EXECUTION VERSION

# ASSET CONTRIBUTION AND ACQUISITION AGREEMENT

By and Among

**S44 LLC**

and

**COREY MCCUTCHEN**

and

**JOSEPH BARRECA**

and

**POPREACH CORPORATION (dba Ionik)**

and

**SHIFT44, INC.**

Dated November 20, 2023

# ASSET CONTRIBUTION AND ACQUISITION AGREEMENT

THIS ASSET CONTRIBUTION AND ACQUISITION AGREEMENT, dated as of November 20, 2023 (the "**Agreement**"), is entered into by and among PopReach Corporation (dba Ionik) (the "**Parent**"), an Ontario corporation, Shift44, Inc., Inc. (the "**Buyer**"), a Delaware corporation, S44 LLC ("**S44**" or the "**Seller**"), a limited liability company organized under the laws of New York, Corey McCutchen ("**Corey**"), an individual residing in Patchogue, New York and Joseph Barreca ("**Joseph**" and together with Corey, the "**Selling Principals**"), an individual residing in Farmingville, New York.

## RECITALS

A. Buyer desires to purchase and acquire, and Seller desires to sell, transfer and assign, the Acquired Assets, as more particularly described in Section 2.01(2), on the terms and subject to the conditions contained in this Agreement;

B. Buyer desires to assume, and Seller desires to assign, the Assumed Liabilities, as more particularly described in Section 2.03, on the terms and subject to the conditions contained in this Agreement;

C. The Selling Principals collectively are the owners and holders of record of 96.25% of the outstanding membership interests of the Seller and will benefit from the transactions contemplated by this Agreement;

D. The Buyer was formed on October 19, 2023 pursuant to the laws of the State of Delaware;

E. On October 19, 2023, Parent subscribed for 210 Class A Shares of Buyer in exchange for the issuance to Buyer of a promissory note (the "**Contribution Note**") with a principal amount equal in value to the Debenture Amount (the "**Parent Contribution**");

F. On behalf of Buyer, Parent intends to issue the Convertible Debenture to the Seller as partial payment of the Consideration payable for a portion of the Acquired Assets (the "**Purchased Assets**") pursuant to Section 2.05(2) and such issuance of the Convertible Debenture by Parent shall be deemed Parent's full satisfaction of its obligations owing to the Buyer pursuant to the Contribution Note;

G. In connection with the transactions contemplated hereunder, the Seller intends to contribute a portion of the Acquired Assets (the "**Contributed Assets**") to Buyer and, as consideration therefor, Buyer will, subject to the terms and conditions set forth in this Agreement, issue the Consideration Shares to the Seller (the "**Seller Contribution**", and together with the Parent Contribution, each, a "**Contribution**", and, collectively, the "**Contributions**");

H. Parent, the Seller and the Buyer intend for each Contribution to constitute a tax-deferred contribution to the capital of Buyer under Section 351 of the Code; and

I. Immediately after giving effect to the Contributions, on the Closing Date, Buyer will purchase from the Seller (i) the Purchased Assets in exchange for the issuance of the Convertible Debenture, and (ii) the remaining portion of the Acquired Assets (other than the Contributed Assets and the Purchased Assets) from the Seller in exchange for the Cash Consideration.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Parent, Buyer, the Seller and the Selling Principals hereby agree as follows:

## ARTICLE I
## INTERPRETATION

### 1.01 Defined Terms.

As used in this Agreement, the following terms have the meanings set forth below.

"**Accounts Receivable**" means, with respect to the Seller, all trade accounts receivable, notes receivable and other trade debts due or accruing due to the Seller incurred in the Ordinary Course of Business in connection with the sale of services by the Seller;

"**Acquired Accounts Receivable**" has the meaning ascribed thereto in Section 2.01(2)(h);

"**Acquired Assets**" has the meaning ascribed thereto in Section 2.01(2);

"**Acquirer Parties**" means, collectively, Parent and Buyer;

"**Acquirer Parties Excluded Representations**" has the meaning ascribed thereto in Section 8.01(2);

"**Acquirer Parties Indemnified Person**" means (i) Parent and Buyer; and (ii) their respective Affiliates, Representatives and permitted assigns;

"**Acquirer Parties Material Adverse Effect**" means any fact, development, change, effect, event or condition that has or could reasonably be expected to have, individually or in the aggregate, a materially adverse effect on (i) the business, operations, results of operations (financial or otherwise), financial condition, prospects or assets of the Parent Group, taken as a whole, or (ii) the ability of the Parent and Buyer to consummate the transactions hereunder, except that none of the following, either alone or in combination, shall be considered in determining whether there has been a "**Acquirer Parties Material Adverse Effect**" for the purposes of clause (i) or (ii): (a) any adverse effect on the Parent Group resulting directly from the public announcement of the execution of this Agreement and the transactions contemplated hereby or any facts or circumstances primarily related to the Seller; (b) changes, effects, events or conditions in worldwide or national financial markets or general economic or political conditions; (c) any change generally affecting the industry in which the Parent Group operates; and (d) an outbreak of war (whether or not declared), armed hostilities, acts of terrorism or other national calamity,

crisis or emergency; provided, that the exceptions set forth in clauses (a), (b), (c) and (d) shall only apply to the extent that such change, effect, event or condition does not have or cause a disproportionate effect on the Parent Group, taken as a whole, compared to other companies operating in the same industry as the Parent Group;

"**Activist Investor**" means, as of any date, (a) any person that has, directly or indirectly through its publicly disclosed Affiliates, whether individually or as a member of a publicly-disclosed group or acting Jointly or In Concert with any other person, within the two-year period immediately preceding such date, and in each case with respect to the Parent, any of its subsidiaries or any of its or their Equity Securities (i) publicly made, engaged in or been a participant in any "solicitation" of "proxies" (as such terms are defined in the Business Corporations Act (*Ontario*)) to vote any Equity Securities of the Parent or any of its subsidiaries, including in connection with a proposed change in control or other extraordinary or fundamental transaction involving the Parent or any of its subsidiaries, or a public proposal for the election or replacement of any directors of the Parent or any of its subsidiaries, that has not been approved by the board of directors of the Parent or such subsidiary, (ii) called, or sought to call, a meeting of shareholders of the Parent or any of its subsidiaries or initiated or submitted any shareholder proposal for action by shareholders of the Parent or any of its subsidiaries (including through action by written consent), in each case that has not been approved and publicly recommended by the board of directors of the Parent or such subsidiary, (iii) commenced a tender offer or take-over bid (as such term is used in Canadian securities laws) or exchange offer or other similar transaction to acquire the Equity Securities of the Parent or any of its subsidiaries that has not been approved and publicly recommended (at the time of commencement) by the board of directors of the Parent or such subsidiary, (iv) otherwise publicly acted, alone or Jointly or In Concert with others, to seek to control or influence the board of directors, management or shareholders of the Parent or any of its subsidiaries (provided that this clause (iv) is not intended to apply to the activities of any member of the board of directors of the Parent or such subsidiary, with respect to the Parent or such subsidiary, taken in good faith solely in his or her capacity as a director of the Parent or such subsidiary), (v) publicly disclosed any intention, plan, arrangement or other Contract to do any of the foregoing, or (b) any person identified on the most-recently available SharkWatch 50 list as of such date, or (c) any Affiliate of any person contemplated in (a) and (b) above;

"**Adjustment Notice**" has the meaning ascribed thereto in Section 2.08(1);

"**Affiliates**" means, with respect to any person, any other person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the specified person. As used in this definition, "**control**", "**controlled by**" and "**under common control with**" means possession, directly or indirectly, of power to direct or cause the direction of management or policies of such person (whether through ownership of securities or other partnership or ownership interests, as trustee, personal representative or executive or by contract, credit agreement or otherwise) provided that in any event, any person which owns directly, indirectly or beneficially 50% or more of the securities having voting power for the election of directors or other governing body of a corporation or 50% or more of the partnership interests or other ownership interests of any other person will be deemed to control such person;

"**Aggregate Threshold**" has the meaning ascribed thereto in Section 8.04(1);

"**Agreement**" means this Asset Contribution and Acquisition Agreement and all schedules, exhibits and instruments in amendment or confirmation of it; "**hereof**", "**hereto**" and "**hereunder**" and similar expressions mean and refer to this Agreement and not to any particular Article, Section, Section or other subdivision; "**Article**", "**Section**", "**Subsection**" or other subdivision of this Agreement followed by a number means and refers to the specified Article, Section, Subsection or other subdivision of this Agreement;

"**Ancillary Documents**" means all agreements, certificates and other instruments to be executed and delivered by a party hereto pursuant to this Agreement, and "**Ancillary Document**" means any one of such agreements, certificates or other instruments;

"**AP Allocation Schedule**" has the meaning ascribed thereto in Section 2.12(b);

"**Applicable Privacy Laws**" means any and all applicable laws relating to privacy and/or regulating the collection, use, storage, retention, disclosure, or transfer of Personal Information in all applicable jurisdictions worldwide to which the Seller is subject, and includes any guidelines or directives of any governmental agency or regulatory authority to which the Seller adheres or is subject;

"**Applicable Securities Laws**" means any and all securities laws including statutes, rules, regulations, by-laws, policies, guidelines, orders, decisions, rulings and awards applicable in each Selling Principal's jurisdiction of residence or such securities laws otherwise applicable to such Selling Principal;

"**Acquired Intellectual Property**" has the meaning ascribed thereto in Section 2.01(2)(b);

"**Acquired Licenses**" has the meaning ascribed thereto in Section 2.01(2)(l);

"**Assigned Insurance Claims**" has the meaning ascribed thereto in Section 2.01(2)(k);

"**Assigned Rights**" has the meaning ascribed thereto in Section 7.09(1);

"**Assumed Contracts**" has the meaning ascribed thereto in Section 2.01(2)(f);

"**Assumed Liabilities**" has the meaning ascribed thereto in Section 2.03;

"**Authorization**" means, with respect to any person, any material governmental authorization, order, permit, approval, grant, license, consent, right, franchise, privilege, certificate, judgment, writ, injunction, award, determination, direction, decree, variance, permission, to or from, or filings, notices, or recordings to or with or by rule or regulation of any Governmental Entity having jurisdiction over such person;

"**Balance Sheet**" means the balance sheet of the Seller as of the Balance Sheet Date;

"**Balance Sheet Date**" means October 31, 2023;

"**Benefit Plans**" means all employee benefit plans relating to the employees of the Seller, including profit sharing, deferred compensation, stock option, employee stock purchase, bonus, retirement,

health or insurance plans which are disclosed as benefit plans on the Section 3.26(9) of the Disclosure Schedules;

"**Books and Records**" means all business and financial records, financial books and records of account, books, data, reports, files, lists, drawings, plans, logos, briefs, customer and supplier lists, deeds, certificates, contracts, surveys, title opinions or any other documentation and information in any form whatsoever (including written, printed, electronic or computer printout form) of the Seller relating to the Business;

