisor.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Effective Date.

***Buyer:***

  
Scott Painter (Feb 6, 2024 10:29 PST)

Scott Painter

*[Signature page continues]*

***Sellers:***

Shift Technologies, Inc.

Shift Platform, Inc.

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Finance, LLC

Shift Operations LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Transportation LLC

Shift Insurance Services LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Marketplace Holdings, LLC

Shift Marketplace, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Fair Dealer Services, LLC

CarLotz, Inc., a Delaware Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Group, Inc.

CarLotz Nevada, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

*[Signature page continues]*

CarLotz California, LLC

CarLotz, Inc., an Illinois Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Logistics, LLC

Orange Peel, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Orange Grove Fleet Solutions, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

**Exhibit A**

Sale Procedures Order

*Attached.*

**Exhibit B**

**(Proposed) Sale Order**

*Attached.*

## **Schedule 1.1**

[Intentionally omitted]

## **Schedule 1.2**

[Intentionally omitted]



### Schedule 1.3

#### Domain Names

##### **Carlotz.com Domain Names**

Domain	Registrar
carlotz.com	NameCheap
carlotzretailremarketing.com	NameCheap
ogfleet.com	NameCheap
orangegrovefleet.com	NameCheap

##### **Autoacquire.com Domain Names**

Domain Name	Domain Registrar
autoacquire.com	NameCheap
autoacquire.ai	NameCheap
autoacquire.app	NameCheap
autoacquire.info	NameCheap
autoacquire.io	NameCheap
autoacquire.live	NameCheap
autoacquire.net	NameCheap
autoacquire.org	NameCheap
autoacquire.pro	NameCheap
autoacquire.us	NameCheap
autoacquire.xyz	NameCheap

##### **Additional Domain Names**

Domain Name	Domain Registrar
drivecanvas.io	MarkMonitor
xchangeleasing.com	MarkMonitor

#### **Schedule 1.4**

*[Intentionally left blank]*

## Schedule 1.5

### Social Media Accounts

Platform	Handle	Reach
Facebook	CarLotz	3k followers
Twitter	@CarLotz411	4k followers
LinkedIn	CarLotz	7k followers
Instagram	@carlotz411	1k followers

## Schedule 1.6

### Trademarks

Country	Mark	App. Date	Filing Serial No.	Registration No.
United States	CARLOTZ		86604567	4859304
United States			86604701	4859319
United States			86604663	4859315







# Shift SUCCESSFUL BIDDER APA - Scott Painter (EXECUTION)

Final Audit Report

2024-02-06

Created:	2024-02-06
By:	Jordon Parker (JParker@hilcoglobal.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqh7q56xzhlaYwlrKGYo-4dbEgH0DIk-9

## "Shift SUCCESSFUL BIDDER APA - Scott Painter (EXECUTION)" History

-  Document created by Jordon Parker (JParker@hilcoglobal.com)  
2024-02-06 - 5:50:29 PM GMT- IP address: 24.234.111.66
-  Document emailed to scott@nxcr.com for signature  
2024-02-06 - 5:50:33 PM GMT
-  Email viewed by scott@nxcr.com  
2024-02-06 - 6:29:18 PM GMT- IP address: 104.28.85.117
-  Signer scott@nxcr.com entered name at signing as Scott painter  
2024-02-06 - 6:29:47 PM GMT- IP address: 104.28.85.117
-  Document e-signed by Scott painter (scott@nxcr.com)  
Signature Date: 2024-02-06 - 6:29:49 PM GMT - Time Source: server- IP address: 104.28.85.117
-  Agreement completed.  
2024-02-06 - 6:29:49 PM GMT



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**EXHIBIT E**  
**(Painter Codebase APA)**

## INTELLECTUAL PROPERTY ASSET PURCHASE AGREEMENT

This Intellectual Property Asset Purchase Agreement (“Agreement”) is made as of February 5, 2024 (“Effective Date”), by and between Scott Painter, an individual (“Buyer”), and Shift Technologies, Inc., a Delaware corporation, and each of its undersigned affiliated debtors in the Bankruptcy Cases, to the extent such affiliated debtor owns any of the Acquired Assets (each, a “Seller,” and collectively, the “Sellers”). Capitalized terms used herein and not otherwise defined herein have the respective meanings ascribed to them in Article I.

### RECITALS

A. On October 9, 2023 (the “Petition Date”), each of the Sellers filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”) under Case No. 23-30687 (HLB) (Lead Case - Jointly Administered) (the “Bankruptcy Cases”). Sellers continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. On December 28, 2023, Sellers filed the *Motion of the Debtors for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 (I) (a) Approving Sale Procedures; (b) Authorizing Entry into One or More Stalking Horse Agreements; and (c) Setting Sale Hearing; and (II) Authorizing Debtors to Sell Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Procedures Motion”).

C. On January 18, 2024, the Bankruptcy Court issued the *Order Regarding Sale Procedures Motion* (the “Sale Procedures Order”), a copy of which is attached hereto as Exhibit A, which authorized the Debtors to sell the Acquired Assets in accordance with the procedures set forth in the Motion, subject to the provisions of the Sale Procedures Order (the “Sale Procedures”).

D. The Sale Procedures Order established a deadline for Sellers to receive qualified bids for the Acquired Assets and a date for the commencement of an auction, if necessary. The Sale Procedures Order also provides that by February 9, 2024, Sellers will file with the Bankruptcy Court (i) declaration(s) in support of the sale of the Acquired Assets, which will include a copy of this Agreement, and (ii) a notice of the hearing for the Bankruptcy Court to consider final approval of the sale(s) of the Acquired Assets, scheduled to take place by videoconference on February 22, 2024, at 10:00 a.m. (Pacific Time), which will identify the Buyer(s), the Acquired Assets, and the [respective] Purchase Price[s] for the Acquired Assets. Sellers will request that upon approval of the sale(s), the Bankruptcy Court issue an *Order Pursuant to 11 U.S.C. §§ 105(a), 363(b), and 363(f), and Fed. R. Bankr. P. 6004 Approving Sale of Intellectual Property and Related Assets Free and Clear of Liens, Claims, Encumbrances, and Interests* (the “Sale Order”), substantially in the form of the attached Exhibit B.

E. Sellers desire to sell to Buyer(s) all of the Acquired Assets, and Buyer desires to purchase from Sellers the designated Acquired Assets, on the terms and subject to the conditions hereinafter set forth.

F. Pursuant to the Sale Procedures, Buyer has delivered to Hilco Streambank, in immediately available funds, an amount equal to ten percent (10%) (the “Deposit”) of the Purchase Price.

G. The execution and delivery of this Agreement and Sellers’ ability to consummate the transactions set forth in this Agreement are subject to, among other things, the entry of the Sale Order.

H. The Parties desire to consummate the proposed transactions as promptly as practicable after the Bankruptcy Court enters the Sale Order.

NOW, THEREFORE, in consideration of the premises and the mutual promises herein made, and in consideration of the representations, warranties, and covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Definitions. For purposes of this Agreement, the following terms have the meaning specified or referenced below.

“Acquired Assets” has the meaning set forth in Section 2.1.

“Affiliate” has the meaning ascribed to it in section 101(2) of the Bankruptcy Code.

“Agreement” has the meaning set forth in the Preamble.

“Allocation” has the meaning set forth in Section 7.1(e).

“Alternative Transaction” means a transaction or series of related transactions (whether by asset sale, equity purchase, reorganization, merger, or otherwise) pursuant to which Seller agrees to a sale or sales (to one or more Persons other than Buyer) of all of the Acquired Assets or any group of assets that includes all or any material portion of the Acquired Assets or a reorganization of Seller pursuant to a plan approved the Bankruptcy Court.

“Auction” has the meaning ascribed to such term in the Sale Procedures.

“Next Highest Bidder” has the meaning ascribed to such term in the Sale Procedures.

“Bankruptcy Cases” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Books and Records” means copies or originals of all files and records, archived files, artwork, development and design work, graphics and design work, technical files, and operational



manuals and documentation specifically relating to the Acquired Assets, to the extent such documents are in Sellers' possession or control, including but not limited to Sellers' rights, if any, to any such files, records, work, or documentation that may be in the possession of Sellers' prepetition counsel, all in any form or medium, including electronic and computer files stored or maintained on Third Party Platforms.

"Business Day" means any day of the year, other than a Saturday or Sunday, on which national banking institutions in San Francisco, California, are open to the public for conducting business and are not required or authorized by Law to close.

"Buyer" has the meaning set forth in the Preamble.

"Buyer Termination Notice" has the meaning set forth in Section 10.1(c)(i).

"Closing" has the meaning set forth in Section 3.4.

"Closing Date" has the meaning set forth in Section 3.4.

"Closing Date Cash Payment" has the meaning set forth in Section 3.3.

"Closing Legal Impediment" has the meaning set forth in Section 8.3.

"Code" means the Internal Revenue Code of 1986, as amended.

"Codebase – Shift Platform" means the codebase set forth on Schedule 1.1.

"Codebase – Legacy Fair Platform" means the codebase set forth on Schedule 1.2.

"Competing Bids" has the meaning set forth in Section 6.2(a).

"Deposit" has the meaning set forth in the Recitals.

"Effective Date" has the meaning set forth in the Preamble.

"Encumbrance" means any charge, lien, interest, claim, mortgage, hypothecation, deed of trust, pledge, security interest, option, right of use or possession, right of first offer or first refusal, easement, servitude, restrictive covenant, encroachment, encumbrance, or other similar restriction of any kind including, but not limited to, claims of successor liability.

"Governmental Authority" means any United States federal, state, municipal, or local or any foreign government, governmental agency or authority, or regulatory or administrative authority, including the United States Patent and Trademark Office, or any court, tribunal, or judicial body of competent jurisdiction, including the Bankruptcy Court.

"Hilco Streambank" means Hilco IP Services, LLC, d/b/a Hilco Streambank.

"Knowledge" means, with respect to any matter in question, in the case of Sellers, the actual knowledge of Ayman Moussa (CEO, Shift Technologies, Inc.) and Scott Hodgdon (General Counsel and Corporate Secretary, Shift Technologies, Inc.).

“Law” means any foreign or domestic law, statute, code, ordinance, rule, regulation, order, judgment, writ, stipulation, award, injunction, or decree by any Governmental Authority.

“Liability” means any debt, loss, claim, damage, demand, fine, judgment, penalty, liability, or obligation (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due).

“Material Adverse Effect” means any effect, change, condition, circumstance, development, or event that, individually or in the aggregate with all other effects, changes, conditions, circumstances, developments and events has had, or would reasonably be expected to have, a material adverse effect on (x) the Acquired Assets, taken as a whole or (y) Sellers’ ability to consummate the transactions provided for herein, excluding any effect, change, condition, circumstance, development, or event that results from or arises out of: (i) general business or economic conditions in any of the geographical areas in which any Seller operates or uses the Acquired Assets; (ii) geopolitical conditions or any outbreak or escalation of hostilities or acts of terrorism or war or any effect, change or event that is otherwise generally applicable to the industries and markets in which any Seller operates; (iii) changes in Laws or accounting regulations or principles; (iv) any event, change, or occurrence, affecting United States financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (v) the occurrence of any calamity or force majeure event, including but not limited to the COVID-19 pandemic or any other pandemic (including the impact on economies generally and the results of any actions taken by any Governmental Authority in response thereto); (vi) the Bankruptcy Cases, including, without limitation, the Auction and any announced liquidation of Sellers’ assets; or (vii) any action expressly provided for in this Agreement or taken at the written request of Buyer; except in the case of clauses (i) through (v), to the extent such change, condition, circumstance, development, or event has a disproportionate impact on the Acquired Assets, as compared to the impact on other participants engaged in the industries and geographies in which Sellers operate.

“Order” means any award, writ, injunction, judgment, order, or decree entered, issued, made, or rendered by any Governmental Authority.

“Outside Date” has the meaning set forth in Section 10.1(b)(ii).

“Party” or “Parties” means, individually or collectively, as applicable, Buyer and Sellers.

“Patent” means the patent set forth on Schedule 1.4.

“Person” means any individual, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, estate, trust, association, organization, other entity, or Governmental Authority.