"**Business**" the business of the Seller being (i) lead generation, including without limitation, curating vertical specific users with self-declared data, (ii) data acquisition using propriety and artificial intelligence technologies, (iii) the provision of performance marketing services, and (iv) the provision of all ancillary and other related services in connection with (i) through (iii);

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any other day on which banks are required or authorized to close in Holbrook, New York;

"**Buyer**" has the meaning ascribed thereto on the first page hereof;

"**Buyer Returns**" has the meaning ascribed thereto in Section 7.03(10);

"**Cash Consideration**" means $17,750,000.00;

"**Claim**" means, in respect of any person, any claim of any nature whatsoever against such person, including any demand, liability, obligation, debt, action, cause of action, suit, proceeding, judgment, award, assessment, or reassessment;

"**Class A Shares**" means Class A voting common shares in the capital of Buyer;

"**Class B Shares**" means Class B non-voting common shares in the capital of Buyer;

"**Closing**" means the completion of the transactions contemplated by this Agreement on the Closing Date;

"**Closing Date**" means the date hereof;

"**Closing Date Working Capital Amount**" means the amount equal to, (i) the sum of all of the Seller's cash and cash equivalents, accounts receivable and other current assets, any inventory, pre-paid expenses, less (ii) the sum of all of the Seller's accounts payable, credit cards payable, current liabilities and other payables, including without limitation, Transaction Expenses, all calculated as of the close of business on the Business Day immediately preceding the Closing Date and determined in accordance with GAAP on a basis consistent with the Seller's past accounting practices, provided such accounting practices are consistent with GAAP. An example calculation as of the Balance Sheet Date is attached hereto as Schedule B for purposes of showing the manner and methodology to be used in the calculation of Closing Date Working Capital Amount;

"**Code**" means the U.S. Internal Revenue Code of 1986, as amended;

"**Competitor**" means any person that carries on or is engaged in any business which is similar to or competitive in any way with the Restricted Business;

"**Consent**" means any approval, consent, ratification, waiver, notice or other authorization;

"**Consideration**" has the meaning ascribed thereto in Section 2.06;

"**Consideration Securities**" means the Consideration Shares, the Convertible Debentures and the Underlying Shares;

"**Consideration Shares**" means 4,790 Class B Shares;

"**Contracts**" means all contracts, whether written or oral, including, without limitation, all contracts, leases of real property, licenses, undertakings, engagements or commitments of any nature;

"**Contribution**" and "**Contributions**" each have the meaning ascribed thereto in recital G;

"**Contributed Assets**" has the meaning ascribed in recital G;

"**Convertible Debenture**" means the convertible debenture issuable by Parent to the Seller substantially in the form attached hereto as Exhibit A, evidencing the Parent's obligation to make payment of the Debenture Amount to the Seller on the Debenture Maturity Date and further providing for the Seller's option, exercisable at any time prior to the Debenture Maturity Date, to convert the then outstanding Debenture Amount into Parent Common Shares based on a price per Parent Common Share of $0.78;

"**Corporate Records**" means the records of the Seller including, without limitation: (i) all Organizational Documents, any membership or shareholders agreements and any amendments thereto; (ii) all minutes of meetings and resolutions of members, shareholders, directors and any committees thereof; (iii) the membership or stock certificate books, register of members or shareholders, register of transfers and register of directors (or equivalents thereto); and (iv) all accounting records;

"**Current Liabilities**" means the liabilities included in Closing Date Working Capital Amount calculated in accordance with Section 2.08 (and excluding, for greater certainty, any Seller Indebtedness);

"**Damages**" has the meaning ascribed thereto in Section 8.02;

"**Debenture Amount**" means $16,750,000.00;

"**Debenture Maturity Date**" means November 30, 2026;

"**Developers"** has the meaning ascribed thereto in Section 3.13(5);

"**Disabling Code**" means any clock, timer, counter, computer virus, worm, software lock, drop dead device, trojan horse routine, trap door, time bomb, or any other codes, designs, routines or

instructions that may be used to access, modify, replicate, distort, delete, damage or disable any hardware, Software or other computer systems or networks, including the Internal IT Systems;

"**Dispute Notice**" has the meaning ascribed thereto in Section 2.08(2);

"**Disclosure Schedules**" means the disclosure schedules attached hereto as Schedule A providing disclosure of all matters required to be disclosed by the Seller and the Selling Principals to the Buyer and the Parent under this Agreement with respect to the Business, the Acquired Assets, the Seller, and the Selling Principals;

"**Encumbrances**" means security interests, liens, charges, mortgages, pledges, Claims, defects of title, restrictions, options and any other rights of a third party relating to any property, including rights of set-off, and other encumbrances of any kind, and "**Encumbrance**" means any of the foregoing;

"**Equity Securities**" means, with respect to any person, any capital stock or other equity or voting interest of such person, including all options, warrants, purchase rights, subscription rights, conversion rights, exchange rights or other Contracts or commitments that could require such person to issue or sell any of its capital stock or other equity or voting securities, stock appreciations rights, phantom stock rights, participating rights or similar rights;

"**Estimated Closing Date Working Capital Amount**" means negative $1,000,000;

"**Excluded Contracts**" has the meaning ascribed thereto in Section 2.02(7);

"**Excluded Liabilities**" means the Liabilities listed in Section 2.04;

"**Expedited Return**" means any Tax Return due earlier than 30 days after the end of the applicable Tax period;

"**Filed Financial Statements**" means the consolidated financial statements of the Seller to be included in any Public Filing Document to be filed by the Parent following Closing pursuant to Applicable Securities Laws;

"**Final Tax Consideration Allocation**" has the meaning ascribed thereto in Section 7.03(7);

"**Financial Statements**" means the unaudited consolidated financial statements of the Seller and Shift44 for (i) the financial year ending December 31, 2022; (ii) the financial year ending December 31, 2021; and (iii) the period commencing on January 1, 2023 and ending on the Balance Sheet Date, consisting, in each case, of the balance sheet and statements of income for such periods, together with the notes thereto, if any, prepared in accordance with GAAP, which are included in Section 3.21(a) of the Disclosure Schedules;

"**GAAP**" means the generally accepted accounting principles in the United States so described and promulgated by the Financial Accounting Standards Board, or any successor entities, which are applicable as at the date on which any calculation made hereunder is to be effective or as at the date of any applicable financial statements referred to herein, as the case may be; provided, however, that to the extent there are acceptable alternative accounting principles available which

have been applied by the Seller, such principles will be applied in a manner consistent with the historical accounting methods of the Seller;

"**Governmental Entities**" means (i) any multinational, federal, provincial, state, municipal, local or other governmental or public department, court, commission, board, bureau, agency or instrumentality, domestic or foreign; (ii) any subdivision, agent, commission, board or authority of any of the foregoing; or (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, and "**Governmental Entity**" means any one of the foregoing;

"**Hired Employee**" has the meaning ascribed thereto in Section 7.10(1);

"**Holdback**" means a cash amount of $250,000;

"**Indemnification Cap**" has the meaning ascribed thereto in Section 8.04(2);

"**indemnified party**" has the meaning ascribed thereto in Section 11.05(1);

"**indemnifying party**" has the meaning ascribed thereto in Section 11.05(1);

"**Initial Cash Consideration**" means the Cash Consideration less the Holdback;

"**Intellectual Property Rights**" means:

(i) any and all proprietary rights provided under: (a) patent law; (b) copyright law; (c) trade-mark law; (d) design patent or industrial design law; (e) semi-conductor chip law; or (f) any other statutory provision or common law principle, including trade secret law, which may provide a right in either hardware, Software, documentation, ideas, formulae, algorithms, concepts, inventions, processes or know-how generally, or the expression or use of such hardware, Software, documentation, ideas, formulae, algorithms, concepts, inventions, processes or know-how;

(ii) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing; and

(iii) all licenses and waivers and benefits of waivers of the rights set out in clauses (i) and (ii) and all rights to damages and profits by reason of the infringement of any of the rights set out in clause (i) or (ii);

"**Intended Tax Treatment**" has the meaning ascribed thereto in Section 7.03(2);

"**Internal IT Systems**" means the information and communications technologies used by the Seller including hardware, Software and internal networks;

"**IRS**" means the Internal Revenue Service of the United Stated Department of the Treasury;

"**Jointly or In Concert**" means a person acting jointly or in concert with another person or persons as contemplated in Canadian securities laws;

"**knowledge of the Seller**" means the current actual knowledge of the Selling Principals, upon reasonable and due inquiry and without concealment, suppression or omission of any material information relevant to such statement or information;

"**laws**" means all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, policies, voluntary restraints, guidelines, or any provisions of such laws, including general principles of common and civil law and equity, binding on or affecting the person referred to in the context in which such word is used, and "**law**" means any of the foregoing;

"**Lease**" means the Agreement of Lease entered into between [redacted], as landlord, and Seller, as tenant, on [redacted] in respect of the premises located on [redacted];

"**Liabilities**" means debts, liabilities, commitments and obligations of any kind, whether fixed, contingent or absolute, matured or unmatured, liquidated or unliquidated, accrued or not accrued, asserted or not asserted, known or unknown, determined, determinable or otherwise, whenever or however arising (including, whether arising out of any Contract or tort based on negligence or strict liability) and whether or not the same would be required by GAAP to be reflected in financial statements or disclosed in the notes thereto, including, without limitation, any liability for Taxes.

"**Licenses and Permits**" means any licenses, permits, certificates, notifications, exemptions, classifications, registrations, franchises, approvals, orders or similar authorizations, or any waivers of the foregoing, issued by any Governmental Authority.