“Post-Closing Tax Period” means (a) any taxable period beginning after the Closing Date and (b) the portion of any Straddle Period beginning after the Closing Date.

“Pre-Closing Covenant” has the meaning set forth in Section 11.9.

“Pre-Closing Tax Period” means (a) any taxable period ending on or before the Closing Date and (b) the portion of any Straddle Period beginning on the first day of such Straddle Period and ending at the close of business on the Closing Date.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation, or suit (whether civil, criminal, administrative, or investigative) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority.

“Purchase Price” has the meaning set forth in Section 3.1.

“Qualified Bid” has the meaning set forth in the Sale Procedures.

“Representative” means, with respect to a particular Person, any director, officer, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Sale Motion” has the meaning set forth in the Recitals.

“Sale Order” has the meaning set forth in the Recitals.

“Sale Procedures” means the solicitation, bid, and auction procedures governing the sale of the Acquired Assets, as set forth in the Sale Procedures Motion but subject to the provisions of the Sale Procedures Order.

“Sale Procedures Order” has the meaning set forth in the Recitals.

“Sellers” has the meaning set forth in the Preamble.

“Sellers Termination Notice” has the meaning set forth in Section 10.1(d)(i).

“Straddle Period” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“Subsidiary” means any entity with respect to which a specified Person (or a Subsidiary thereof) has the power, through the ownership of securities or otherwise, to elect a majority of the directors or similar managing body.

“Successful Bidder” has the meaning set forth in the Sale Procedures.

“Tax” or “Taxes” means any federal, state, local or foreign income, gross receipts, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, *ad valorem*, personal property, stamp, excise, occupation, sales, use, transfer, value added, alternative minimum, estimated, or other tax or imposition, including any interest, penalty, or addition thereto.

“Tax Return” means any return, declaration, report, claim for refund, information return, or other document (including any related or supporting estimates, elections, schedules, statements, or information) filed with or required to be filed with any Governmental Authority or required to be provided to any Person, in each case in connection with the determination, assessment, or

collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

“Third Party” means a Person who is neither a Party nor an Affiliate of a Party.

“Transaction Documents” means this Agreement and any other agreements, instruments, or documents entered into pursuant to this Agreement.

“Transfer Taxes” has the meaning set forth in Section 7.1(a).

Section 1.2 Other Definitions and Interpretive Matters. Unless otherwise denoted to the contrary in this Agreement by the context or use thereof:

(a) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period will be excluded. If the last day of such period is a day other than a Business Day, the period in question will end on the next succeeding Business Day.

(b) Any reference in this Agreement to “\$” means U.S. dollars.

(c) All Exhibits attached hereto or referred to herein are hereby incorporated into and made a part of this Agreement as if set forth in full herein.

(d) Any reference in this Agreement to words importing the singular number also includes the plural and vice versa.

(e) The provision of a table of contents, the division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and will not affect or be utilized in the construction or interpretation of this Agreement. All references in this Agreement to any “Section,” “Article,” “Schedule,” or “Exhibit” are to the corresponding Section, Article, Schedule, or Exhibit of or to this Agreement unless otherwise specified.

(f) Words such as “herein,” “hereof,” and “hereunder” refer to this Agreement as whole and not merely to a subdivision in which such words appear, unless the context otherwise requires.

(g) The word “including” or any variation thereof means “including, without limitation,” and will not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it.

## **ARTICLE II**

### **PURCHASE AND SALE**

Section 2.1 Purchase and Sale of the Acquired Assets. On the terms and subject to the conditions set forth in this Agreement, on the Closing Date, in consideration of payment of the Purchase Price by Buyer, Sellers will sell, transfer, assign, convey, and deliver, or cause to be sold, transferred, assigned, conveyed, and delivered, to Buyer, free and clear of any Encumbrances, and

Buyer will purchase, assume, and accept from Sellers, all right, title, and interest of Sellers in, to, or under the following (collectively, the “Acquired Assets”):

- (a) Codebase - Shift Platform;
- (b) Codebase - Legacy Fair Platform;
- (c) the Patent;
- (d) the Books and Records; and
- (e) all goodwill associated with the Acquired Assets.

The term “Acquired Assets” excludes: (1) all assets not specifically defined herein as an Acquired Asset; and (2) all claims and causes of action belonging to the Sellers and not specifically sold and transferred to Buyer.

Section 2.2 Further Assurances. Following the Closing, the Parties will use their respective commercially reasonable efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things reasonably necessary under applicable Law, and execute and deliver such instruments and documents and to take such other actions, as may be required to consummate the transactions provided for in this Agreement at or after the Closing; provided, however, that nothing in this Section 2.2 will prohibit Sellers from ceasing operations or winding up Sellers’ affairs and liquidating following the Closing. Upon the completion of the winding up of Sellers’ affairs and liquidation, Sellers will have no further responsibility under this Section 2.2. In furtherance and not in limitation of the foregoing, in the event that any of the Acquired Assets are not conveyed at Closing, Sellers will use commercially reasonable efforts to convey such Acquired Assets to Buyer as promptly as practicable after the Closing.

### **ARTICLE III**

#### **PURCHASE PRICE; CLOSING**

Section 3.1 Purchase Price. In consideration for the purchase, sale, assignment, and transfer of the Acquired Assets, Buyer will pay to Seller in cash the sum of ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00) (the “Purchase Price”).

Section 3.2 Deposit. Buyer will deliver the Deposit to Hilco Streambank in immediately available funds in accordance with the terms of the Sale Procedures. The Deposit will not be subject to any lien, attachment, trustee process, or any other judicial process of any creditor of Seller or Buyer. The Deposit will be retained by Sellers at the Closing as a portion of the Purchase Price, or if this Agreement is terminated, treated in the manner set forth in Section 10.2.

Section 3.3 Closing Date Payment. At the Closing, (a) Buyer will pay to Sellers, or to an account designated by Sellers, in cash by wire transfer of immediately available funds an amount equal to the Purchase Price minus the Deposit (the “Closing Date Cash Payment”), and (b) Buyer and Sellers will direct Hilco Streambank to indefeasibly transfer the Deposit, and Closing

Date Cash Payment if Hilco Streambank is in receipt of such payment, to an account designated by Sellers.

Section 3.4 Closing Date. On the terms and subject to the conditions set forth in this Agreement, the closing of the sale of the Acquired Assets provided for herein (the "Closing") will take place by electronic exchange of documents on a date no later than the first Business Day following the date on which the conditions set forth in Article VIII and Article IX have been satisfied or (if permissible) waived (other than the conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions), or at such other place or time as Buyer and Seller may mutually agree upon in writing. The date and time at which the Closing actually occurs is referred to herein as the "Closing Date."

Section 3.5 Buyer's Deliveries to Sellers. At the Closing, Buyer will deliver to Sellers each of the following:

(a) the Closing Date Cash Payment in accordance with Section 3.3(a), and a direction to Hilco Streambank, duly executed by Buyer, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);

(b) each other Transaction Document to which Buyer is a party, duly executed by Buyer;

(c) the certificates of Buyer to be received by Sellers pursuant to Section 9.1 and Section 9.2; and

(d) such assignments in form reasonably satisfactory to Sellers as Sellers may reasonably request to transfer and assign the Acquired Assets to Buyer.

Section 3.6 Sellers' Deliveries to Buyer. At the Closing, Sellers will deliver to Buyer each of the following:

(a) a direction to Hilco Streambank, duly executed by Sellers, to deliver the Deposit, and the Closing Date Cash Payment if Hilco Streambank is in receipt of such payment, to Sellers in accordance with Section 3.3(b);

(b) each other Transaction Document to which any Seller is a party, duly executed by each such Seller;

(c) confirmation that the Bankruptcy Court has entered the Sale Order and no order staying, reversing, modifying, or materially amending the Sale Order will be in effect on the applicable Closing Date;

(d) such assignments in form reasonably satisfactory to Buyer that are necessary to vest in Buyer all of Sellers' right, title, and interest in, to, or under all of the Acquired Assets, free and clear of Encumbrances;

(e) with respect to the Domain Names and the Social Media Accounts, if an Acquired Asset or Acquired Assets, transfer to Buyer of all administrative rights to the Domain Names and the Social Media Accounts in a manner reasonably and mutually acceptable to Sellers and Buyer; and

(f) the Books and Records, if an Acquired Asset.

#### **ARTICLE IV**

##### **REPRESENTATIONS AND WARRANTIES OF SELLERS**

Sellers hereby represent and warrant to Buyer that the following statements contained in this Article IV are true and correct as of the date hereof and as of the Closing Date:

Section 4.1 Organization and Good Standing. Each of Shift Technologies, Inc. and Shift Operations LLC is an entity duly organized, validly existing, and in good standing under the Laws of the jurisdiction of such Seller's organization. Subject to the limitations imposed on such Seller as a result of the Bankruptcy Cases, (x) each such Seller has the requisite corporate power and authority to own or lease and to operate and use such Seller's properties, and (y) is qualified to do business and is in good standing (or its equivalent) in every jurisdiction in which its ownership of property or the conduct of its business as now conducted requires, or has required it, to qualify, except where the failure to be so qualified or have qualified would not reasonably be expected to have a Material Adverse Effect.

Section 4.2 Authority; Validity; Consents. Each Seller has, subject to requisite Bankruptcy Court approval and limitations imposed on Seller as a result of the Bankruptcy Cases, as applicable, the requisite corporate power and authority necessary to enter into and perform such Seller's obligations under this Agreement and the other Transaction Documents to which such Seller is a party, and to consummate the transactions provided for herein and thereby. This Agreement has been duly and validly executed and delivered by such Seller and each other Transaction Document required to be executed and delivered by such Seller at the Closing will be duly and validly executed and delivered by such Seller at the Closing. Subject to requisite Bankruptcy Court approval and limitations imposed on such Seller as a result of the Bankruptcy Cases, as applicable, this Agreement and the other Transaction Documents constitute, with respect to such Seller, the legal, valid, and binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium, or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to, and after giving effect to, requisite Bankruptcy Court approval (including, without limitation, the Sale Order), and except for (a) entry of the Sale Order, and (b) notices, filings, and consents required in connection with the Bankruptcy Cases, each Seller is not required to give any notice to, make any filing with, or obtain any consent from any Person (including any Governmental Authority) in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein and thereby.

Section 4.3 [Reserved.]



Section 4.4 [Reserved.]

Section 4.5 Legal Proceedings. As of the date hereof, except for the Bankruptcy Cases, there is no Proceeding or order pending or, to Sellers' Knowledge, threatened in writing against any Seller that (a) seeks to restrain or prohibit or otherwise challenge the consummation, legality, or validity of the transactions provided for herein, or (b) would have a Material Adverse Effect.

Section 4.6 Brokers or Finders. Except for Hilco Streambank, Sellers have not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which any Seller is a party, or the transactions provided for herein or thereby, in all cases for which Buyer is or will become liable following the Closing.

Section 4.7 Free and Clear. Pursuant to the Sale Order, at Closing, Sellers' sale of the Acquired Assets to Buyer will be free and clear of all Encumbrances.

Section 4.8 "As-is, Where-is". Except for Sellers' representations and warranties in this Article IV, **THE SALE AND ASSIGNMENT OF THE ACQUIRED ASSETS PURSUANT TO THIS AGREEMENT IS MADE ON AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" BASIS.** Sellers expressly disclaim all other warranties of any kind, whether express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Sellers have not made any, and make no other, express or implied representation or warranty, either oral or written, whether arising by law, course of dealing, course of performance, usage, trade, or otherwise, including with respect to the ownership or use of the Acquired Assets, all of which Sellers expressly disclaim.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Sellers that the following statements contained in this Article V are true and correct as of the date hereof and as of the Closing Date:

Section 5.1 Organization and Good Standing. Buyer is an individual.

Section 5.2 Authority; Validity; Consents. Buyer has the requisite power and authority necessary to enter into and perform Buyer's obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions provided for herein and thereby. The execution, delivery, and performance of this Agreement by Buyer and the consummation by Buyer of the transactions provided for herein have been duly and validly authorized by all requisite corporate actions in respect thereof. This Agreement has been duly and validly executed and delivered by Buyer, and each other Transaction Document to which Buyer is a party will be duly and validly executed and delivered by Buyer at the Closing. This Agreement and the other Transaction Documents to which Buyer is a party constitute the legal, valid, and binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms, except as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity. Subject to requisite Bankruptcy Court approval, Buyer is not and will not be required to



give any notice to or obtain any consent from any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents to which it is a party, or the consummation or performance of any of the transactions provided for herein or thereby.

Section 5.3 No Conflict. The execution and delivery of this Agreement and the other Transaction Documents and the consummation of the transactions provided for herein and therein will not result in the breach of any of the terms and provisions of, or constitute a default under, or conflict with, or cause any acceleration of any obligation of Buyer under (a) any agreement, indenture, or other instrument to which it is bound, (b) the organizational documents of Buyer, (c) any Order, or (d) any Law.

Section 5.4 Availability of Funds; Solvency. At the Closing, Buyer will have sufficient cash in immediately available funds to pay the Purchase Price and any other costs, fees, and expenses required to be paid by it under this Agreement and the other Transaction Documents. As of the Closing and immediately after consummating the transactions provided for in this Agreement and the other transactions provided for in the Transaction Documents, Buyer will not, assuming that the representations and warranties made by Seller in Article IV of this Agreement are accurate in all material respects, (i) be insolvent (either because Buyer's financial condition is such that the sum of Buyer's debts is greater than the fair value of Buyer's assets, or because the present fair value of Buyer's assets will be less than the amount required to pay Buyer's probable Liability on Buyer's debts as they become absolute and matured), (ii) have unreasonably small capital with which to engage in Buyer's business, or (iii) have incurred or planned to incur debts beyond Buyer's ability to repay such debts as they become absolute and matured.

Section 5.5 Legal Proceedings. There are no Proceedings pending or, to Buyer's knowledge, threatened, that would affect in any material respect Buyer's ability to perform Buyer's obligations under this Agreement or any other Transaction Documents, or to consummate the transactions provided for herein or thereby.

Section 5.6 Buyer's Due Diligence and Investigation. Prior to executing this Agreement: (i) Buyer conducted its own due diligence and an independent investigation and analysis of the Acquired Assets; (ii) except as specifically contained in this Agreement, Buyer did not rely upon anything stated or not stated by Sellers or any of their attorneys or other professionals in electing to purchase the Acquired Assets for the Purchase Price; and (iii) no employee, agent, or other representative of any Seller was authorized to make, and Buyer did not rely upon, any statement or representation other than those specifically contained in this Agreement. Buyer acknowledges and agrees that it relied upon the advice of independent counsel throughout its negotiations with Sellers. **Buyer acknowledges and agrees that, except for the representations and warranties contained in Article IV, Sellers are selling, assigning, and transferring the Acquired Assets to Buyer on an "as is," "where is," and "with all faults" basis.**

Section 5.7 Brokers or Finders. Buyer has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other similar payment owed in connection with this Agreement, the other Transaction Documents to which Buyer is a party, or the transactions provided for herein or thereby, in all cases for which Sellers are or will become liable following the Closing.

## ARTICLE VI

### ACTIONS PRIOR TO THE CLOSING DATE

Section 6.1 Actions Prior to the Closing Date. Sellers covenant and agree that, except (i) as expressly provided for in this Agreement, (ii) with the prior written consent of Buyer, which consent will not be unreasonably withheld, conditioned, or delayed, (iii) as required by the Bankruptcy Court, or (iv) as otherwise required by Law, after the Effective Date and prior to the Closing Date (or the earlier termination of this Agreement):

(a) Sellers will use commercially reasonable efforts, taking into account Sellers' status as debtors-in-possession in the Bankruptcy Cases, to maintain and preserve the Acquired Assets in the Acquired Assets' present condition in all material respects;

(b) Sellers will not:

(i) sell, lease (as lessor), transfer, or otherwise dispose of, or mortgage or pledge, or voluntarily impose or suffer to be imposed any Encumbrance on, any Acquired Asset;

(ii) cancel or compromise any material Claim or waive or release any material right, in each case, that is a Claim or right related to an Acquired Asset; or

(iii) enter into any agreement or commitment to take any action prohibited by this Section 6.1.

### Section 6.2 Bankruptcy Court Filings and Approval.

(a) This Agreement is subject to approval by the Bankruptcy Court and the consideration by Sellers of higher or better competing bids in respect of a sale or other disposition of the Acquired Assets (collectively, "Competing Bids"). From the Effective Date and until the Sellers have declared a Successful Bid pursuant to the Sale Procedures, Seller is permitted to, and to cause its Representatives and Affiliates to, initiate communication with, and solicit or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with any Alternative Transaction. In addition, Sellers have the authority to respond to any inquiries or offers with respect to an Alternative Transaction, and to perform any and all other acts related thereto to the extent any such act is not in violation of the Sale Procedures or the Bankruptcy Code.

(b) Sellers will use commercially reasonable efforts to obtain the entry of the Sale Order and such other relief from the Bankruptcy Court as may be necessary or appropriate in connection with this Agreement and the consummation of the transactions provided for in this Agreement. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining the entry of the Sale Order.

(c) Next Highest Bidder. By executing this Agreement, Buyer agrees to be the Next Highest Bidder in the event that Sellers select it as such in accordance with the Sale Procedures.

## ARTICLE VII

### ADDITIONAL AGREEMENTS

#### Section 7.1 Taxes.

(a) Any sales, use, transfer, documentary, stamp, registration, recording, value added, or similar Taxes and fees (including any penalties and interest) payable in connection with the sale or transfer of the Acquired Assets ("Transfer Taxes"), along with any expenses arising in connection with preparation and filing of Tax Returns with respect to the Transfer Taxes, will be borne entirely by Buyer. Accordingly, if Seller is required by Law to pay any such Transfer Taxes, Buyer will promptly reimburse Sellers for the amount of such Transfer Taxes actually paid by Sellers. Each Tax Return with respect to Transfer Taxes will be prepared and filed by the Party that customarily has primary responsibility for filing such Tax Return pursuant to applicable Law. Sellers and Buyer will use commercially reasonable efforts and cooperate in good faith to exempt the sale and transfer of the Acquired Assets from any such Transfer Taxes to the extent allowed under applicable Law, and will each timely sign and deliver (or cause to be timely signed and delivered) such certificates or forms as may be necessary or appropriate.

(b) Buyer and Sellers agree to furnish or cause to be furnished to each other (and, in the case of Sellers, to any successor-in-interest of Sellers, such as a liquidating trust or other entity), upon request, as promptly as practicable, such information and assistance primarily relating to the Acquired Assets as is reasonably necessary for the filing of all Tax Returns, the making of any election relating to Taxes, the claiming of any Tax refund, the preparation for any audit by any taxing authority, and the prosecution or defense of any claims, suit, or proceeding relating to any Tax (other than any proceeding between Buyer and Sellers); provided, however, that other than as required pursuant to this Section 7.1(b), in no event will (i) Sellers have access to any of the Tax Returns or other books and records of Buyer or any of its Affiliates (other than Tax Returns primarily related to the Acquired Assets), or (ii) Buyer have access to any of the Tax Returns of Sellers or other books and records of or any of its Affiliates. Any expenses incurred in furnishing such information or assistance pursuant to this Section 7.1(b) will be borne by the Party requesting it. Any information obtained pursuant to this Section 7.1(b) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes will be kept confidential by the Parties and their respective Affiliates, except as necessary to be disclosed in connection with such return, audit, or examination, refund claim, proceedings, or determination, or as required by applicable Law.

(c) Notwithstanding any other provisions in this Agreement, Buyer and Sellers hereby waive compliance with all "bulk sales," "bulk transfer," and similar laws that may be applicable with respect to the sale and transfer of any or all of the Acquired Assets to Buyer.

(d) Any personal property or similar Taxes applicable to the Acquired Assets for a Straddle Period will be apportioned between the Parties on the number of days of the Straddle Period included in the Pre-Closing Tax Period and the number of days of the Straddle Period in the Post-Closing Tax Period. Sellers will be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and Buyer will be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period. Sellers will pay to Buyer an amount equal to any such Taxes payable by Buyer that are attributable to the Pre-Closing Tax

Period, and Buyer will pay to Sellers an amount equal to any such Taxes that have been paid by Sellers that are not attributable to the Pre-Closing Tax Period. Such payments will be made on the Closing Date or, if later, on the date such Taxes are due (or thereafter, promptly after request by Buyer or Sellers if such Taxes are not identified by Buyer or Sellers on or prior to the Closing Date).

(e) [Reserved.]

Section 7.2 Payments Received. The Parties each agree that after the Closing, each of the Parties will hold and will promptly transfer and deliver to the other Party, from time to time as and when received by them, any cash, checks with appropriate endorsements (using each of their commercially reasonable efforts not to convert such checks into cash), or other property that they may receive on or after the Closing that properly belongs to the other Party, and will account to the other Party for all such receipts.

Section 7.3 Information; Confidentiality.

(a) The terms of any confidentiality agreement to which Buyer (or an Affiliate of Buyer) is party in respect of Sellers (or any Affiliate of Sellers) will continue in full force and effect until the Closing, at which time Buyer's obligations under any such confidentiality agreement will terminate only insofar as they pertain to the Acquired Assets, and will otherwise remain in full force and effect in accordance with the terms thereof.

(b) From the date hereof until the Closing (or the earlier termination of this Agreement), Sellers will provide Buyer and its Representatives with information concerning the Acquired Assets, as Buyer or any of its Representatives may reasonably request; provided, however, that in no event will Sellers be required to create any information in writing, electronic format, or otherwise (including but not limited to reports, records, or files) concerning the Acquired Assets that did not exist prior to such request of Buyer or any of its Representatives. Notwithstanding anything to the contrary in this Agreement, Sellers will not be required to disclose any attorney-client privileged information to Buyer or to make any disclosure that would violate any applicable Law or fiduciary duty.

Section 7.4 Preservation of Books and Records. After the Closing Date, Buyer will provide Sellers (including any successor-in-interest to Sellers, such as a liquidating trust or other entity) and their Affiliates and Representatives (after reasonable notice and during normal business hours and without charge to Sellers other than the costs of copying, if any) reasonable access to, including the right to make copies of, all Books and Records, to the extent necessary to permit Seller to determine any matter relating to its rights and obligations hereunder or to any period ending on or before the Closing Date (for example, for purposes of any Tax or accounting audit or any claim or litigation matter), for periods prior to the Closing and will preserve such books and records until the later of (i) such period as will be consistent with Buyer's records retention policy in effect from time to time, (ii) the retention period required by applicable Law, (iii) the conclusion of all bankruptcy proceedings relating to the Bankruptcy Case, and (iv) in the case of books and records relating to Taxes, the expiration of the statute of limitations applicable to such Taxes. Such access will include access to any information in electronic form to the extent reasonably available.

Buyer acknowledges that Seller has the right to retain originals or copies of all of Books and Records included in or related to the Acquired Assets for periods prior to the Closing.

## **ARTICLE VIII**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF BUYER TO CLOSE**

Buyer's obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Buyer (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 8.1 Accuracy of Representations. The representations and warranties of Sellers contained in Article IV will be true and correct as of the Effective Date and as of the Closing Date as though made on and as of the Closing Date (except that those representations and warranties addressing matters as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 4.1, Section 4.2, and Section 4.6, the condition in this Section 8.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to "materiality" or "Material Adverse Effect" set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Material Adverse Effect.

Section 8.2 Sellers' Performance. Sellers have performed and complied in all material respects with the covenants and agreements that Sellers are required to perform or comply with pursuant to this Agreement at or prior to the Closing.

Section 8.3 No Order. No Governmental Authority has enacted, issued, promulgated or entered any Order which is in effect and has the effect of making illegal or otherwise prohibiting the consummation of the transactions provided for in this Agreement (a "Closing Legal Impediment"); provided, however, that prior to asserting this condition Buyer has taken all actions required to be taken by Buyer by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 8.4 Sellers' Deliveries. Each of the deliveries required to be made to Buyer pursuant to Section 3.6 has been delivered.