"**Licensed Intellectual Property**" means all Intellectual Property Rights used by the Seller in Business except for the Owned Intellectual Property;

"**Locked-Up Securities**" means, in relation to the Seller, the Consideration Securities issued or issuable to Seller pursuant to this Agreement, including, for greater certainty, the Underlying Shares issuable upon conversion of the Convertible Debenture and/or the exchange of the Consideration Shares, in each case in accordance with the terms thereof;

"**loss**" means any loss whatsoever, including liabilities, obligations, expenses, costs, damages (including special, punitive, exemplary, incidental and consequential damages, diminution in value and for lost profits), deficiencies, assessments, judgments, awards, settlements, penalties, fines, interest, fees (including reasonable fees and expenses of investigation and expenses in connection with any action, suit or proceeding, whether involving a third party claim or a claim solely between the parties hereto) any and all legal fees and disbursements and debt; provided, however, that in the case of a claim for indemnification made by a party hereto under the terms of this Agreement, the term "loss" shall not include special, punitive, exemplary, incidental and consequential damages, diminution in value and lost profits;

"**Major Shareholder**" means the Seller or a Selling Principal which beneficially owns Parent Common Shares representing equal to or greater than five percent (5%) of the then issued and outstanding Parent Common Shares (on a non-diluted basis);

"**Market Price**" means (i) in the case of shares cancelled, the volume-weighted average trading price of the Parent Common Shares on the TSX-V for the five (5) trading day period ended on the Business Day prior to the day of cancellation; and (ii) in the case of shares sold, the total gross proceeds received by the Parent on a per share basis;

"**Material Assets**" means those assets necessary for the operation of the Business;

"**Material Contracts**" has the meaning ascribed thereto in Section 3.23(1);

"**Material Partner**" has the meaning ascribed thereto in Section 3.23(1);

"**Net Monthly Amount**" has the meaning ascribed thereto in Section 2.12(c);

"**Net Working Capital Adjustment**" has the meaning ascribed thereto in Section 2.08(1);

"**Neutral Firm**" means an internationally recognized accounting firm, independent of each of the Parties, as selected by agreement of the Buyer, Parent, Seller and the Selling Principals, which Neutral Firm shall initially be [redacted]

"**New Employment Agreement**" has the meaning ascribed thereto in Section 6.01(12);

"**Non-Transferable Asset**" has the meaning ascribed thereto in Section 2.11;

"**Organizational Documents**" means, with respect to any person that is an entity, the articles of incorporation, certificate of incorporation, certificate of formation, certificate of limited partnership, charter, by-laws, articles of formation, operating agreement, stockholder agreement, partnership agreement, limited partnership agreement, limited liability company agreement and all similar documents, instruments or certificates executed, adopted or filed in connection with the creation, formation or organization of such person, including any amendments thereto as of the date hereof;

"**Order**" means any order, writ, judgment, ruling, injunction, decree, stipulation, exemption, waiver, determination or award entered into by or with, or issued or granted by, any Governmental Entity (whether preliminary or final);

**"Ordinary Course of Business**" means the ordinary course of the Business, consistent with past custom and practice (including with respect to frequency and amount);

"**OTC**" means the OTCQX tier of the OTC Markets Group platform;

"**Owned Intellectual Property**" means all Intellectual Property Rights created, owned or developed in whole or in part by or on behalf of the Seller, including, for greater certainty, Owned Software;

"**Owned Software**" means all Software that is owned by, or distributed by or on behalf of, the Seller;

"**Parent**" has the meaning ascribed thereto on the first page hereof;

"**Parent Common Shares**" means the common shares in the capital of the Parent;

"**Parent Contribution**" has the meaning ascribed thereto in recital D;

"**Parent Filings**" means all documents publicly filed by the Parent or Mithrandir Capital Corp. on SEDAR+ on and after August 9, 2019;

"**Parent Group**" means the Parent and Buyer and each of their respective Affiliates and subsidiaries;

"**Parent Group Confidential Information**" has the meaning ascribed thereto in Section 7.04(2);

"**Parent Senior Lender**" means the Bank of Montreal, in its capacity as administrative agent for certain secured parties in connection with the credit agreement among, *inter alios*, the Bank of Montreal, as administrative agent, and Parent, as borrower, as such agreement may be amended, amended and restated or supplemented from time to time;

"**Parent Senior Lender's Consent**" means all Consents from the Parent Senior Lender required to be obtained by Parent in respect of the transactions contemplated hereunder;

"**Parties**" means the Selling Principals, the Buyer, Parent and the Seller, and "**Party**" means any one of them;

"**Permitted Encumbrances**" means (i) Encumbrances for taxes, assessments or governmental charges or levies on property not yet due and delinquent or the amount or validity of which is being contested in good faith by appropriate proceedings; (ii) easements, encroachments and other minor imperfections of title which do not, individually or in the aggregate, materially detract from the value of, or impair the use or marketability of, any property so encumbered; and (iii) any restriction imposed by federal or foreign securities laws;

"**person**" means an individual, partnership, corporation, limited liability company, trust, unincorporated association, joint venture or other entity, and pronouns have a similarly extended meaning;

"**Personal Information**" means information about an identifiable individual, including any information defined or deemed as such pursuant to any Applicable Privacy Laws, that is transferred to, collected or compiled by, or otherwise under the control or custody of, the Seller;

"**Pre-Closing Tax Period**" means, in respect of the Seller and Shift44, all applicable taxable periods ending on or before the Closing Date and the portion through the end of the Closing Date for any Straddle Period;

"**Pre-Closing Taxes**" means (i) all Taxes (or the non-payment thereof) of the Seller and Shift44 for Pre-Closing Tax Period, including, in the case of a Straddle Period, Taxes attributable to the Pre-Closing Tax Period in accordance with Section 7.03(11), (ii) all Taxes of any member of an affiliated, consolidated, combined, or unitary group of which any member of the Seller (or any predecessor of any of the foregoing) is or was a member on or prior to the Closing Date, including pursuant to Treasury Regulation Section 1.1502-6 or any analogous or similar state, local, or non-

U.S. law or regulation, and (iii) any and all Taxes of any person (other than the Seller) imposed on the Seller or Shift44 as a transferee or successor, by contract or pursuant to any law, rule, or regulation, which Taxes relate to an event or transaction occurring before the Closing;

"**Pro Rata Share**" means, (i) with respect to Corey, [redacted] and (ii) with respect to Joseph, [redacted];

"**PTO**" has the meaning ascribed thereto in Section 7.10(5);

"**Public Filing Document**" means any business acquisition report, prospectus, information circular, listing application, registration statement or other similar public filing document to be filed by the Parent following Closing pursuant to Applicable Securities Laws or the rules of any applicable stock exchange, including the TSX-V;

"**Purchased Assets**" has the meaning ascribed in recital F;

"**Regulation D**" means Regulation D under the U.S. Securities Act;

"**Reconciliation Period**" has the meaning ascribed thereto in Section 2.12(b);

"**Reconciliation Representatives**" has the meaning ascribed thereto in Section 2.12(c);

"**Regulatory Authority**" means any government, regulatory or administrative authority, agency, commission, utility or board (federal, state, provincial, municipal or local, domestic or foreign) having jurisdiction in the relevant circumstances and any person acting under the authority of any of the foregoing and any judicial, administrative or arbitral court, authority, tribunal or commission having jurisdiction in the relevant circumstances;

"**Regulatory Reports**" has the meaning ascribed thereto in Section 3.31;

"**Release Schedule**" means the release Locked-Up Securities from the restrictions set forth in Section 7.05(1) on the basis of one-third (1/3) of the Seller's total number of Locked-Up Securities every twelve (12) months, commencing on the twelve (12) month anniversary of the Closing Date and ending, on the thirty-six month (36) month anniversary of the Closing Date;

"**Representatives**" means, with respect to a person, such person's owners, directors, officers, employees, accountants, auditors, legal counsel, advisors, consultants, representatives and agents;

"**Required Consents**" means Consents listed in Section 3.10 of the Disclosure Schedules, with the exception of any such Consents in respect of the Non-Transferrable Assets listed on Schedule 2.11;

**"Restricted Business**" shall mean the Business and the business of the Parent, the Buyer and each of their respective Affiliates and subsidiaries as currently conducted and as may develop and exist from time to time;

"**Restricted Period**" means the date that is two (2) years from the Closing Date;

"**S44 Material Adverse Effect**" means any fact, development, change, effect, event or condition that has or could reasonably be expected to have, individually or in the aggregate, a materially adverse effect on (i) the business, operations, results of operations (financial or otherwise), financial condition, prospects or assets of the Seller, taken as a whole, or (ii) the ability of the Selling Principals to consummate the transactions hereunder, except that none of the following, either alone or in combination, shall be considered in determining whether there has been a "**S44 Material Adverse Effect**" for the purposes of clause (i) or (ii): (a) any adverse effect on the Seller resulting directly from the public announcement of the execution of this Agreement and the transactions contemplated hereby or any facts or circumstances primarily related to Parent and/or Buyer; (b) changes, effects, events or conditions in worldwide or national financial markets or general economic or political conditions; (c) any change generally affecting the industry in which the Seller operates; and (d) an outbreak of war (whether or not declared), armed hostilities, acts of terrorism or other national calamity, crisis or emergency; provided, that the exceptions set forth in clauses (a), (b), (c) and (d) shall only apply to the extent that such change, effect, event or condition does not have or cause a disproportionate effect on the Seller, taken as a whole, compared to other companies operating in the same industry as the Seller;

"**Securities Authorities**" means collectively, the Ontario Securities Commission and the other applicable securities regulatory authorities in the provinces and territories of Canada;

"**Security Documents**" means the guaranty agreement and the security agreement, substantially in the form appended to the Convertible Debenture whereby Buyer provides a guaranty of Parent's obligations under the Convertible Debenture, secured by a grant of a security interest in the assets of the Buyer;

"**Seller Indebtedness**" means: (i) all indebtedness of Seller for borrowed money (excluding accounts payable, but including long-term debt and any current portion of long-term debt), including any interest accrued thereon and any fees, charges or penalties payable by Seller in connection with the pre-payment or re-payment of such indebtedness, (ii) all obligations for the deferred purchase price of property or services (including any potential future earn-out, purchase price adjustment, releases of "holdbacks" or similar payments), (iii) all obligations evidenced by notes, bonds, debentures or other similar instruments (whether or not convertible) or arising under indentures, (iv) all obligations arising out of any financial hedging, swap or similar arrangements, (v) all obligations in connection with any letter of credit, banker's acceptance, guarantee, surety, performance or appeal bond, or similar credit transaction, and (vi) the aggregate amount of all prepayment premiums, penalties, breakage costs, "make whole amounts," costs, expenses and other payment obligations that would arise (whether or not then due and payable) if all such items under clauses (i), (iii), (iv) and (v) were prepaid, extinguished, unwound and settled in full as of such specified date.