Section 8.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE OBLIGATION OF SELLERS TO CLOSE**

Sellers' obligation to consummate the transactions provided for in this Agreement is subject to the satisfaction or waiver by Sellers (to the extent waivable), at or prior to the Closing, of each of the following conditions:

Section 9.1 Accuracy of Representations. The representations and warranties of Buyer contained in Article V will be true and correct as of the Effective Date and as of the Closing Date

as though made on and as of the Closing Date (except that those representations and warranties addressing matters only as of a particular date will be true and correct as of such date); provided, however, that, other than in respect of Section 5.1, Section 5.2, and Section 5.7, the condition in this Section 9.1 will be deemed to be satisfied so long as any failure of such representations and warranties to be true and correct (without giving effect to any limitation as to “materiality” or “Material Adverse Effect” set forth therein), individually or in the aggregate, has not had and would not reasonably be expected to prevent or materially impair the ability of Buyer to consummate the transactions provided for in this Agreement. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.2 Buyer’s Performance. Buyer has performed and complied in all material respects with the covenants and agreements that Buyer is required to perform or comply with pursuant to this Agreement at or prior to the Closing. At the Closing, Sellers will receive a certificate of Buyer, signed by a duly authorized officer of Buyer, to that effect.

Section 9.3 No Order. No Closing Legal Impediment will be in effect; provided, however, that prior to asserting this condition Sellers have taken all actions required to be taken by Sellers by Article VI to prevent the occurrence or entry of any such Closing Legal Impediment and to remove or appeal as promptly as possible any such Closing Legal Impediment.

Section 9.4 Buyer’s Deliveries. Each of the deliveries required to be made to Sellers pursuant to Section 3.5 has been delivered.

Section 9.5 Bankruptcy Court Approvals. The Bankruptcy Court has entered the Sale Order, and the Sale Order is not subject to a stay pending appeal.

## ARTICLE X TERMINATION

Section 10.1 Termination Events. Notwithstanding anything contained in this Agreement to the contrary (other than as provided in the last sentence of this Section 10.1), this Agreement may be terminated at any time prior to the Closing Date:

(a) by mutual written consent of Seller and Buyer; or

(b) by either Seller or Buyer:

(i) if the Bankruptcy Court does not approve this Agreement for any reason or if a Governmental Authority issues a final, non-appealable ruling or Order permanently prohibiting the transactions provided for herein; provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(i) will not be available to any Party whose breach of any of its representations, warranties, covenants, or agreements contained herein results in such failure to approve such ruling or Order;

(ii) if the Closing has not occurred by the close of business fourteen (14) days after the entry of the Sale Order (the “Outside Date”); provided, however, that the right to terminate this Agreement pursuant to this Section 10.1(b)(ii) will not be available to any Party



whose breach of any of such Party's representations, warranties, covenants, or agreements contained herein results in the failure of the Closing to be consummated by such time;

(iii) if the Sale Order is vacated;

(iv) if Seller enters into a definitive agreement with respect to an Alternative Transaction; provided, however, that if Buyer is selected as the Next Highest Bidder in accordance with the Sale Procedures, then Buyer may not terminate this Agreement or withdraw its irrevocable offer unless and until such Alternative Transaction has closed;

(v) Seller files any stand-alone plan of reorganization or liquidation contemplating an Alternative Transaction, or consummates an Alternative Transaction; or

(c) by Buyer:

(i) in the event of any breach by Sellers of any of Sellers' agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article VIII to be satisfied, and the failure of Sellers to cure such breach by the earlier of (A) the Outside Date, and (B) the date that is fifteen (15) days after receipt of the Buyer Termination Notice; provided, however, that (1) Buyer is not in breach of any of Buyer's representations, warranties, covenants, or agreements contained herein in a manner that would result in the failure of a condition set forth in Article IX to be satisfied, (2) Buyer notifies Sellers in writing (the "Buyer Termination Notice") of Buyer's intention to exercise Buyer's rights under this Section 10.1(c)(i) as a result of the breach, and (3) Buyer specifies in the Buyer Termination Notice the representation, warranty, covenant, or agreement contained herein of which Sellers are allegedly in breach;

(ii) if the Bankruptcy Cases are dismissed or converted to cases under Chapter 7 of the Bankruptcy Code, and neither such dismissal nor conversion provides for the transactions provided for in this Agreement; or

(iii) if any conditions to the obligations of Buyer set forth in Article VIII has become incapable of fulfillment other than as a result of a breach by Buyer of any covenant or agreement contained in this Agreement; or

(d) by Seller:

(i) except as provided in Section 10.1(d)(ii), in the event of any breach by Buyer of any of Buyer's agreements, covenants, representations, or warranties contained herein that would result in the failure of a condition set forth in Article IX to be satisfied, and the failure of Buyer to cure such breach by the earlier of (A) the Outside Date and (B) the date that is fifteen (15) days after receipt of the Sellers Termination Notice; provided, however, that Sellers (1) are not themselves in material breach of any of Sellers' representations, warranties, covenants, or agreements contained herein, and (2) Sellers notify Buyer(s) in writing (the "Sellers Termination Notice") of Sellers' intention to exercise Sellers' rights under this Section 10.1(d)(i) as a result of the breach, and Sellers specify in the Sellers Termination Notice the representation, warranty, covenant, or agreement contained herein of which Buyer is allegedly in breach; or

(ii) if the Sale Order with respect to the transactions provided for in this Agreement has been entered and is not subject to any stay on enforcement and (A) Sellers have provided Buyer with written notice that Sellers are prepared to consummate the transactions provided for in this Agreement, (B) the conditions to Closing in Article VIII have been satisfied (or waived by Buyer), other than those conditions that by their nature can only be satisfied at Closing, and (C) the Closing Date does not occur within one Business Day of Sellers providing Buyer with such notice.

#### Section 10.2 Effect of Termination and Liquidated Damages.

(a) Deposit. If this Agreement is terminated pursuant to Section 10.1(d)(i) or Section 10.1(d)(ii), the Deposit will be retained by Sellers as liquidated damages (and Sellers will be permitted to direct Hilco Streambank to disburse the Deposit to Sellers), and the retention thereof will constitute the sole and exclusive remedy of Sellers in the event of such a termination hereunder. If this Agreement is terminated pursuant to any other provision of Article X (*i.e.*, except as described in the immediately preceding sentence), Sellers will promptly instruct Hilco Streambank to return the Deposit to Buyer in accordance with the Sale Procedures, and the return thereof will constitute the sole and exclusive remedy of Buyer in the event of such a termination hereunder. Nothing in this Section 10.2 will relieve Sellers or Buyer from any Liability on account of fraud or be deemed to impair the right of any Party to compel specific performance by another Party of its obligations under this Agreement. The provisions of this Section 10.2 will survive any termination of this Agreement pursuant to Article X.

### ARTICLE XI GENERAL PROVISIONS

Section 11.1 Notices. All notices must be in writing and addressed to the relevant Party at its address set forth below (or to such other address that such Party specifies in accordance with this Section 11.1. All notices must be: (a) personally delivered, or (b) sent prepaid by: (1) a nationally recognized overnight courier service, or (2) certified mail, return receipt requested. All notices will be effective upon the actual date of delivery.

*To Buyer:*  
Scott Painter  
1111 Linda Flora Dr  
Los Angeles, CA 90049

*To Sellers:*  
Shift Technologies, Inc.  
Att'n: Ayman Moussa, CEO  
P.O. Box 1664  
San Bruno, CA 94066-1664

*with a copy (which will not constitute notice) to:*  
Keller Benvenuti Kim LLP  
Att'n: Mr. Tobias S. Keller  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Section 11.2 Entire Agreement. This Agreement constitutes the entire agreement between and among the Parties with respect to the subject matter of this Agreement and supersedes any and all prior negotiations, representations, agreements, and understandings, both oral and



written. This Agreement will be binding upon the Parties and their respective successors and assigns. No change or amendment to this Agreement will be effective unless it is contained in a single document that is signed by all of the Parties who are signatories to it. Failure to insist upon strict compliance with any term or provision of this Agreement by any of the Parties will not be deemed to constitute a waiver by such Party of any of its rights upon a subsequent act or failure to act. Each Party acknowledges and agrees that in the event of any subsequent litigation, controversy, or dispute concerning this Agreement, none of them will be permitted to offer or introduce into evidence any oral testimony concerning any oral promises or oral agreements between or among them that contradicts the terms of this Agreement.

Section 11.3 No Presumption as to Drafting. Each of the Parties acknowledges that it has been represented by independent counsel in connection with this Agreement and the other Transaction Documents and the transactions provided for herein and thereby. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Agreement or the Transaction Documents against the drafting party has no application and is expressly waived.

Section 11.4 Assignment. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. This Agreement, and the rights, interests and obligations hereunder, will not be assigned by any Party by operation of law or otherwise without the express written consent of the other Party (which consent may be granted or withheld in the sole discretion of such other Party); provided, however, that Buyer will be permitted, upon prior notice to Seller, to assign all or part of Buyer's rights or obligations hereunder to an Affiliate, but no such assignment will relieve Buyer of Buyer's obligations under this Agreement.

Section 11.5 Severability. If any provision of this Agreement is determined by the Bankruptcy Court to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability will not affect any other provision of this Agreement.

Section 11.6 Governing Law; Consent to Jurisdiction; Venue. This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California, without regard to principles of conflicts of laws. Each of the Parties agrees that the Bankruptcy Court will have the exclusive jurisdiction to hear and determine any dispute, claim, or controversy between or among the Parties concerning the interpretation or enforcement of this Agreement, or any other matter arising out of or relating to this Agreement.

Section 11.7 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original as against the Party whose "ink original" or electronic or facsimile signature appears thereon, and all of such counterparts will together constitute one and the same instrument. Electronic and facsimile signatures will be effective for all purposes.

Section 11.8 No Third-Party Beneficiaries. Nothing in this Agreement will confer any rights, benefits, remedies, obligations, liabilities, or claims hereunder upon any Person not a Party or a permitted assignee of a Party.

Section 11.9 No Survival. None of the representations and warranties or covenants that require performance prior to the Closing (“Pre-Closing Covenants”) contained in this Agreement or any Transaction Document delivered pursuant to hereto will survive the Closing or the termination of this Agreement. The Parties acknowledge and agree that: (a) the representations and warranties herein are intended to give effect to the closing conditions set forth in Articles VIII and IX; (b) the Pre-Closing Covenants are intended to give effect to the closing conditions set forth in Articles VIII and IX; and (c) no claim of any kind based on the failure of any representation or warranty to have been true and correct, or based on the failure of any Pre-Closing Covenant to have been performed or complied with, may be brought at any time after the Closing. All covenants and agreements contained herein that by their terms are to be performed after the Closing, or that prohibit actions after the Closing, will survive the Closing in accordance with their terms.

Section 11.10 Publicity. Neither Party nor any of their respective Representatives may issue any press release or make any other public disclosure regarding the existence of this Agreement or the other Transaction Documents, its or their contents, or the transactions provided for in this Agreement or the other Transaction Documents, without the written consent of the other Party, in any case, as to the form, content, and timing and manner of distribution or publication of such press release or other public disclosure (which consent may not be unreasonably withheld, conditioned, or delayed). Following the Closing, (a) Buyer will be permitted to make one or more public statements that it has acquired the Acquired Assets, and (b) Hilco Streambank will be permitted to make one or more public statements that it has acted as Sellers’ intellectual property advisor.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their duly authorized representatives, all as of the Effective Date.

***Buyer:***

  
Scott Painter (Feb 9, 2024 22:18 PST)  
\_\_\_\_\_  
Scott Painter

*[Signature page continues]*

***Sellers:***

Shift Technologies, Inc.

Shift Platform, Inc.

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Finance, LLC

Shift Operations LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Transportation LLC

Shift Insurance Services LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Shift Marketplace Holdings, LLC

Shift Marketplace, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Fair Dealer Services, LLC

CarLotz, Inc., a Delaware Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Group, Inc.

CarLotz Nevada, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

*[Signature page continues]*

CarLotz California, LLC

CarLotz, Inc., an Illinois Corporation

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

CarLotz Logistics, LLC

Orange Peel, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

Orange Grove Fleet Solutions, LLC

By: \_\_\_\_\_  
Scott Hodgdon, General Counsel & Corporate  
Secretary

**Exhibit A**

**Sale Procedures Order**

*Attached.*

**Exhibit B**

**(Proposed) Sale Order**

*Attached.*

## Schedule 1.1

### Codebase – Shift Platform

The source and object code enabling the Sellers' software platform, such code having been written in coding languages and applications predominantly including React, Ruby on Rails, PostgreSQL, and Golang, which code is contained in approximately the following repositories and approximate sizes:

Name	Size (KB)	Description
action-approval-validation	4	action-approval-validation is Org wide GitHub action for providing approval validation
action-docker	7	action-docker is Org wide GitHub action
action-eksctl-create	12	action-eksctl-create is Org wide GitHub action for Creating a EKS cluster using EKSC
action-eksctl-deploy	26	action-eksctl-deploy is Org wide GitHub action for deploying K8s changes to an EKS cluster
action-eksctl-destroy	8	action-eksctl-destroy is Org wide GitHub action for destroying an EKS cluster
action-eksctl-tools	4	action-eksctl-tools is Org wide GitHub action for Installing EKS cluster bootstrapping tools
action-flux-bootstrap	7	action-flux-bootstrap is Org wide GitHub action for bootstrapping FluxCD to an EKS cluster
action-oci	12	Github Action to push OCI images
action-plantuml	6	Org wide Github actions for generating PlantUML output
action-terraform-apply	5	action-terraform-apply is Org wide GitHub action for running terraform apply
action-terraform-plan	5	action-terraform-plan is Org wide GitHub action for running terraform plan
acuity-scheduling	193	Integration with Acuity Scheduling
affinity-model-pipeline	2,016	Affinity Model Pipeline
airflow	6,263	To store all the airflow install and configuration.
analytics-warehouse	57	None
api-gateway-authorizer	11	API Gateway Authorizer
app-car-finder-results	496	Car Finder Results page
app-checkout	3,658	Service responsible for checkout
app-consumer	120,531	App Consumer
app-dealer-portal	1,525	App Dealer Portal
app-operations	21,775	UI for internal ops teams
app-seller	5,427	SYC Flow for shift.com
app-seller-olo	6,637	Service providing vehicle information from data vendors
app-shift-dealer	18,747	Shift dealership operations
app-storage-audit-trail	78	Serverless project for an audit tool for the enrichment of vehicles



app-sync-buyers-cars	5,549	App Sync Buyers Cars
appium-poc	73,469	None
architecture	459	None
automation-core	30,330	Selenium-Java based framework for E2E automation
blog	8,994	None
cars-pipeline-ruby	431	Cars Pipeline Ruby
cloudsearch-lambdas	1,461	None
consumer-mobile-prototype	16,063	Prototype for mobile consumer car browsing app
cypress-tests	20,013	Cypress Tests with Javascript
datadog	75	datadog container wrapped for deployment at Shift
dbt	53,335	To store all the Data Transformation code for Analytics, Data Engineering & Data Science.
dbt_data_eng	61	To store all the Data Transformation code for Data Engineering.
design-system	2,791	Shift-branded UI packages for customer-facing applications
design-system-olo	4,542	OLO-branded UI packages for customer-facing applications
drive-shift	13,492	None
ds-cli	117,342	Data Science Command Line Interface (dscli)
ds-notebooks	5,650	Collection of ad hoc analytics
faraday_request_id_passthrough	7	Ruby Gem
filesystem-autocomplete	335	Our challenge to you.
fraud-detector-proxy	11,777	Fraud Detector Proxy
golibs	235	go module containing shared go code
icc-service	160	Serverless project that gets vehicle data from ICC and pushes it through our enrichment vehicle pipeline
image-processing	5,475	repo project for image processing
infratools	6	Infrastructure tools
IT-Functions	48	This Repo will be used by the IT Team to manage functions that will operate within the Shift Environment. NO SCRIPTS
it-scripts	716	various scripts for IT purposes
jamf-client	6,498	None
kbb-service	36	KBB Service
kube	1,749	Kubernetes related content at Shift
kube-datascience	241	Kubernetes related content for DataScience at Shift
kube-workflows	38	kube-workflows is Org wide GitHub action
lambda-cognito-sync	9,097	AWS cognito + shift = user party
looker	2,936	To store all the Looker code (LookML) for Business Intelligence.

ml	12,097	None
ml-final-sale-price	433	Final Sale Price Model for Shift
ml-final-sale-price-ext	15,081	Final Sale Price Model for 3P
ml-forecasting	1,006	Forecasting
ml-hubspot-tagging	247	Models to tag hubspot events/messages
ml-lambdas	37	Collection of AWS Python based Lambdas
ml-model-dtw-pricing	394	DtW pricing model
ml-model-inventory-score	1,508	Inventory score ml model
ml-model-list-price	9,203	List price ml model
ml-model-vpp-retail-pricing	681	VPP retail price ml model
ml-semantic-search	637	Semantic search for shift's vehicles
ml-time-to-sell	32,857	Time to sell ml model
p0	674,588	Data Processing & Orchestration.
phivotal	12	None
pricing	31,134	Work on pricing models and data
project-alfred	66	POC project for Alfred
pulumi-sandbox	1,772	Sandbox for Pulumi GitOps
s0	800,658	s0
s0.staging	991,198	None
s0.staging.2018-09-03	676,933	None
security	681	Security Team application manifests
service-account	6,118	Service responsible for accounts
service-ai	645	Service used for AI integrations
service-carfax	60	Provides multi-environment service on a single carfax account for vehicle enrichment
service-chrome-data	19,427	Service wrapping chrome data vendor
service-crm	4,045	Service wrapping Hubspot CRM
service-customer	4,125	Service responsible for customers
service-ds-crm	234	Service used by DS to enrich data through service-crm
service-fi	5,912	Service Fi
service-fulfillment	6,381	None
service-hermes	879	SMS and Email Messaging
service-identity	355	Identity Service
service-market	149	Market intelligence as a service
service-opt	878	Price Optimization as a Service
service-order	1,451	Service responsible for handling orders
service-order-fulfillment	112	Service to track and manage fulfillment
service-pricing	1,523	Service responsible for pricing
service-search	8	Provides service to allow access to Algolia Search for update and search
service-seo-page-data	2,474	Service SEO Page Data

service-transport	257	Service providing vehicle transport information and actions
service-vin	5,211	Service responsible for vehicle inventory, data and history
service-webflow	17,774	Service Webflow
service-webhook-scheduler	221	Service for making generic webhooks on a schedule
shift	2,450	Shift CL Crawler
shift-api	25	Shift API library
shift-arcanist-extensions	13	None
shift-auth	69	Shift Auth library
shift-aws-sdk	30	Shift gem encapsulating configuration settings for aws-sdk
shift-check	429	Market Check Clone
shift-cli	36	Shift CLI
shift-local-aws	36	Shift local AWS setup using Localstack
shift-mobile	1,167,386	Shift's mobile apps
shift-shoryuken	32	Shift gem encapsulating configuration settings for shoryuken
shift-sidekiq-tx-outbox	47	Shift transactional outbox sidekiq worker
shift-sns	46	Ruby client for standardizing SNS message publishing
showroom	335	Company health dashboard
skedulo	447	A private repo containing a copy of Shift's Salesforce Apex classes, triggers, components, and pages, for collaboration with the Skedulo team
slack-viewer	2,473	Parser to pull messages from Slack Exports for eDiscovery Purposes.
slackbot-infra	83	Infrastructure Slack Bot at Shift
template-lambda-go	448	Boilerplate for Go Lambdas.
template-lambda-python	2	Boilerplate for Python Lambdas.
template-lambda-ruby	1,228	None
template-lambda-typescript	5,956	None
template-rails-api	157	None
template-service-go	6,897	None
terraform	1,132	Infrastructure management
tf-asn	2	Terraform configurations to manage ASN and related resources.
tf-autoacquire	1	Terraform configurations to manage Shift's AutoAcquire application resources.
tf-autoacquire-infrastructure	10	Terraform configurations to manage Shift's AutoAcquire AWS account(s).
tf-dataeng	45	tf-dataeng related content at Shift

tf-fastly	431	Terraform configurations to manage Shift's Fastly account(s).
tf-github	359	Terraform configurations to manage Shift's GitHub account(s).
tf-it	59	This repo serves IT TF Specific AWS Resources.
tf-module-dynamodb	5	Terraform module for AWS dynamodb
tf-module-elasticache	25	Terraform module for AWS elasticache
tf-module-rds	31	Terraform module for AWS rds
tf-module-s3	16	Terraform module for AWS s3
tf-module-sns	17	Terraform module for AWS sns
tf-module-sqs	23	Terraform module for AWS sqs
tf-okta	88	Terraform to manage Shift's Okta Instance.
tf-shift-apps	626	Terraform configurations to manage Shift's Apps AWS resources.
tindercars-mobile	2,054	None
twilio-services	3,949	Twilio service and flex applications
ux-takehome	4	None
vehicle-enrichment	1,073	Serverless project for our enrichment vehicle pipeline
vehicle-external-data	132	Vehicle External Data
web-take-home	128	Shift Takehome Interviews
webflow-amplitude-experiment	10,025	Webflow Amplitude Experiment Endpoint
webflow-collections-endpoint	8,936	Webflow Collections Endpoint
webflow-components	1,935	Shift Webflow components
xcui-poc	158,830	None

## Schedule 1.2

### Codebase – Legacy Fair Platform

The source and object code enabling the Fair marketplace platform of Fair Financial Corp., Fair IP, LLC, and Cayman Project 2 Limited, which the Sellers acquired on or about March 14, 2022, such code having been written in coding languages and applications predominantly including AWS, Kubernetes, Golang, Python, Ruby on Rails, Javascript, and React, which code is contained in approximately the following repositories and approximate sizes:

Name	Size (KB)	Description
-1	0	None
Deprecated-Skurt-Cloud	17184	Cloud methods and web application for Skurt.
protobuf	50378	None
.github	1	None
a7f33fd16b255575	0	None
aasm-diagram	77	None
accountant	3573	The accountant service
accounting-gateway	549	Syncs Fair's transactions to Netsuite
accounting-incentive-credit-service	29	None
accounting-payables-service	29	Account Payable Service for NetSuite Integration
accounting-queries	695	None
aci-transport-client-ruby	13	None
actions	13	Public files for github actions
activeresource	0	Inspired by <a href="https://github.com/rails/activeresource">https://github.com/rails/activeresource</a>
airflow	1945	ETL repository for Airflow DAGs
airgo	255	Fast templating for simple python-based argo workflows.
airgo-testing	287	Place to test new airgo features
alooma-etl	1	None
amazon-vpc-cni-k8s	28187	Networking plugin repository for pod networking in Kubernetes using Elastic Network Interfaces on AWS
amazon-vpc-cni-k8s-private	28389	This is our private version of the Amazon VPC CNI K8s plugin
analytics_portfolio	0	None
analytics-faqs	8	Frequently asked Queries from the Analytics Team
analytics-notebooks	11541	None
analytics-service	669	None
analytics-service-client-go	64	Analytics-Service client for golang.
analytics-service-client-python	119	Python client for the analytics-service

analytics-service-client-ruby	118	Ruby client for the analytics-service
AndroidInterviewTest	125	will contain instrumented and unit tests for interviews
ansible	5048	None
api-proxy	6166	None
apollo-prototype	42	Prototype for Python Apollo server
app-honda-import-export	159	For importing Honda inventory and Exporting Fair inventory matches.
apptimize	68	Apptimize SDK
argo-resource-limiter	10	Very minimal resource count ensurer for argo workflows
asset-events	27	None
asset-events-parser	1	None
asset-mgmt	44626	Who owns what when?
asset-mgmt-notes	3	A place for sharing notes, queries and feelings about asset-mgmt service.
asset-mgmt-parser	22	Asset Management Data Source Parser
atlantis	28	None
auth	237	Authentication & Authorization service
Auth0.Android	1156	Android toolkit for Auth0 API
authentication-service	522	Auth service, but better
auto-finance-calculators	243	None
autocheck-client	2	None
autocheck-python-client	16	None
autocheck-service	334	None
automatic_pricing_report	30	automatic pricing report generation for the pricing team
autotrader-client-python	732	None
aws_public_ips	56	Fetch all public IP addresses tied to your AWS account. Works with IPv4/IPv6, Classic/VPC networking, and across all AWS services
aws-fluent-plugin-kinesis	238	Fluent Plugin for Amazon Kinesis
bash-scripts	20	Helper Scripts
billing-service	919	Billing Service
billing-service-archived	45	Invoicing and payment calculations for Fair Subscriptions
billing-service-archived-v2	100	The Gateway for all your servicing and payment needs
billing-tax-service	106	A service for taxes
blackbook-client-python	155	None
blackbook-service	49	None
bling	70	Use Bling to mask phone number between two different parties. Very useful for on-demand