"**Seller Name**" has the meaning ascribed thereto in Section 7.09(1);

"**Seller Personnel**" has the meaning ascribed thereto in Section 3.26(1);

"**Seller Contribution**" has the meaning ascribed thereto in recital G;

"**Seller's Excluded Representations**" has the meaning ascribed thereto in Section 8.01(1);

"**Seller's Tax Contest**" has the meaning ascribed thereto in Section 7.03(11);

"**Seller Privacy Policy**" has the meaning ascribed thereto in Section 3.15(1);

"**Selling Principals**" has the meaning ascribed thereto on the first page hereof;

"**Selling Principals Indemnified Person**" means (i) the Selling Principals, and (ii) their respective Affiliates, Representatives, partners, members, trustees, beneficiaries, heirs, successors and assigns;

"**Shift44**" means Shift44, LLC, a Delaware limited liability company, and an Affiliate of the Seller;

"**Software**" means software, including all versions thereof, and all related documentation, manuals, source code and object code, program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, interfaces, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, and all other material related to such software;

"**Straddle Period**" means any taxable period, in respect of the Seller and Shift44, that includes (but does not end on) the Closing Date;

"**Support Agreement**" means the support agreement entered into among Parent and Buyer dated the date hereof setting forth, among other things, the rights applicable to the Class B Shares;

"**Tax**" (and, with correlative meaning, "**Taxes**") means (i) all federal, provincial, state, local, foreign or other taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever that are similar in nature to taxes imposed by any Tax Authority, together with all interest, penalties, fines, additions to tax or other additional amounts imposed in respect thereof, imposed by any Tax Authority, including, but not limited to, those levied on, or measured by, or referred to as income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, ad valorem, use, value-added, excise, stamp, withholding, business, franchising, property (both real and personal), payroll, employee withholding, employment, occupation, health, social service, environmental, education and social security taxes, all surtaxes, all customs duties and import and export taxes, all license, franchise and registration fees and taxes, all unemployment or employment insurance, workers' compensation, health insurance, government pension plan premiums and other obligations of the same or of a similar nature of any of the foregoing, which the Seller or Shift44 is required to pay, withhold or collect, (ii) any liability for the payment of any amounts of the type described in clause (i) as a result of being a member of an affiliated, consolidated, combined or unitary group for any taxable period, and (iii) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of being a transferee of or successor to any person or as a result of any express or implied obligation to indemnify any other person;

"**Tax Authority**" means any Governmental Entity responsible for the imposition or administration of any Tax;

"**Tax Claim**" has the meaning ascribed thereto in Section 7.03(11);

"**Tax Consideration**" has the meaning ascribed thereto in Section 7.03(7);

"**Tax Returns**" means all returns, declarations, reports, claims for refund, forms, designations, estimates and information statements required to be filed in respect of any Taxes, including all schedules and attachments thereto, and including all amendments thereof;

"**Third Party Programs**" has the meaning ascribed thereto in Section 3.13(6);

"**Time of Closing**" means 5:00 p.m. (Toronto Time) on the Closing Date or such other time on the Closing Date as the Closing may occur;

"**Transaction Expenses**" means, to the extent not paid prior to the Closing, the fees, costs, expenses, charges and other payments incurred, committed to or otherwise payable by the Seller, any employee of Seller or the Selling Principals in connection with this Agreement (and the related letter of intent) and the transactions contemplated by this Agreement, including, without limitation (i) any fees and expenses of legal counsel, financial advisors, current and previous investment bankers and accountants.

"**Transfer**" has the meaning ascribed thereto in Section 7.05(1);

**"Transferred Employees**" has the meaning ascribed thereto in Section 7.10(1), and "**Transferred Employee**" means any one of them;

"**Transition Services**" has the meaning ascribed thereto in Section 7.11;

"**Treasury Regulation**" means any final, proposed or temporary regulations promulgated under the Code;

**"TSX-V**" means the TSX Venture Exchange;

**"Underlying Shares**" means the Parent Common Shares into which the Debenture Amount can be converted and for which the Consideration Shares can be exchanged, in each case pursuant to the terms of the Convertible Debenture and the terms of the Class B Shares, respectively;

**"U.S. Accredited Investor**" means an "accredited investor" as that term is defined in Rule 501(a) of Regulation D;

"**U.S. Accredited Investor Certificate**" means the certificate in the form attached hereto as Exhibit B;

"**U.S. Exchange Act**" means the United States *Securities Exchange Act of 1934,* as amended;

"**U.S. Securities Act**" means the United States *Securities Act of 1933*, as amended;

"**WARN Act**" means the Worker's Adjustment and Retraining Notification Act, 29 U.S.C. § 2101, *et seq*., and any similar state law; and

**1.02 Gender and Number.**

Any reference in this Agreement to gender shall include all genders, and words importing the singular number only shall include the plural and *vice versa*.

**1.03 Headings, Etc.**

The provision of a table of contents, the division of this Agreement into Articles, Sections, Subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in the construction or interpretation of this Agreement.

**1.04 Currency.**

All references in this Agreement or any Ancillary Document to dollars, unless otherwise specifically indicated, are expressed in United States dollars.

**1.05 Severability.**

Any Article, Section, Subsection or other subdivision of this Agreement or any Ancillary Document or any other provision of this Agreement or any Ancillary Document which is, or becomes, illegal, invalid or unenforceable shall be severed from this Agreement and any Ancillary Document and be ineffective to the extent of such illegality, invalidity or unenforceability and shall not affect or impair the remaining provisions hereof or thereof.

**1.06 Amendments.**

This Agreement and any Ancillary Document may only be amended, modified or supplemented by a written agreement signed by all of the Parties to such agreement.

**1.07 Waiver.**

Any of the terms or conditions of this Agreement may be waived in writing at any time by the Party that is entitled to the benefits thereof. No waiver of any of the provisions of this Agreement or any Ancillary Document shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the Party to be bound thereby.

**1.08 Governing Law and Venue.**

This Agreement and all Ancillary Documents shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein which apply to contracts made and to be performed entirely in Ontario without giving effect to the principles of conflicts of law thereof. Each of the Parties hereto irrevocably (i) submits to the exclusive jurisdiction of any Ontario Provincial court sitting in the City of Toronto or any federal court sitting in the City of Toronto, (ii) waives any objection that it may have at any time to the laying of venue of any action or proceeding brought in any such court and of venue of any arbitration proceeding brought in Toronto, Ontario, (iii) waives any claim that such action, proceeding or arbitration has been brought in an inconvenient forum, and (iv) agrees that service

of process or of any other papers on such Party by registered or certified mail, return receipt requested, at the address to which notices are required to be sent to such Party under Section 9.06 shall be deemed good, proper and effective service on such Party.

**1.09 Inclusion.**

Where the word "including" or "includes" is used in this Agreement it means "including (or includes) without limitation". Words of inclusion shall not be construed as terms of limitation herein, so that references to "included" matters shall be regarded as nonexclusive, noncharacterizing illustrations.

## ARTICLE II
## PURCHASE TRANSACTION AND CONSIDERATION

**2.01 Purchase and Sale of Acquired Assets**.

(1) Purchase and Sale. Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Buyer shall purchase, acquire and accept from the Seller, and the Seller shall sell, convey, transfer, assign and deliver to Buyer, all of Seller's right, title and interest in, to and under, as of the Closing Date, the Acquired Assets, free and clear of all Encumbrances.

(2) Acquired Assets Defined. For all purposes of and under this Agreement, the term "**Acquired Assets**" shall mean, refer to and include all tangible and intangible assets, properties and rights (but specifically excluding the Excluded Assets) of the Seller, including but not limited to:

(a) all tangible and personal property, including office equipment, servers, computer equipment and other hardware of the Seller and related books and records of the Business;

(b) all Intellectual Property Rights, including in respect of the Owned Intellectual Property and the Licensed Intellectual Property ("**Acquired Intellectual Property**");

(c) the Books and Records, provided, however, that the Seller may retain copies of Books and Records necessary or useful to the Seller in filing any future Tax Returns or in fulfilling its obligations under this Agreement or any Excluded Assets, Excluded Liabilities Liability, or any other legitimate business purpose;

(d) all advertising, marketing and promotional materials and instructional, training and technical literature and documentation;

(e) all customer, supplier and service provider lists, all other contact information, mailing lists and similar files;

(f) all Contracts listed on Schedule 2.01(2)(f), the Lease and all other vendor, supplier or partner Contracts to which Seller is a party that relate to the operation of the Business, other than the Excluded Contracts (collectively, the "**Assumed Contracts**");

(g) all cash and cash equivalents;

(h) all accounts receivable ("**Acquired Accounts Receivable**"), which the Seller shall otherwise cause to be transferred to such accounts for transfer to Buyer in accordance with Section 2.13, as well as any and all work in progress relating to any accounts or matters of the Business;

(i) all credits, prepaid expenses, deferred charges, advance payments and deposits;

(j) all other assets included in the Closing Date Working Capital Amount calculated in accordance with Section 2.08;

(k) all causes of action, claims (including insurance benefits to the extent such benefits relate to an Acquired Asset or an Assumed Liability ("**Assigned Insurance Claims**"), demands, deposits, prepaid expenses, warranties, guarantees, refunds, rights of recovery, rights or set off and other rights and privileges against third parties whether liquidated or unliquidated, fixed or contingent, choate or inchoate that relate to events or breaches which relate to the Acquired Assets, the Assumed Liabilities or the ownership, use, function or value of any Acquired Asset, whether arising by way of counterclaim or otherwise;

(l) any Licenses and Permits (including applications therefor) (the "**Acquired Licenses**");

(m) all guaranties, warranties, indemnities and similar rights in favor of Seller to the extent related to any Acquired Asset or the Business; and

(n) all goodwill as a going concern and all other intangible property of the Business.

**2.02 Excluded Assets**.

Notwithstanding the foregoing, nothing herein shall be deemed to sell, transfer, assign or convey any of the Excluded Assets to Buyer, and the Seller shall retain all right, title and interest to, in and under the Excluded Assets. The "**Excluded Assets**" shall mean each of the following assets:

(1) the Corporate Records of the Seller;

(2) all rights that accrue to Seller under this Agreement or the Ancillary Agreements;

(3) all claims, rights or causes of action of Seller to the extent related to any of the Excluded Liabilities;

(4) all bank accounts of the Seller;

(5) the Benefit Plans, other than the Benefit Plans listed on Schedule 2.02(5);

(6) all insurance policies of the Seller; and

(7) all agreements relating to the Excluded Assets and the Excluded Liabilities, including any loan or ancillary agreements relating to Seller Indebtedness, and the Contracts listed on Schedule 2.02(7) (the "**Excluded Contracts**").

**2.03 Assumption of Assumed Liabilities**.

Upon the terms and subject to the conditions set forth in this Agreement, at the Closing, Buyer shall assume, and Seller shall delegate to Buyer all Liabilities of the Seller, other than the Excluded Liabilities (collectively, the "**Assumed Liabilities**").

**2.05 Excluded Liabilities**.

Notwithstanding the foregoing, Buyer shall not assume and shall not be liable for (and nothing in this Agreement shall be construed as causing or requiring Buyer to assume or be liable for), and the Seller and the Selling Principals shall retain and remain solely liable for and obligated to discharge, all of the Liabilities of Seller of any kind or nature whatsoever, whether absolute or contingent, liquidated or unliquidated, secured or unsecured, and whether or not accrued, matured, known or suspected or unknown, related to or arising from :

(1) any Seller Indebtedness;

(2) any Pre-Closing Taxes, except to the extent such Taxes are reflected as liabilities in the calculation of the Closing Date Working Capital Amount; and

(3) any Liabilities relating to the Excluded Assets.

**2.06 Consideration**.

Upon the terms and subject to the conditions set forth in this Agreement, as consideration for the sale, conveyance, transfer, assignment and delivery of the Acquired Assets pursuant to Section 2.01(1), the Buyer shall pay or issue, as the case may be, to the Seller in accordance with Section 2.07: (i) the Cash Consideration, (ii) the Debenture Amount, payable pursuant to the terms of the Convertible Debenture; and (iii) the Consideration Shares (collectively, the "**Consideration**").

**2.07 Payment of Consideration**.

(1) At the Closing, Buyer will:

(a) pay to Seller the Initial Cash Consideration;

(b) cause Parent to issue and deliver to the Seller the Convertible Debenture; and

(c) issue and deliver to Seller the Consideration Shares.

(2) Subject to (i) reductions required in connection with the payment of a Net Working Capital Adjustment pursuant to Section 2.09(1); and (ii) reductions required in connection with the satisfaction of Damages pursuant to Section 8.04(2)(c), on the first anniversary of the Closing Date, the Buyer shall pay to Seller, or at the direction of Seller to the Selling Principals, the Holdback.

**2.08 Working Capital Adjustment.**

(1) **Adjustment Notice.** Within ninety (90) days following the Closing Date, the Buyer shall prepare and deliver a balance sheet of the Seller, as of the Closing and a statement to the Selling Principals (the "**Adjustment Notice**") setting out the Closing Date Working Capital Amount, together with a reasonably detailed computation thereof, such calculations prepared in accordance and consistent with the example calculation set forth in Schedule B attached hereto, and the amount by which, if any, the Closing Date Working Capital Amount is less than or greater than the Estimated Closing Date Working Capital Amount (the "**Net Working Capital Adjustment**").

(2) **Acceptance or Dispute Notice.** Within thirty (30) days after delivery of the Adjustment Notice, the Selling Principals shall, to the extent there is a Net Working Capital Adjustment, either (i) agree in writing with the Net Working Capital Adjustment set forth in the Adjustment Notice, in which case the Net Working Capital Adjustment set forth in the Adjustment Notice shall be binding on the Parties, or (ii) dispute the Net Working Capital Adjustment set forth in the Adjustment Notice by delivering to the Buyer a written notice (a "**Dispute Notice**") setting forth in reasonable detail the basis for each such disputed item.

(3) **Deemed Acceptance.** If the Selling Principals fail to take either of the actions set forth in Section 2.08(2) above within thirty (30) days after delivery of the Adjustment Notice, then the Seller shall be deemed to have irrevocably accepted the Net Working Capital Adjustment set forth in the Adjustment Notice, in which case the Net Working Capital Adjustment set forth in the Adjustment Notice shall be binding on the Parties.

(4) **Agreement or Submission to Neutral Firm.** If the Selling Principles timely deliver a Dispute Notice to the Buyer, then the Buyer and the Selling Principles shall attempt in good faith, for up to a period of twenty (20) days, to agree on the amount of the Net Working Capital Adjustment, if any. Any resolution by the Buyer and the Selling Principles during such twenty (20) day period as to any disputed items shall be final and binding on the Parties. If the Buyer and the Selling Principles do not resolve all disputed items within twenty (20) days after the date of delivery of the Dispute Notice, then the Buyer and the Selling Principles shall

submit the remaining items in dispute to the Neutral Firm. The Buyer and the Selling Principles shall furnish to each other and to the Neutral Firm such work papers and other documents and information relating to the disputed items as the Neutral Firm may request and are available to that Party (or its independent accountants) and shall be afforded the opportunity to present to the Neutral Firm any material related to the disputed items and to discuss the items with the Neutral Firm. The Buyer and the Selling Principles shall instruct the Neutral Firm to render its determination with respect to the items in dispute in a written report that specifies the conclusions of the Neutral Firm as to each item in dispute and the resulting calculation of the Net Working Capital Adjustment, if any. The Buyer and the Selling Principles shall each use reasonable commercial efforts to cause the Neutral Firm to render its determination within thirty (30) days after referral of the items to such Neutral Firm or as soon thereafter as reasonably practicable. The Neutral Firm's determination of the Net Working Capital Adjustment, if any, as set forth in its report shall be final and binding on the Parties. The fees and expenses of the Neutral Firm shall be shared by the Buyer, on the one hand, and the Selling Principals, on the other hand, in inverse proportion to the relative amounts of the disputed amount determined to be for the account of the Buyer, on the one hand, and the Selling Principals, on the other hand, respectively.

**2.09 Working Capital Adjustment Distribution.**

(1) If the Closing Working Capital Amount is less than the Estimated Closing Date Working Capital Amount, then the Holdback payable to the Seller in accordance with 2.07(2) shall be reduced on a dollar-for-dollar basis by an amount equal to the Net Working Capital Adjustment. If the Net Working Capital Adjustment is greater than the Holdback, then the Debenture Amount shall be adjusted downwards on a dollar-for-dollar basis by such excess, and, lastly, the Buyer shall be entitled to recover, and the Selling Principals and Seller shall pay to the Buyer, any remaining unsatisfied portion of the Net Working Capital Adjustment in cash.

(2) If the Closing Working Capital Amount is more than the Estimated Closing Date Working Capital Amount, the Buyer will pay the Seller the Net Working Capital Adjustment up to $4,500,000 in cash on or before the date that is six (6) months following Closing. If the Net Working Capital Adjustment is greater than $4,500,000, the Buyer will either, in its sole and absolute discretion, cause the Debenture Amount to be adjusted upwards on a dollar-for-dollar basis in the amount of such excess above $4,500,000 (subject to TSX-V acceptance) or pay such excess to the Seller in cash. For greater certainty, if Seller so directs, amounts payable pursuant to this Section 2.09(2) may be paid by Buyer to the Selling Principals in accordance with such direction.

(3) In the case of any adjustment pursuant to this Section 2.09, the Consideration shall be, and be deemed to be, adjusted downwards or upwards *nunc pro tunc* by the amount of the Net Working Capital Adjustment, as applicable.

**2.10 Required Withholding.**

Buyer and/or Parent shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable pursuant to this Agreement to Seller such amounts as may be required to be deducted or withheld therefrom under the Code or under any state, local or foreign tax law. To the extent such amounts are deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the person to whom such amounts would otherwise have been paid.

**2.11 Procedures for Assets Not Transferable.**

Notwithstanding anything to the contrary in this Agreement, if the sale, assignment, sublease, transfer, conveyance or delivery or attempted sale, sublease, assignment, transfer, conveyance or delivery to Buyer of any asset that would be an Acquired Asset or any claim or right or any benefit arising thereunder or resulting therefrom is prohibited by any applicable law or would require any Governmental Entity or third party Consents, and such Consents shall not have been obtained prior to the Closing ("**Non-Transferable Asset**"), then the Closing shall proceed if the Non-Transferable Asset is listed on Schedule 2.11, provided that nothing in this Agreement shall constitute or be construed as an assignment or transfer of, or an attempt or agreement to assign or transfer such Non-Transferable Asset to the Buyer. In order, however, to seek to provide the Buyer with the full realization and value of any Non-Transferable Assets described in the preceding sentence, (a) as soon as practicable after the Closing and until the 12 month anniversary of the Closing, the Selling Principals, the Seller and the Buyer shall cooperate and use commercially reasonable efforts to obtain any remaining Consents necessary to the assignment of any such Non-Transferable Asset; provided, however, that neither Party shall be required to make any payments (other than filing, recordation or similar fees which shall be shared equally as between Selling Principals and Buyer) or agree to any material undertakings in connection therewith. Pending such Consent, until the 12 month anniversary of the Closing, the Parties shall cooperate with each other in any mutually agreeable, reasonable and lawful arrangements designed to provide to Buyer the benefits of use of such Non-Transferable Asset and to Seller the benefits, including any indemnities, that they would have obtained had the Non-Transferable Asset been conveyed to Buyer at the Closing. Once Consent for the sale, assignment, sublease, transfer, conveyance or delivery of any such asset not sold, assigned, subleased, transferred, conveyed or delivered at the Closing is obtained, Seller shall, assign, transfer, convey and deliver such Non-Transferable Asset to Buyer at no additional cost; provided that to the maximum extent, such Non-Transferable Asset will be deemed to be automatically assigned to Buyer hereunder upon the receipt of the applicable Consent without any further action by the Parties. To the extent that any such Non-Transferable Asset cannot be transferred or the full benefits of use of any such Non-Transferable Asset cannot be provided to Buyer following the Closing pursuant to this Section 2.11, then, until the 12 month anniversary of the Closing, Buyer, Selling Principals and Seller shall enter into such arrangements (including subleasing, sublicensing or subcontracting) to provide to the Parties hereto the economic (taking into account Tax costs and benefits) and operational equivalent, to the extent permitted, of obtaining such Consent and the performance by Buyer of the obligations thereunder. Until the 12 month anniversary of the Closing, Seller shall hold in trust for and pay to Buyer promptly upon receipt thereof, all income, proceeds and other monies received by Seller in connection with its use of any Non-Transferable Asset (net of any Taxes and any other costs imposed upon Seller) in connection with the arrangements under this Section 2.11. In connection

with this Section 2.11, until the 12 month anniversary of the Closing, if reasonably requested by the Buyer, with respect to any Assumed Contracts that constitute Non-Transferable Assets, (i) the Selling Principals and the Seller shall use commercially reasonable efforts to seek to enforce for the benefit of the Buyer all reasonable claims or rights of the Seller arising thereunder, and (ii) the Buyer shall perform and comply with, at the Buyer's sole cost, all of the Seller's obligations under any such Assumed Contracts held in trust for the benefit of Buyer as contemplated by this Section 2.11, as if the Buyer was the Seller thereunder. Subject to the limitations set forth in Section 8.04, the Buyer shall indemnify and hold harmless the Selling Principals and the Seller for any and all Liabilities arising in connection with any action by a third party arising from, in connection with, or otherwise with respect to actions taken or not taken by the Selling Principals or the Seller at the Buyer's request pursuant to this Section 2.11, and the Buyer shall reimburse the Selling Principals and the Seller for all reasonable and documented out of pocket expenses incurred by the them arising from, in connection with or otherwise with respect to actions taken by the Selling Principals and the Seller at the Buyer's request pursuant to this Section 2.11. For greater certainty, the Excluded Assets shall not constitute Non-Transferable Assets.

**2.12 Omitted Assets.**

In the event that, following the Closing and until the 12 month anniversary of the Closing, Buyer, Seller or Selling Principals become aware of any assets of the Seller related to the Business that, pursuant to the terms of this Agreement should have been, but were not, included in the Acquired Assets, then such Party shall provide the other Parties with written notice giving reasonable detail regarding such Omitted Assets and the Parties shall use commercially reasonable efforts to promptly transfer such Omitted Assets from Seller to Buyer (subject to Section 2.11) without any additional consideration therefor; provided that Buyer shall have the right, in its sole discretion, to elect to accept or reject the assignment and assumption of any Omitted Assets from Seller (and Seller shall provide Buyer with all information regarding such Omitted Assets necessary for Buyer to make such determination). To the extent that any Omitted Assets cannot be transferred to Buyer as contemplated by 2.11, then 2.11 shall apply to such Omitted Assets.