		services where we need to protect customer and worker privacy.
bokeh-poc	15	Proof of concept bokeh server
box-tools	83	Box.com client and ORM
branch-service	86	service wrapper around branch api
build-data-misc	53	None
butterknife	3609	Bind Android views and callbacks to fields and methods.
buy-sheet-generation	3461	Generate buy sheets
california-dmv-fee-calculator-python-client	137	None
canonical-score-testing	48	Canonical score testing
canvas-looker-analytics	90	None
car-gurus-client	6	None
car-search	14	None
carmax-client-python	1	None
catalog-service	1328	None
categories_migrations	5294	None
cdk-client-python	13	None
cdk-service	100	None
chrome-client	117	Chrome API python client
chrome-helpers-python	94	None
chrome-service	171	None
churn-modeling	37786	Modeling likelihood of consumer user churn
cicd-pipeline-ops-plat2-ff	2389	None
clearpass-client-python	31	None
cluster-health	36	None
code-submission-malcolm-monroe	907	None
cognito	80	Ruby client for BlockScore Cognito API
cognito-parser	17	None
cold-style-model	25	Airgo DAG updating the probabilities of body_style conversion for the personalization service.
collaborative-filtering	2914	Collaborative Filtering implementations for Recommendations
collections-parser	36	Collections Parser to be used by Decision Service
collections-service	1926	None
common-queries	17	A repository to store commonly used queries for data analysis or integrity
comms-service	711	None

communications-service	3063	This service manages the communications (email, SMS, Push) that is sent to active customers.
conductor	291	Luigi Workflow
consumer-pricing	5050	Child to auto-finance-calculators for consumer pricing
contentful-categories	947	Migrate, release, rollback for categories in Contentful
contentful-ci-actions	101	Migrates between and on contentful environments
contentful-fair-web	1756	Migrate, release, rollback for "www.fair.com" space in Contentful
contentful-github-actions	0	None
contentful-go	305	Contentful api SDK for GoLang
contentful-mega-menu	591	Migrate, release, rollback for mega menu in Contentful
contentful-model-page	1043	Migrate, release, rollback for model page in Contentful
contentful-template	457	Template to migrate, release, rollback specific content type and its entities in Contentful
contentful-vehicle-tags	635	Migrate, release, rollback for vehicle tags in Contentful
contract-puller	3	Local script for pulling down contracts for subscription ids
contract-service	3398	Fair Contract Service
contract-service-v2	8422	A service to store and sign customer contracts.
cookiecutter-parser	11	ðŸª a Cookiecutter to create new data source parser repos
coredns-nodecache	8655	Nodelocal implementation as a CoreDNS plugin
credit-application-service	13238	None
credit-application-service-rest	510	REST API for handling RouteOne callbacks. Currently is a part of credit-application-service repo.
crm-ui-deprecated	96	Customer Relationship Management App
crossbrowser-plugin-project	228	None
csv-decrypter	3	None
csv-decryptor	58	None
customer-verification	224	None
data-engine	769	None
data-external	252	Public-facing API for third-party data
data-layer	347	None
data-layer-client-python	42	None
data-normalizer	297	None



data-vendors-client-python	10	None
data-vendors-service	1590	API Clients will have a common interface by provider type to simplify usage. They will live in the secure network because they access/encrypt PII
datadog-agent-additions	0	None
datadogpy	685	The Datadog Python library
dataeng-docs	14	Documents for data engineering
datafairhaus	242	Data model for risk data warehouse (Python ORM)
datafairhaus-uberexchange	90	None
dbt_dw	5448	dbt-built data warehouse models
dbt_reconciliation	1463	DBT queries for reconciling transactions across Fair's systems.
dbt-fair-dw	678	DBT package for fair dw 3.0+
dd-agent-sidecar	16	None
dd-trace-py	4165	Datadog Tracing Python Client
dd-trace-rb	2588	Datadog Tracing Ruby Client
de-scripts	34	None
de-tools	2824	Tools for Data Engineering.
dealer_engine	198	None
dealer-inventory-service	317	None
dealer-portal	12824	Fair Dealer Interface
dealer-redirect	0	None
dealer-service	559	None
dealer-service-archive-for-delete	43	None
dealer-service-client-python	13	None
dealer-service-test	1	This is a prototype
dealer-service-v2	699	Integration with our ICC inventory service provider
dealertrack-client-python	43	None
debug-module-service	261	Debug Module Service
decision-api	12975	None
decision-client-python	14	None
decision-client-ruby	19	None
decision-input-parser	1	None
decision-missing-data-exceptions	4	None
decision-service	460	None
dejavu	1	Experimental deployment for Dejavu (Elastic Search Viewer)
deployment	157	Scripts, utilities, and examples for deploying CoreDNS.
deployment-test	5	Just testing operations garbage

des-tools	3626	Tools to help with the DES requests that are received.
django-rest-framework-jwt	644	JSON Web Token Authentication support for Django REST Framework
doctor-debug	1	Docker image utility for debugging network woes
document-generator	25293	HTML and PDF generator
document-generator-v2	8	A service to generate HTML and PDF documents.
ds-bootcamp	154	DS-Bootcamp
ds-datasources	7931	None
ds-datasources-workflows	118	Different ETL workflows
ds-errors	12	Error codes and classes for Data-Science Parsing Failures and Warnings
ds-interviews	959	Interview notebooks
ds-model-controller	892	None
ds-spark	38	Resources for kubernetes spark deployment
duplicate-customer	2926	None
dw-validation	62	Lib for testing CI and regular loads for quality.
dynamic-sqlalchemy	6	A library to dynamically generate tables in SQLAlchemy.
dynamodb-client	10	Client for interacting with AWS DynamoDB
dynamodb-continuous-backup	457	Continuous backup automation for Amazon DynamoDB
ec2-meta-data-iam-proxy	7	None
ec2cluster	20	Simple EC2 cluster auto-discovery for go
echo-service	36	Simple app that echoes a given HTTP request
ecr-credential-refresher	4	None
ecr-token-refresh	1131	Refresh ECR Authorization Tokens on a configured interval.
elasticsearch-index-cleaner	740	None
electronic-titling-service	116	Exports Titles To Dealertrack
email-automation	10121	Amazon SES configuration for programmatically receiving and processing email
emailer-service	106	None
encryption-client-go	92	None
encryption-client-python	51	None
encryption-client-ruby	85	None
encryption-service	15935	None
engineering-blog	537	None
Engineering-Design-Reviews	1	None
engineering-laptop-setup	3	None
eoriginal-proxy	223	None

etcd-backups	2423	None
etcd-operator	15912	None
ETL-code-challenge-prep	1	None
etl-queries	0	Repository of sql queries used by our airflow ETL process. Useful for determining whether schema updates will break the current ETL flow.
facets-service	5	None
fair	63715	API and business logic for Fair
fair-academy-python	1598	Fair Academy for Python People!
fair-academy-ruby	153	Fair Academy!
fair-activity-stream	48	None
fair-ami-builder	11	NOT IN USE - docker + packer + k8 automation of ami building
fair-ami-trigger	14395	NOT IN USE - generates templates and k8 jobs for fair-ami-builder
fair-android-app	274902	None
fair-android-feature-tests	85738	None
fair-api-proxy-plat2	96	Internet facing service that proxies API requests and exchanges PII for encryption tokens on requests, and can exchange the tokens for the PII values on responses.
Fair-API-QA	35	None
fair-auth	651	Fair Authentication Service
fair-auth-js	1918	Hydra JS Lib
fair-ci-action	642	Github action for Fair projects
fair-ci-cd-actions-template	0	None
fair-cli	234985	Command tool for all fair engineers allowing them to interact against the fair platform
fair-common-ios	4408	Common files shared between the customer and dealer iOS apps
fair-common-ios-specs	28	None
fair-corp	12	Corporate Website
fair-csv-decryptor-plat2	18	csv decryptor for new platform 2.0
fair-datadog-agent	26	None
fair-dealer-ios	817	None
fair-dw	1848	Snowflake Fair Data Warehouse
fair-dw-etl	253	repo for all fair data warehouse stored procedures and queries
fair-dw-gen	584	Repo for rendered fair-dw workflows.
fair-eks-ami	70	Packer for creating AMIs for Fair
fair-elasticsearch-index-cleaner-plat-2	120	Easlticsearch index cleaner for platform 2
fair-emailer-service-plat2	33	None

fair-emails	129	None
fair-feature-tests	87927	None
fair-get-inventory-plat2	96	None
fair-github-actions-core	8	None
fair-githubactions-action-preloadenv	191	None
fair-graphql	1805	GraphQL server built with TypeScript, Node.js, and Apollo Server that enables querying of various services through api-proxy.
fair-grpc-client-ios-podspec	1	Podspec for fair grpc client for ios
fair-iam	18	None
fair-image-processing-plat2	640	None
fair-images	145	None
fair-integration-tests	16	Used for build integration for end to end. This includes automation on client mobile and on dealer portal.
fair-intranet	325825	None
fair-inventory-manager	94	None
fair-ios-app	942610	None
fair-iOS-deprecated	82048	Forked from pivotal on June 25, 2016
fair-kinesis-es-logs	7	Logging System with Elastic Search Service Fluent-bit & Kinesis
fair-marketplace-search-api-plat2	114	None
fair-marketplace-search-api-plat2-b	0	None
fair-marketplace-search-plat2	550	Test Repository for CICD Pipeline in Python for Platform 2.0
fair-ml	1471	Machine learning library for fair scientists.
fair-mobile-localization	1627	None
fair-netsuite	1800	None
fair-orbs	1	None
fair-platform-devops-tools	0	None
fair-premium-proto	143906	None
fair-public-api-plat2	0	None
fair-pubsub-plat2	103	None
fair-python-pipeline-test	50	None
fair-rubocop-config	12	Rubocop configuration for Fair's Ruby projects
fair-ruby_style	42	None
fair-sense	51	Tools for testing elasticsearch.
fair-sensitive-snowflake	295	None
fair-snowflake-sqlalchemy	60	Sqlalchemy helpers for our snowflake schemas

fair-tableau	0	None
fair-tf-core-insfrastructure	751	None
fair-tf-mod-analytics	23	None
fair-tf-mod-checkout	0	None
fair-tf-mod-commerce	0	None
fair-tf-mod-compute	108	None
fair-tf-mod-cxp	0	None
fair-tf-mod-database	31	None
fair-tf-mod-dealer	51	None
fair-tf-mod-discovery	0	None
fair-tf-mod-experience	0	None
fair-tf-mod-IAM	24	None
fair-tf-mod-lender	24	None
fair-tf-mod-logs	45	None
fair-tf-mod-marketplace	133	None
fair-tf-mod-money	0	None
fair-tf-mod-networking	50	None
fair-tf-mod-platform	89	None
fair-tf-mod-platformsecurity	40	None
fair-tf-mod-qa	0	None
fair-tf-mod-route53	2	Wrapper to creation of route53 aws resources
fair-tf-mod-sns-sqs	1	None
fair-tf-mod-storage	14	None
fair-tf-mod-toolkit	17	TF module for toolkit resources
fair-tf-mod-vehicle	23	None
fair-ui-android	18578	The Android implementation Fair.com's Drive Design System
fair-underwriting	3766	None
fair-vehicle-autocomplete-plat2	19	None
fair-vehicle-indices	1	fair used car indices
fair-vehicle-service-v2-plat2	119	None
fair-web	532701	Fair's website
fair-web-modules	7363	Mono repo composed of private npm packages and project boilerplates for web applications at Fair.
fair-web-plat2	52157	None
fair-web-python-tests	2058	None
fair-web-tests-legacy	877	None
fair-wholesale-value	1074	Wholesale valuation model based on Aucnet transactional data
fair-workflow-test	0	None
fairapis	199440	Contains the interface definitions for public and internal Fair APIs