**2.13 Procedures for Allocation of Acquired Accounts Receivable, Assumed Liabilities and Excluded Liabilities.**

(a) From and after the Closing, the Seller shall, within five (5) Business Days (or such other period of time as agreed to by the chief financial officer of the Parent in writing (email to suffice)), remit to the Buyer any Acquired Accounts Receivable actually received by the Seller.

(b) For a period of six (6) months following the Closing Date (the "**Reconciliation Period**"), the Buyer and the Selling Principals shall each provide the other, by the fifteenth ($15^{th}$) day of each month, with a written schedule setting forth (i) all invoices received in the preceding month representing accounts payable or other current operating expenses comprised partially of Assumed Liabilities and partially of Excluded Liabilities; and (iii) a proposed allocation of such accounts payable or other current operating expenses to the Buyer and the Seller, prepared on an accrual accounting basis in accordance with GAAP and in accordance with this Agreement (the "**AP Allocation Schedule**"). Each Party shall provide the other with all

information reasonably requested by the other Party in order to confirm and verify the accuracy and completeness of the matters set forth on the AP Allocation Schedule.

(c) Within five (5) Business Days of the delivery of each Party's AP Allocation Schedule, the chief financial officers of the Parent and the Selling Principals (the "**Reconciliation Representatives**") shall meet by teleconference to discuss and reconcile the AP Allocation Schedule and agree upon the net cash payment required to be made by the Buyer or the Seller in respect of the previous month, based on expenses set forth on the AP Allocation Schedule (the "**Net Monthly Payment**").

(d) If the Parties are unable to reach an agreement on the amount of the Net Monthly Payment, then the Parties may submit the matter for resolution to the Neutral Firm. The Neutral Firm shall determine the final calculation of the Net Monthly Payment, provided the Neutral Firm shall only consider the disputed items based on the submissions of the Parties. The Neutral Firm renders its written decision regarding the calculation of the Net Monthly Payment, which shall be final and binding on the Parties. The Parties shall each bear 50% of the fees and expenses of the Neutral Firm.

(e) Payment of each Net Monthly Payment shall be made by wire transfer of immediately available funds to an account designated by the receiving Party within five (5) Business Days of resolution of the amount of each Net Monthly Payment in accordance with this Section 2.13.

(f) Notwithstanding anything to the contrary set out herein, following settlement of the initial Net Monthly Payment, the Reconciliation Representatives may agree to the early termination of the Reconciliation Period by agreement in writing (email to suffice).

(g) The Parties acknowledge and agree that the expiration or earlier termination of the Reconciliation Period shall not relieve either Party from their obligation to comply with the provisions set forth in this Agreement in respect of entitlement to or obligation to make payment of, as the case may be, Acquired Accounts Receivable, Excluded Liabilities and Assumed Liabilities.

**2.14 Fractional Shares.**

No certificates or scrip representing fractional Consideration Shares shall be issued to the Seller in accordance with Section 2.07(1)(c) and the Seller shall not be entitled to any voting rights, rights to receive any dividends or distributions or other rights as a shareholder of the Buyer with respect to any fractional Consideration Shares that would have otherwise been issued to Seller. In lieu of any fractional Consideration Shares that would have otherwise been issued, Seller that would have been entitled to receive a fractional Consideration Share shall receive such whole number of Consideration Shares as is equal to the precise number of Consideration Shares to which Seller would be entitled, rounded up or down to the nearest whole number (with a fractional interest equal to or greater than 0.5 rounded upward to the nearest whole number); provided that Seller

shall receive at least one Consideration Share.

## ARTICLE III
## REPRESENTATIONS AND WARRANTIES OF SELLER

The Seller makes the following representations and warranties to Buyer and Parent on a joint and several basis, as of the date of this Agreement and the Closing Date, and acknowledges that Buyer and Parent are relying on such express representations and warranties in entering into this Agreement and completing the transactions contemplated hereunder.

### 3.01 Capacity, Power and Authority.

Seller has the corporate capacity, power and authority to execute, deliver, and perform its obligations under this Agreement and the Ancillary Documents to be executed and delivered by it in connection with the transactions contemplated hereby and thereby. Seller has taken all necessary corporate action to authorize the execution and delivery of this Agreement and Ancillary Documents to be executed by it and the consummation of the transactions contemplated hereby and thereby. This Agreement has been and, in the case of the Ancillary Documents to be executed and delivered by the Seller, will be duly executed and delivered by the Seller. This Agreement is and, in the case of the Ancillary Documents to be executed and delivered by the Seller, shall be (assuming due authorization, execution and delivery by Buyer, Parent and the Selling Principals) the legal, valid, and binding obligations of the Seller enforceable against it in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction (regardless of whether enforcement is sought in a proceeding at law or in equity).

### 3.02 Organization of the Seller

The Seller is a limited liability company duly formed and validly existing under its jurisdiction of formation with the power and authority to conduct the Business, to own and lease its properties and assets, to enter into this Agreement (in the case it is a party to this Agreement) and the Ancillary Documents to which it is a party or is to become a party pursuant to the terms hereof and to perform its obligations hereunder and thereunder. Seller is duly qualified or licensed to do business in the State of New York, and the Seller is in good standing in the State of New York. New York is the only jurisdictions in which the failure to be qualified or licensed would have an S44 Material Adverse Effect.

### 3.03 No Conflict.

Neither the execution and delivery by the Seller of this Agreement and each of the Ancillary Documents to be executed and delivered by the Seller in connection with the transactions contemplated hereby or thereby, nor the consummation by the Seller of the transactions contemplated hereby or thereby:

(a) will result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both):

i. any applicable laws;

ii. the Organizational Documents or resolutions of the Seller;

iii. any Material Contract; and

iv. any written mortgage, note, indenture, Contract, agreement, instrument, lease or other document to which the Seller is a party or to which the Seller is bound; or

(b) will result in the creation or imposition of any Encumbrance (other than a Permitted Encumbrance) on any property or assets of the Seller.

**3.04 Solvency.**

Seller, is not insolvent as of the date hereof, nor has Seller committed an act of bankruptcy under applicable bankruptcy laws, proposed a compromise or arrangement to its creditors generally (other than in the Ordinary Course of Business), taken any proceeding with respect to a compromise or arrangement (other than in the Ordinary Course of Business), taken any proceeding to have it declared bankrupt under applicable bankruptcy laws, taken any proceeding to have a receiver appointed over any part of its assets, had any encumbrancer or receiver take possession of any of its property, had any execution or distress become enforceable or levied upon any of its property or had any petition for a receiving order in bankruptcy filed against it.

**3.05 Capitalization.**

(a) As of the date hereof, 100% of the membership interests of the Seller are issued and outstanding and all such interests are fully paid, validly issued and non-assessable.

(b) As of the date hereof, other than as contemplated in Section 3.05(a) above, there are no outstanding Equity Securities of the Seller.

(c) There are no bonds, debentures, notes or other indebtedness in the Seller.

**3.06 Subsidiaries and Investments.**

Seller has no subsidiary nor any written agreements to establish or acquire any subsidiary or to acquire or lease any other business operations and Seller has not made or agreed in writing to make any loan to or investment in any other person.

**3.07 Dividends and Distributions.**

Except as set forth on Section 3.07 of the Disclosure Schedules and except for such distributions and dividends as are reflected in the Financial Statements, since the Balance Sheet Date, the Seller

has not, directly or indirectly, declared, paid, agreed or otherwise become obligated to make any dividend or other similar distribution on any of its Equity Securities, redeemed, purchased or otherwise acquired any of its Equity Securities of any class or agreed to do any of the foregoing.

**3.08 Corporate Records.**

(1) All proceedings and actions reflected in the Corporate Records have been conducted or taken in compliance with the Organizational Documents of Seller and without limiting the generality of the foregoing, (i) all acts and proceedings of the members, directors and officers since the date of formation have been duly approved or ratified in compliance with applicable laws; (ii) the certificate books, register of holders and register of transfers are complete and accurate, and all such transfers have been duly completed and approved; and (iii) the registers of directors and officers are complete and accurate.

(2) The financial and other business records and accounts of the Seller have been maintained in accordance with applicable law and customary business practices and are consistent with the prior years and are stated in reasonable detail and accuracy and reflect (i) transactions which relate to the creation, acquisition, disposition or selling of its assets and liabilities other than transactions having a value of less than $25,000; and (ii) the basis for the Financial Statements.

**3.09 Government Consents, Approvals, Notices and Filings.**

No Consent, making filings with or taking of any action in respect of or by any Regulatory Authority or Governmental Entity is required to be obtained or given by the Seller with respect to the execution, delivery or performance by the Seller of this Agreement and the Ancillary Documents to be executed and delivered by the Seller in connection with the transactions contemplated hereby or thereby or the consummation of the transactions contemplated hereby or thereby.

**3.10 Third Party Consents, Approvals and Notices.**

Except as set forth in Section 3.10 of the Disclosure Schedules, no Consent of any person is required to be obtained or given by the Seller with respect to the execution, delivery or performance by the Seller of this Agreement and the Ancillary Documents to be executed and delivered by the Seller in connection with the transactions contemplated hereby or thereby or the consummation of the transactions contemplated hereby or thereby pursuant to any Material Contract or the failure of which to obtain or give would otherwise have an S44 Material Adverse Effect.

**3.11 Title to Tangible Property.**

The Seller holds good and marketable title to, and have legal and beneficial ownership of, or a valid leasehold in, all Acquired Assets, free and clear of all Claims and Encumbrances of any nature whatsoever except for the Permitted Encumbrances.

**3.12 Sufficiency of Assets.**

The Acquired Assets are in satisfactory condition and include all Material Assets. There are no facts or conditions affecting any Material Assets that would reasonably be expected, individually or in the aggregate, to materially interfere with the use, occupancy or operation of such assets for the purpose for which they are presently being used.

**3.13 Intellectual Property.**

(1) None of the Owned Intellectual Property has been registered nor have applications to register the same been filed in the appropriate offices. The Seller holds the entire right, title and interest in and to all of the Owned Intellectual Property, and has the exclusive and unfettered right to use the Owned Intellectual Property, except to the extent the Seller has licensed others to use the Owned Intellectual Property. The Owned Intellectual Property is valid and the rights of the Seller in the Owned Intellectual Property are enforceable.

(2) All of the Licensed Intellectual Property, other than Shrink Wrap Software, is set out in Section 3.13(2) of the Disclosure Schedules. The Seller has the right to use the Licensed Intellectual Property set out in Section 3.13(2) of the Disclosure Schedules in accordance with the terms of such licenses. Seller is not a party to any written contract or commitment to pay any royalty or other fee to use the Licensed Intellectual Property. No Consents are required in order for the Assumed Contracts relating to the Licensed Intellectual Property to be assigned to a third party.