fairapis-comments	11	Fair API comments as programmable strings
fairapis-gen	213428	None
fairapis-ios-dependencies	295718	An Xcode project for generating the .framework files ios depends on for compiling Fairapis.
fairapis-public	2	None
fairapis-ts	44	None
FairCoroutines	132	Repository to exhibit Android Coroutine Behavior
fanalytics	9721	None
faq-search-service	82	None
fastlane-certs	2408	None
feature-service	98	Feature Service
fee-amortization	20	None
ff-test	1766	None
file-service	15426	System for interacting with Files here at Fair
financial-gateway	997	The financial gateway for interacting with payment processors
first_assoc_proxy	11	Proxy service for communicating securely with First Associates
firstassociates-client	4	SFTP connection utility for first associates
fiserv-client	61	None
fiserv-raw	8	None
fleetio-service	5856	None
fluent-plugin-json	4	None
form-service	292	None
ftp	11076	None
ftpsrv	335	golang ftp server library
fuperfet	63	Apache Superset (incubating) is a modern, enterprise-ready business intelligence web application
gem-server	2	Gem in a box server for hosting our Gems.
generic-ruby-api-client	36	None
get-risk-score-parser	10	Parser for risk predictions
gitbook-android	0	None
gitbook-checkout	0	CXP/Checkout Team Docs
gitbook-data-engineering	2600	None
gitbook-data-science	133	None
gitbook-engineering	2511	None
gitbook-platform	155	None
gitbook-pricing	8	A repository of pricing knowledge
gitbook-qa	24	Gitbook for QA Knowledge
github-actions-test	2136	repo used to test any github actions

github-workflow-practice	31	Build and Release Through Github Actions
go-http-kit	27	None
go-kmsauth	14	None
go-profiler	1132	Mem and CPU profiler test
go101	3	None
golang-template	24	None
gold	228	\$
grape	4062	An opinionated framework for creating REST-like APIs in Ruby.
grape_logger	76	Custom Logger for Grape APIs
grape-swagger	1419	Add OAPI/swagger v2.0 compliant documentation to your grape API
Groundswell	0	None
grpc	125207	The C based gRPC (C++, Node.js, Python, Ruby, Objective-C, PHP, C#)
grpc-curl	1807	None
grpc-debug	48	None
grpc-encryption-codec	22	None
grpc-healthz	501	gRPC healthcheck sidecar
grpc-loadbalancer	61	None
grpc-mobile-local	23	Simple local ruby GRPC server for mobile testing
grpc-proxy	3794	gRPC proxy is a Go reverse proxy that allows for rich routing of gRPC calls with minimum overhead.
grpc-session-meta	19	Python Library for managing GRPC Sessions and RPC communication
grpc-streaming-demo	3	None
grpc-stub-mock	1	None
grpc-swift	4977	The Swift language implementation of gRPC.
grpc-validators-python	19	Validate and Convert gRPC objects to Python/SQLAlchemy objects.
GSWELL	0	None
gurl	24769	A tool for cURLing gRPC services.
hadoop-enrichment	847	None
halyard	3120	A tool for configuring, installing, and updating Spinnaker
Hero-Coulson	11527	Agents of Skurt
Hero-Hulk	2428	Big green monster
Hero-Ironman	5108	A fictional front-end appearing in American cities published by Skurt Comics.
Hero-Quake	3725	python backend for vendor app -- Agent of S.H.I.E.L.D.
Hero-Shield	3300	Shared Database Models and Lib for Hero

Hero-Shield-Rest	32	Python REST libs and utils.
Hero-Thor	3601	Hero Fleet API
heroku-connect	140	None
heroku-kafka-connect	1	None
HeroQuake-js	0	Hero-Quake swagger codegen?
homebrew-fair	16	Our Homebrew Repo
homebrew-skurtinc	7	Skurt's Homebrew formulae
htmltopdf	1429	None
httpie-pave-auth	4	An httpie plugin for handling Pave API auth
hydra	31019	OAuth2/OpenID Connect Server
hydra-consent-app	3779	Consent app to pair with Hydra
icc-test	1	A test module for interfacing with icc
image-processing	5874	For all image processing projects
image-validations	8410	Image Validation Service
incentive-service	150	None
infrastructure	98	None
ingestion_service	111	None
ingestion_service_old	15	None
innovis-client-python	40	None
innovis-failsafe-parser	54	Parser for Innovis Failsafe Reports
innovis-parser	132	None
integration-tests	34	None
interview	701	None
interview-qa-api	2	None
interview-solutions	13680	Submitted solutions to our coding challenges
inventory-ftp	149	None
inventory-impact-analysis	13	None
inventory-processor	896	Processing inventory
inventory-service	796	None
inventory-summary	37	Summary of inventory processing
investor-mapping-tool-service-deprecated	1972	None
istio	77990	Connect, secure, control, and observe services.
istio-test	11	Test repo for Istio
jon-python-lunchnlearn-example	17	None
k8-cluster	154	None
k8-cluster-helper	15741	None
k8-cross-cluster-controller	72	A custom Kubernetes controller for multi-cluster service discovery and routing.
k8-meetup-cross-cluster-talk	68	K8 Meetup Cross Cluster Services Talk
k8s-addons	60	Common Kubernetes add-ons for our clusters
k8s-fah	43	Run folding@home on Kubernetes
Kafka-Connect-JDBC	1	None



kbb-service	975	None
kinesis-pubsub-bridge	52	None
kinesis-python	45	Low level, multiprocessing based AWS Kinesis producer & consumer library
kinesis-to-pubsub	68	An app to send kinesis events to pubsub
kops	156737	Kubernetes Operations (kops) - Production Grade K8s Installation, Upgrades, and Management
kops-templates	28	Kops exploration
kube-job-cleanup	4030	Cleans up K8 Jobs automagically
kube-router	14313	A distributed load balancer, firewall and router for Kubernetes
kube2iam	63	None
kubernetai	21	Multiple Kubernetes in CoreDNS
kubernetes	604136	Production-Grade Container Scheduling and Management
lambda-deployment	19	None
lambda-dwh-v2	14682	None
laserdisc	67	Record GRPC calls for use in tests
lbs	19	library build services
leanplum-data-exporter	39	None
lender	1021	Lender service for Fair 3.0
lender-service	327	Holds logic for choosing lenders per user as well as generating pricing.
livestats	13527	Livestats
locksmith	34	None
log-aggregator	3259	Reads logs from Journald, annotates/transforms, and forwards to AWS Kinesis Firehose.
logging-stack	21	Log aggregators and UI
logistics-mapping-service	2307	None
logproxy	19	ElasticSearch & Kibana Proxy with Okta SSO
looker-analytics-dw	3535	Looker Repo for our DW Star Schema Model
looker-datafairhaus	77	None
looker-fair-dw	239	Looker data models for Fair 3.0 and beyond
looker-mparticle	22	None
looker-snowflake	606	None
looker-the-accountant	10	None
looker-untransformed-real-time	1	None
looker-untransformed-realtime deprecated	157	A repository for all things looker - fair_prod
lookerbot	1074	None
lucky-charm	25	SQLAlchemy Proto Serializer
lunch_and_learn	1009	All the lunch and learn examples

machine_learning_monitoring	62	Fair ML companion, detects model drifts and send alerts
manheim-client	53	Mannheim API Python client
manheim-inventory-client	25	None
manheim-service	83	A gRPC service for interacting with the Manheim API
market-area-service	133	Create Rules For Market Areas
marketplace_s3_migration	73	None
marketplace-api	1	None
marketplace-appsync	246	AWS Cloudformation repository to build up the infrastructure for marketplace
marketplace-categories	160	None
marketplace-category-filter-service	233	Category and filter service for the marketplace
marketplace-search	708	FastAPI Marketplace Search Service
marketplace-search-archive	139	Node search service built for the marketplace
marketplace-tags	96	None
mentos	52	Keep Your Messages Fresh - A Helper Library for Fair/Pubsub
merchandising-service	0	Merchandising Service
merge-bot	14161	A GitHub action that manages pull request integrations
messaging	62	None
metasource_client	41	Metasource client
metasource_fetcher	58	Metasource Fetcher
migrate-data-tasks	13	None
Mimosa	950	Task Management System
miscellaneous	15	A place for miscellaneous scripts
mock-service	61	Easily test application creation and submission
model-inventory-heat	8244	Model likelihood of transactions for individual vehicles based on current interaction levels.
model-portfolio	268149	Jupyter notebook library
modelmapper	414	Deterministic Data Driven Schema Modeling: Auto generate SQLAlchemy models, cleaning and normalization functions from your csv files!
mparticle_block	42	None
multicluster-gke	326	None
netsuite-crud_client	201	None
node-asana	389	None
obd-docs	69685	None
okta-auth	29	Authenticate end-users with Okta, with support for MFA
operations	19404	None

order-fulfillment-service	245	Think pizza-tracker but not exactly, this service will house the state machine/logic for all steps required to fulfill an order
partner-clients-go	106	gRPC Go clients for partner APIs.
pavebot	35	None
payment-gateway	1104	None
personalization-service	559	Lets get personal
pes-scripts	77	Product Engineering Support Scripts
pes-tools	30	Collection of PES tools
physical-mailer-service	117	None
plaid-parser	8	None
plat2-lender	14	None
platform-tools	119	None
pod-initializer	4274	None
polymorphic_ext	37	Polymorphic extension for SQLAlchemy
polymorphic-sqlalchemy	28	Polymorphic Extension for Ssqlalchemy
portfolio-analytics	55	This service provides access to user/subscription metadata like repo/delinquency info
postman-collections	540	Collections of postman collections
predicted-residual-client	1	None
predicted-residual-service	1107	None
prediction-client-python	629	Python client for communicating with Fair's prediction services ( <a href="https://app.apiary.io/predictionservice/editor">https://app.apiary.io/predictionservice/editor</a> )
prediction-models	10	Storing and uploading decision models
price-drop-service	121	None
pricing-analysis-suite	273	A collection of analysis scripts for evaluating pricing policies.
pricing-calculator-cell	354	None
pricing-client	163	None
pricing-reconstruction	9240	A repo for reconstructing pricing from Dynamo Payloads so that detailed assumptions can be persisted.
pricing-service	3147	None
promotions-service	573	None
pronto-blacklist	19	Pronto runner to detect additions of words on a blacklist
pronto-rubocop	97	Pronto runner for Rubocop, ruby code analyzer
protobuf	46604	Protocol Buffers - Google's data interchange format

protobuf-to-dict	97	A small Python library for creating dicts from protocol buffers. Useful as an intermediate step before serialization (e.g. to JSON).
protobuf317	83869	Protobuf 3.17 Clone for Fair usage
protoc	38	None
protoc-pubsub	93	None
protolint	629	Lint your protos!
protolint-docs-theme	2094	Github Pages for Protolint
protolint-gitbook	52	Private Gitbook docs
prototool	1535	Your Swiss Army Knife for Protocol Buffers
provide-n-persist	164	None
public-telemetry	6935	None
publicapi-parser	9	Parser for PublicApi's Data to Be Integrated into Decision Service
pubsub	330	None
pubsub-bridge	93	SQS Messages -> Fair Pubsub Events
pubsub-demo	8	None
pubsub-go	67	None
pubsub-python	142	Python Client for interacting with PubSub service
pubsub-ruby	100	None
pubsub-viewer	5	None
pyper-trail	44	A Python Library for generating Automatic Audit Tables from SQLAlchemy objects
pypi-service	3	Fair service clone of pypi for hosting python packages
pystripii	74	Personally Identifiable Information (PII) data cleaner written in python
python-service-template	129	A Python GRPC Service Template to rapidly spin up services
python-test-helpers	0	Python test helpers
python-zeep	1606	A modern/fast python SOAP client based on lxml / requests
qa-reporter	84	A reporting service to qa our systems and verify the data is synced appropriately
queues	16	None
rds-manager	97	None
react-native-background-geolocation	371	None
react-native-poc	6695	None
react-native-segment-analytics	31	Segment Analytics library for React Native (Android & IOS)
react-native-smooch	43	React Native wrapper for Smooch.io

react-native-statusbar-alert	1871	A status bar alert (e.g. in-call, recording, navigating) for React Native
recommendation-service	87	Service layer for all data-science recommendations
recommendation-skeleton	31	None
reddit	1089	Fair Reddit Interview
redlock	25	Red Lock
registry-service	94	Title, Registration and Beyond
release-jira-workflow-test	37	Testing Release Jira Workflow
repossession-service	641	Tracks Repossession Orders
request-logging-python	0	Request Logging Helpers for Python
rideshare-pricing	172	None
rideshare-rental-pricing	0	project shakaka~
RiskManagement	4975	Repository for common Risk Queries & Analyses
rn-poc	6896	RN poc
roundhouse	184	None
ruby-meetup-grpc	30	None
ruby-service-template	17	A ruby grpc service w/ a database & sidekiq
runbuggy-client-python	2	None
runbuggy-client-ruby	72	<a href="https://faircorp.atlassian.net/browse/SC-246">https://faircorp.atlassian.net/browse/SC-246</a>
s3-dynamo-restore	324	Restoring to Dynamo from S3
s3-service-ruby	6	None
s3pushpull	103	Boto wrappers and pathing logic for data science
salesforce-cdata-api-server-tomcat	7572	Containerized CData API Server to enable connection between Salesforce Connect and Snowflake
salesforce-projects	3600	Scripts and Organization Metadata for the Salesforce system
salesforce-service	139	None
salesforce-service-v2	118	Integration work to push data into Salesforce
samba-safety-client-python	21	None
samba-safety-parser	50	None
sandbox-migration-slides	2230	None
save-search-logs	5	None
scheme-test	11931	None
sdm-poc	23	None
SDWebImage	5924	Asynchronous image downloader with cache support as a UIImageView category
search-integration-test-parameters	1	None
search-service	4970	Search Cars
search-service-client-python	16	None

search-service-diff-tester	1647	This service takes production search-service requests and compares them to a build of the staging version of search service.
search-tokenizer	2852	Search Tokenizer uses Fast-Autocomplete to load data specific to Fair
secret-bridge	42	Monitors Github for leaked secrets
secrets-sniffer	2	Secret Bridge Deployment Goodies
security-readings	37230	Papers, tools, presentations, etc. for our security readings
sentry-kubernetes	285	None
service-kit-go	940	None
service-kit-python	276	None
service-kit-ruby	10938	None
service-kit-rust	6	None
sftp	76	SFTP server backed by S3.
sidekiq-monitors	27	Collection of Sidekiq UI's
skeng-int-review	3305	None
Skurt-ABs	3	Sixpack A/B testing deployment
Skurt-AgentApp	39466	None
Skurt-AgentApp-Design	0	None
Skurt-AgentApp-Signing	11	Skurt AgentApp Signing Certs
Skurt-Amethyst	4594	Consumer API
skurt-analysis	16328	Data analysis and jupyter notebooks.
Skurt-Android	21648	Skurt Android App
Skurt-Android-Design	0	None
Skurt-Arsenic	4566	Agent App API
skurt-asana-communicator	20	None
skurt-ci-test	0	None
Skurt-Cloud-Platform	4368	None
Skurt-Consumer-PWA	2212	Experimental project to see how PWAs compare to native experience.
Skurt-Cordova	453313	None
skurt-data-tools	649	None
Skurt-DataWarehouse	64	None
Skurt-Dev-Config	4	Shared support files for development.
Skurt-DevTools	128	CLI tool for Skurt Engineers
Skurt-DriverOnBoardingPortal	763	None
Skurt-Fake-Geolocation-API	96	None
Skurt-Hero	3284	Heroic fleet manager by Skurt
Skurt-IMS	4059	Internal Management System
Skurt-Inventory-API	6591	None
Skurt-iOS	1848835	None
Skurt-iOS-Design	27891	None

Skurt-Iron	6323	Skurt IMS/Internal API
Skurt-Livability	4	None
Skurt-MSAIA	9947	None
Skurt-MSAIA-client	283	Clients for Skurt-MSAIA
Skurt-Nyfty	1328	None
Skurt-OBD-firmware	47	Scripts running on OBD devices
Skurt-Opal	4440	Skurt Partner API
Skurt-Pacioli	32	SQL and Scripts for Revenue Maths
Skurt-PartnerPanel	6564	External application for vehicle inventory and pricing management.
Skurt-PDFGen	566	PDF generation, storage and distribution service.
Skurt-Pricing-API	21	Backend Service to manage our own app's pricing, and provides an API to query it.
Skurt-Pronto-Signing	1117	None
Skurt-Python	4505	Python Standard Library
Skurt-Python-Rest	69	Python REST libs and utils.
Skurt-React-Component-Kit	0	React components we can share between IMS / PMS / etc.
Skurt-Redux	46051	The new Skurt
skurt-redux-sky	167	None
Skurt-Reporting	0	Periodic report uploads
Skurt-RMS	7694	Internal Application for managing incoming reservations
skurt-salt	1	None
Skurt-SE7EN	60	What's in the (key)box
Skurt-Spatch	1237	None
Skurt-Superset	4	None
skurt-terraform	0	None
skurt-tools	327	None
skurt-tork	16	Collection of highly reusable JavaScript functions.
skurt-traccar-client	71	None
Skurt-Trail	57	Micro service for storing and tracking user location
Skurt-Troy	24377	Secure-looking key box
Skurt-Troy-Builder	4	Vagrant + Tools to build the keybox software
Skurt-VerificationSystem	54026	None
Skurt-Vivere	3026	None
Skurt-Viz	10355	None
Skurt-WebUITesting	12	Libs for simplifying Selenium testing.
SkurtAmethyst-java	805	Swagger Generated Consumer API
SkurtAmethyst-swift	1178	Swagger Generated Consumer API
SkurtArsenic-js	20362	JS Client for Skurt-Arsenic

SkurtIron-js	37918	None
SkurtMessiah-java	8488	Android Client for Skurt-MSAIA
SkurtMessiah-js	10551	Generated JS code to work with MSAIA
SkurtMessiah-swift	4464	Generated Swift code to work with Skurt-MSAIA
SkurtOpal-js	5514	Javascript Client for Partner Api
snowflake-dw	157	Tooling for generating and updating warehouse based on ELT processes in snowflake.
snowflake-etl-scripts	3540	For housing ETL scripts such as those for Fivetran and Alooma
snowflake-objects	196	Snowflake objects access
snowflake-s3-workflows	938	None
socure-client-python	36	None
socure-parser	22	Socure data source parser
Soju	546	Public API Backend
sparklebot	1485	None
spinnaker	46	Spinnaker without Halyard
sqa-softdelete	35	Soft delete for SQLAlchemy
sqlalchemy-abstract-models	79	Abstract Models for SQLAlchemy
stratim-python-client	229	None
strongdm	10	StrongDM Setup Tools
subscriptions-client-python	5	None
survival-curve-modeling	172275	None
svr-gps-client-python	1438	None
tableau_dashboards	357563	None
tax-and-fee-service	962	Taxes n Fees
tax-rates	5856	None
tax-service-archived	380	None
td-workflows	17	Treasure Data Workflow projects
template-test	0	None
terraform	572	None
terraform-fair-defaults	2	None
test-codeowners	0	None
test-contentful-repo	450	None
test-github-actions	13	None
test-internal-repo	0	None
test-npm-package	1	None
test-use-github-actions	1	None
testing_basics	7	Basics of Circleci, Docker and Kubernetes
testing-vijendra-opscli	4	Basic cli learning and docker testing
third-party-encryption-package	55	None
threatmetrix-client	17	Threatmetrix API Client



threatmetrix-parser	11	None
timer-service	78	A service to make timers
tindair	0	Don't ask
tls-proxy	590	None
toolbox	1384	Toolbox Backend
toolbox-operations	12139	A repo for housing tooling for operations.
toolbox-react	14651	Fair Toolbox Front End built with React + Mobx
toolkit	11310	The internal operations website for Fair 3.0
toolkit-backend	420	The 2.0 backend of Toolbox!
toolkit-test	337	test automation suite
traccar	10474	Traccar GPS Tracking System
traccar-ci	9	None
transformation_pipeline	50	None
transformations	111	None
transport-service	688	None
transport-service-archived	144	None
transunion-generator	124	None
transunion-parser	424	None
treasure-data	703	None
treasury-bridge	604	a bridge repo for us to version control Jonas's queries
treasury-workers	0	Miscellaneous collection of jobs and scripts in order to automate and validate tasks for the treasury team
trim-matching-library	182	None
twilio-callback-server	2	None
twilio-wireless-utilities	0	Docs: <a href="https://www.twilio.com/docs/api/wireless/rest-api/command">https://www.twilio.com/docs/api/wireless/rest-api/command</a>
uber-parser-python	8	None
uber-vehicle-management-service	605	Manages Fair / Uber Vehicle Onboarding
user_engine	378	None
user-activity-service	23	We are watching
user-conversion-model	1938	None
user-profile-service	1	Service for data science to record engagement levels and other data-science derived user attributes
user-service	273	Users directory and APIs
user-service-DEPRECATED	95	None
validation	20	Mirror mirror on the wall who is the fairest of them all.
vault	22945	A tool for managing secrets.

vault-deployment	17	None
vault-sidecar	29	None
vcrpy	1120	Automatically mock your HTTP interactions to simplify and speed up testing
vehicle-adapter	28	Convert the different vehicle objects that can be returned from different endpoints into an expected interface
vehicle-analytics	140	Place for storing dealer analytics information
vehicle-autocomplete	71	Autocomplete Service
vehicle-bucket-library	123	Returns a bucket (Bronze / Silver / Gold) for a vehicle as a function of the model and the monthly recurring price.
vehicle-conversion-model	959	None
vehicle-demand-service	22	None
vehicle-external-data	241	Pipeline that pulls data from external services to support Model Content
vehicle-modeling	42	All things related to manipulating or working with industry data on vehicles.
vehicle-service	23074	None
vehicle-service-client-python	33	None
vehicle-service-v2	768	None
vehicle-tools	878	None
vehicle-vectorization-service	4361	None
vehicle-view-service	254	Show vehicles in many different ways
vehicle2vec	1490	airgo dag for vehicle2vec training
vehicles-parser	29	None
vehicles-search-library	5	None
vendor-data-feeds	207	None
vendors-service	681	External Vendors ex. Roadside assistance
vgough-grpc-proxy	81	gRPC proxy is a Go gRPC proxy library, enabling routing of arbitrary gRPC services.
wallet-service	512	Wallet service
warranty-pricing-model	15348	None
warranty-pricing-model deprecated	3448	Data model to predict pricing for extended warranties we will offer in Fair 3.0
watchdog	7326	None
webhook-service	56	Fair's Webhook Service
websocketproxy	19	WebSocket reverse proxy handler for Go
whodunit-service	273	A service that tracks who that it is that had done it...and where. Did you do it? Maybe. Look in here to find out.
wholesale-cfv-model	57	None

xplenty-ssh-tunnel	126	A tiny application to initiate a SSH tunnel in order to allow Xplenty to connect to your database
xplenty-ssh-tunnel-private	131	Private fork of <a href="https://github.com/xplenty/xplenty-ssh-tunnel">https://github.com/xplenty/xplenty-ssh-tunnel</a>

### **Schedule 1.3**

[Intentionally omitted]

## Schedule 1.4

### Patent

Country	Title	App No.	Patent No.
United States	SYSTEM AND METHOD FOR MANAGING ON-DEMAND TEST DRIVES	15/379,357	10664808

## **Schedule 1.5**

[Intentionally omitted]

## **Schedule 1.6**

[Intentionally omitted]






# A024 Shift - Scott Painter APA (execution version)

Final Audit Report

2024-02-10

Created:	2024-02-10
By:	Thomas Rupp (trupp@kellerbenvenuti.com)
Status:	Signed
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-  Document created by Thomas Rupp (trupp@kellerbenvenuti.com)  
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