(3) The Acquired Intellectual Property is all of the Intellectual Property Rights required by the Seller for the carrying on of the Business, as it is now conducted by, and in accordance with the current documented plans of the Seller. No Owned Intellectual Property or, to the knowledge of the Seller, Licensed Intellectual Property, is subject to any outstanding order, award, decision, injunction, judgment, decree, stipulation or agreement materially restricting the transfer, use, enforcement or licensing thereof by the Seller in the operation of the Business.

(4) Neither the use of the Owned Intellectual Property nor the conduct of the Business as currently conducted infringes, misappropriates or violates the Intellectual Property Rights of any other person, and no actions or proceedings have been instituted or are pending or, to the knowledge of the Seller, threatened in writing, against the Seller, alleging any such infringement, misappropriation or violation. To the knowledge of the Seller, no other person or the use of any Intellectual Property Rights owned by any other person has infringed, misappropriated or violated any of the Owned Intellectual Property or the right and interest of the Seller in the Licensed Intellectual Property. No actions or proceedings have been instituted or are pending against the Seller or, to the knowledge of the Seller, have been threatened in writing against the Seller, and no claim has been received by the Seller, alleging any such infringement, misappropriation or violation.

(5) All contributions originally developed by or for the Seller relating to the Owned Intellectual Property were authored by Seller Personnel (the "**Developers**") who have assigned all of their Intellectual Property Rights therein to the Seller pursuant to written agreements.

(6) Except for the third party software listed in Section 3.13(6) of the Disclosure Schedules ("**Third Party Programs**"), the Owned Software neither contains nor embodies nor uses nor requires any third party software which is material to the operation and use of the Owned Software, and, the Owned Software, together with the Third Party Programs, contains all material necessary as of the date hereof for the continued maintenance and development of the Owned Software. The terms, conditions and restrictions applicable to the procurement of Third Party Programs, if any, which are used, incorporated, bundled, aggregated or otherwise combined with the Seller's commercial products provide the Seller with the right to grant run-time licenses to all such customers sufficient for the intended and expected use of the Owned Software. The Seller does not distribute the Owned Software to its customers or potential customers.

(7) Neither the object code, nor source code for the Owned Software has been delivered or made available to any unauthorized person who is not an employee of the Seller or an independent contractor under a non-disclosure agreement and, the Seller has not agreed to or undertaken to or in any other way promised to provide such source code to any such person.

(8) There are no material problems or defects in the Owned Software including bugs, logic errors or failures of the Owned Software, that would cause the Owned Software to fail to operate in all material respects as described in the related documentation, and the Owned Software operates in all material respects in accordance with its documentation and specifications. The Owned Software does not contain any undocumented Disabling Code.

(9) Except as set forth in Section 3.13(9) of the Disclosure Schedules, no open source Software code, routines, libraries or other like publicly licensed components have been incorporated, bundled, aggregated or otherwise combined with the Owned Software.

**3.14 Internal IT Systems.**

(1) The Internal IT Systems are either owned by, or properly licensed or leased to, the Seller. The Seller is not in default under such licenses or leases and, to the knowledge of the Seller, there are no grounds on which they might be terminated for cause. There are no circumstances as of the date hereof in which the ownership, benefit, or right to use the Internal IT Systems may be lost by virtue of the acquisition of the Acquired Assets or the performance of this Agreement.

(2) The Internal IT Systems have not failed to any material extent and the data which they process has not been corrupted to any material extent. The Seller has taken

reasonable steps and implemented reasonable procedures, in accordance with customary industry practice, to ensure that its Internal IT Systems do not contain Disabling Code.

(3) The Seller has taken reasonable precautions consistent with customary industry practices to preserve the availability, security and integrity of the Internal IT Systems and the data and information stored on the Internal IT Systems.

(4) The Internal IT Systems do not contain third party Software or systems which are not available from third party suppliers on arm's-length commercial terms.

(5) The Internal IT Systems and all Personal Information are subjected to commercially appropriate security controls by the Seller, or by their respective agents and representatives, so as to restrict the use and disclosure thereof solely to authorized persons.

**3.15 Privacy.**

(1) The Seller has a written privacy policy that is maintained on websites owned, maintained or controlled by Seller, complies in all material respects with all Applicable Privacy Laws and which governs the collection, use and disclosure of Personal Information about identifiable individuals ("**Seller Privacy Policy**"). The Seller has complied in all material respects with such Seller Privacy Policy.

(2) All persons, whose Personal Information is collected on the websites owned, maintained or controlled by Seller or Shift44, or whose information is otherwise processed by Seller or Shift44, have, if applicable under Applicable Privacy Laws, been provided accurate and complete disclosures regarding the collection, use, disclosure, transfer (including trans-border data flows), sharing, retention, destruction, disposal or, or other processing of their Personal Information, including providing any type of notice, providing any type of opt out, and obtaining any type of consent required by Applicable Privacy Laws. Such disclosures have not contained any material omissions. Seller's and Shift44's collection and use of Personal Information, or any other data from third parties is in accordance with any requirements from such third parties, including written website terms and conditions. Customer information has been collected and stored in accordance with applicable law.

(3) Neither Seller nor any Seller Subsidiary have received any notice of claims, investigations, or alleged violations of Applicable Privacy Laws with respect to Personal Information, used by, or otherwise subject to the control of Seller or Shift44 from (a) any person or entity; (b) the United States Federal Trade Commission, any state attorney general or similar state official; (c) any other governmental entity, foreign or domestic; or (d) any regulatory or self-regulatory entity, and, to the knowledge of the Seller, there are no facts or circumstances that could form the basis for any such claim.

(4) The execution, delivery and performance of this Agreement, including the transfer of Personal Information, in connection with the transactions contemplated by this Agreement, complies with all Applicable Privacy Laws and the Seller Privacy Policy. Seller and Shift44 are not subject to any contractual requirements or other legal obligations that, following the Closing, would prohibit Buyer from receiving or using Personal Information in the manner in which Seller and Shift44 received and used such Personal Information prior to the Closing.

**3.16 Data Security.**

The Seller has taken reasonably necessary actions that are commercially prudent in conformance with reputable, customary industry practices (including, without limitation, implementing, maintaining, and monitoring compliance with government-issued or industry standard measures with respect to administrative, technical and physical security) to protect in all material respects the confidentiality, integrity and security of its software and systems (and all information and transactions stored or contained therein or transmitted thereby) against any unauthorized use, access, interruption, modification or corruption, including (i) the use of customary encryption technology, and (ii) the implementation of a security plan which implements and monitors customary safeguards to control those risks under the circumstances. There has been no unauthorized access, acquisition, use, disclosure or transmission of Personal Information or other misuse of any such Personal Information by Seller or Shift44, or, to the Knowledge of Seller, by any third party processing Personal Information on Seller's or Shift44's behalf.

**3.17 Warranties.**

All products and services delivered or licensed by the Seller pursuant to outbound licenses are delivered or licensed in material conformity with all applicable Contracts in effect as of the date hereof and all express and implied warranties contained therein, and no claim to the contrary has been asserted in writing.

**3.18 Leases.**

Except for the Lease, Seller is not a party to, or under any written agreement or option to become a party to, any lease with respect to real property, whether as landlord or tenant. The Lease is valid, binding, and enforceable in accordance with its terms and is in full force and effect. There are no existing defaults or uncured breaches by Seller of any provision thereunder, and no act, event, or omission has occurred that, whether with or without notice, lapse of time, or both, would constitute a default or breach of any provision thereunder. There are no amounts due and payable to the landlord or sublandlord under any Lease other than as included in the Balance Sheet.

**3.19 Contracts.**

(1) Seller, is not a party to or bound by any agreement presently in effect that involves:

(a) providing for payment to or by the Seller in excess of $25,000 and which has a term of more than one year, which, in each case, cannot be cancelled without penalty or without more than 60 days' notice;

(b) any material agreement or commitment relating to the borrowing of money in excess of $25,000 in the aggregate;

(c) any agreement or commitment relating to capital expenditures in excess of $25,000 individually, other than capital expenditures incurred in the Ordinary Course of Business;

(d) any loan or advance to, or investment in, any other person or any agreement or commitment relating to the making of any such loan, advance or investment in excess of $25,000 in the aggregate;

(e) any bonds, debentures, mortgages, notes or other similar indebtedness or liabilities whatsoever or any agreement to create or issue any bonds, debentures, mortgages, notes or other similar indebtedness;

(f) relating to the acquisition of assets (other than the acquisition of inventory in the Ordinary Course of Business) or any capital stock of any business enterprise (other than this Agreement and the Ancillary Documents);

(g) any guarantee made by the Seller or other contingent liability of the Seller in respect of any indebtedness or obligation of any other person (other than the endorsement of negotiable instruments for collection in the Ordinary Course of Business);

(h) except as listed on Schedule 3.19(1)(h) any non-competition, non-solicitation or similar agreement or commitment limiting the freedom of the Seller or that of any successor to the ownership of their assets or that limits the ability of the Seller to engage in any line of business or to compete with any other person, except for agreements entered into in the Ordinary Course of Business and which will not interfere with the Purchaser's ability to operate the Business in the Ordinary Course of Business following Closing;

(i) any licensing or other agreement or commitment relating to Intellectual Property Rights used in the conduct of the Business, except (a) assignments of Intellectual Property Rights by employees and contractors in the Ordinary Course of Business, and (b) non-exclusive licenses granted by the Seller to its customers used in the Ordinary Course of Business;

(j) with any employee, officer or director of the Seller, other than offer letters for at-will employment and standard invention assignment and nondisclosure agreements on forms previously provided to the Buyer and Parent;

(k) any agreement or commitment not entered into in the Ordinary Course of Business; and

(l) any material agreement or material arrangement with any person with whom the Seller, or either Selling Principal (or their directors, officers or employees, where applicable) do not deal at arm's length.

Except for the Excluded Contracts, the Assigned Contracts constitute all Contracts that are required for, related to, or are used in connection with the Business, the Acquired Assets or the Assumed Liabilities.

**3.20 Accounts Receivable.**

Section 3.20 of the Disclosure Schedules provides a comprehensive and age analyzed statement of all Accounts Receivable due or recorded in the Books and Records of account of the Seller as being due to the Seller as of the date hereof, subject to an allowance for doubtful accounts taken in accordance with GAAP and subject to month end adjustments for amounts due for the period of November 1, 2023 to November 20, 2023, provided that such adjustments are taken into account in the Closing Date Working Capital Amount. All Accounts Receivable have arisen from bona fide transactions in the Ordinary Course of Business and are fully collectible. All Accounts Receivable call for payment to be made within at least ninety (90) days to the Seller. To the knowledge of Seller, none of such Accounts Receivable are subject to any counter claim or set-off.

**3.21 Financial Matters.**

(a) **Financial Statements**. The Financial Statements fairly present the results of operation and the financial position of the Seller and Shift44 as of the respective dates thereof. The Financial Statements have been prepared in accordance with GAAP, consistently applied with the principles and procedures employed in prior periods by the Seller and Shift44. The Financial Statements properly reflect respects all properties, assets and liabilities of the Seller and Shift44 as of the dates of such Financial Statements.

(b) **Financial Statements and Expenditures**. The Financial Statements contain, as of the Balance Sheet Date, any (a) material capital expenditures made or authorized by the Seller, (b) except as listed on Section 3.07 of the Disclosure Schedules, direct or indirect declaration, payment or obligation of the Seller to make any dividend or other distribution on any its Equity Securities, and (c) redemption, purchase or other acquisition of any Equity Securities of the Seller of any class, or any agreement to do any of the foregoing.

(c) **Accounting Controls.** The Seller and Shift44 have devised and maintained systems of internal accounting controls with respect to the Business, sufficient to provide commercially reasonable assurance that (i) all transactions are executed in accordance with management's general or specific authorization and (ii) (x) all transactions are recorded as necessary to permit the preparation of annual financial statements in conformity with

GAAP, and (y) all transactions are recorded as necessary to permit the preparation of interim financial statements.

(d) **Undisclosed Liabilities**. Neither the Seller, nor Shift44, have any Liabilities greater than $25,000 individually or in the aggregate, secured or unsecured (whether absolute, accrued, contingent, or otherwise, whether due or to become due, and whether or not of a nature required by GAAP to be reflected in a balance sheet of the Seller) except such Liabilities that (i) have arisen or been incurred in the Ordinary Course of Business since the Balance Sheet Date; and (ii) are adequately reflected, disclosed, accounted for or received against in full in the Financial Statements.

**3.22 Conduct of the Business.**

(a) **Business in Compliance With Law**. The operations of the Seller and Shift44 have been since formation, and are now being conducted, in all material respects, with all applicable laws and Orders of each jurisdiction in which the Seller and Shift44 carry on business or have carried on business since their formation and neither the Seller, nor Shift44, has received any notice from any Governmental Entity of any alleged violation or breach of any such laws.

(b) **Improper Use of Funds**. Neither Seller or Shift44, nor to the knowledge of the Seller, any directors or officers, agents or employees of the Seller or Shift44, on behalf of the Seller or Shift44, has (a) used any funds of the Seller or Shift44 for unlawful payments, contributions, gifts, entertainment or other unlawful expenses for or to foreign or domestic government officials, employees or political figures or (b) been in material non-compliance with any applicable anti-bribery, anti-corruption, trade and economic sanctions, export control or similar laws that have the purpose or effect of preventing bribery, corruption, money laundering or terrorist financing.

(c) **No Removal or Disposal of Material Assets**. Except as contemplated by this Agreement, neither the Seller, nor Shift44, has disposed of any Material Assets out of the Ordinary Course of Business.

(d) **Changes to the Business.** Except as contemplated by this Agreement, since the Balance Sheet Date, the Seller and Shift44 have carried on the Business in the Ordinary Course of Business and there has been no S44 Material Adverse Effect and no event or circumstance has occurred that has had or could have, individually or in the aggregate, an S44 Material Adverse Effect. In particular and without limitation, neither Seller, nor Shift44, has, since the Balance Sheet Date:

i. settled any liability or legal proceeding pending against it or any of its assets;

ii. created or permitted to exist any Encumbrance on any of its assets or discharged or satisfied any Encumbrance, or paid any obligation or liability (fixed or contingent) other than liabilities included in the Financial Statements, Current Liabilities incurred since the Balance Sheet Date in the Ordinary Course of Business and scheduled payments under loan agreements and other Contracts;

iii. suffered any extraordinary loss;

iv. made any material change in the method of billing customers or the credit terms made available to customers;

v. made any material change with respect to any method of management operation in respect of the Business;

vi. waived, cancelled or written off, or agreed or become bound to waive, cancel or write off, any rights, claims or accounts receivable other than in the Ordinary Course of Business;

vii. increased the compensation paid or payable to the Seller Personnel (other than customary annual increases in accordance with past practice and employment or independent contractor agreements to be signed contemporaneously herewith) or changed the benefits to which such Seller Personnel are entitled under any benefit plan, created any new benefit plan or modified, amended or terminated any existing benefit plan for any such Seller Personnel, or terminated, any benefits to Seller Personnel;

viii. modified, amended or terminated any Material Contract or waived or released any right which it has or had, other than in the Ordinary Course of Business;

ix. declared or paid any dividend or declared or made any other distribution or return of capital in respect of any of its Equity Securities or purchased, redeemed or otherwise acquired any of its Equity Securities or agreed to do so, except as disclosed in the Financial Statements or as disclosed in Section 3.07 of the Disclosure Schedules;

x. entered into or become bound by any written or oral Contract or made or authorized any capital expenditure other than in the Ordinary Course of Business or involving or which may result in the payment of money by the Seller or Shift44 of an amount in excess of $25,000 with respect to any one transaction or an amount in excess of $50,000 with respect to all transactions;

xi. made any payment to any employee, officer or director of the Seller or Shift44 other than in connection with his or her employment with the Seller or Shift44, as the case may be; or

xii. authorized or agreed or otherwise become committed to do any of the foregoing.

**3.23 Suppliers and Customers**.

(1) Section 3.23 of the Disclosure Schedules lists the Seller's (i) twenty (20) largest suppliers (excluding Seller Personnel) representing 82.28% of their total expenditures in the twelve month period ending on the date hereof; and (ii) forty-four (44) largest customers representing 80.30% of their total revenue in the twelve month period ending on the date hereof (collectively, the "**Material Partners**"). No Material Partner has given written notice to the Seller terminating its relationship or the Material Contract with the Seller or has advised the Seller or any Selling Principal that it intends to do so.

(2) Except as listed on Section 3.10 of the Disclosure Schedules, there is no Consent of any Material Partner required to be obtained or given by the Seller with respect to the execution, delivery or performance by the Seller of this Agreement and the Ancillary Documents to be executed and delivered by the Seller in connection with the transactions contemplated hereby or thereby or the consummation of the transactions contemplated hereby or thereby.

**3.24 Legal Matters.**

(1) **Litigation.** There are no actions, suits, complaints, claims, subpoenas or proceedings, at law or in equity, by any person pending, or, to the knowledge of the Seller, threatened in writing, against the Seller, Shift44 or their directors, officers, or employees, involving, or relating to the Business. Neither the Seller, nor Shift44, are subject to any judgment, order or decree entered in respect of any Claim.

(2) **Compliance With Laws.** There is no outstanding or, to the knowledge of the Seller, threatened order, writ, injunction, or decree of any court, governmental agency, or arbitration tribunal against the Seller or Shift44 involving, or relating to the Business or the Material Assets. Neither the Seller, nor Shift44, is in violation of any applicable law affecting, involving, or relating to the Business or the Material Assets. None of the representations and warranties in this Section 3.24(2) shall be deemed to relate to tax matters (which are governed by Section 3.25), or employee matters (which are governed by Section 3.26).

(3) **Adequacy of Authorizations.** There are no Authorizations of Governmental Entities that are required for the ownership and use of the Material Assets and the conduct of the Business as currently conducted under the applicable laws of the jurisdictions in which the Business is currently conducted, other than Authorizations required to carry on business generally. The Seller and Shift44 are in compliance in all material respects with all terms and conditions of any such

required Authorizations. All of the Authorizations are in full force and effect, and, to the knowledge of the Seller, no suspension or cancellation of any of them is being threatened in writing. The Seller and Shift44 are in compliance in all material respects with all other applicable material limitations, restrictions, conditions, standards, prohibitions, requirements, obligations contained in those laws or contained in any law, regulation, code, plan, order, decree, judgment, issued, entered, promulgated, or approved thereunder relating to or affecting the Business.

**3.25 Tax Matters.**

(1) Each of the Seller and Shift44 have (i) filed, on or prior to the due date (after giving effect to any extensions), all Tax Returns required by applicable laws and all such Tax Returns are true, correct and complete, (ii) timely paid all Taxes due and owing by the Seller or Shift44 (whether or not shown on any Tax Return), and (iii) collected or withheld and timely remitted to the appropriate Tax Authority all Taxes required to be collected or withheld by them or otherwise in respect of the Business; and neither the Seller, nor Shift44, has received any written notice of any pending or threatened actions, audits, assessments, reassessments, suits, proceedings, investigations, or claims against the Seller or Shift44, as the case may be, in respect of Taxes.

(2) The Seller and Shift44 have withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, director, officer, agent, independent contractor, creditor, shareholder, or other third party and have complied with all information reporting and backup withholding provisions of applicable law. The Seller and Shift44 have been at all relevant times, in compliance with all applicable transfer pricing laws and regulations.

(3) No audit, proceeding, examination or other action by a Tax Authority is pending or, to the knowledge of Seller, threatened in writing, with respect to any Tax Returns filed by, or Taxes due from, the Seller or Shift44, except as listed on Section 3.25(3) of the Disclosure Schedules. No material deficiency or adjustment for any Taxes has been proposed, asserted, assessed or, to the knowledge of the Seller, threatened in writing, against the Seller or Shift44. No claim has ever been made by a Tax Authority in a jurisdiction where the Seller or Shift44 do not file Tax Returns that the Seller or Shift44 are or may be subject to taxation by that jurisdiction. There are no liens, charges or Encumbrances for Taxes upon the assets of the Seller or Shift44, except liens imposed by operation of law for current Taxes not yet delinquent.

(4) Neither the Seller, nor Shift44, have given any waiver of statutes of limitations or agreed to any extension of time relating to Taxes or any Tax assessment or deficiency or executed a power of attorney with respect to Tax matters that, in either case, will be outstanding as of the Closing Date.

(5) Neither the Seller, nor Shift44, own any "United States real property interests" (as defined in Section 897 of the Code).

(6) There is no Tax sharing, Tax indemnity, Tax allocation or similar agreements to which Seller or Shift44 is a party or bound by or pursuant to which the Seller or Shift44 has any Liability for Taxes. Neither the Seller, nor Shift44 is liable for the Taxes of any other person as a transferee or successor, or by contract.

(7) Neither the Seller, nor Shift44, is, or has been, a party to, or a promoter of, a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011–4(b), and neither the Seller, nor Shift44, is, or has been a party to a "listed transaction" within the meaning of Section 6707A of the Code.

(8) The Seller and Shift44 have disclosed on their federal income Tax Returns all positions taken therein that could give rise to substantial understatement of federal income Tax within the meaning of Section 6662 of the Code.

(9) Neither the Seller, nor Shift44, have made any payments, nor have they been a party to any agreement, arrangement or plan that could result in it making payments, that have resulted or would result, separately or in the aggregate, in the payment of any "excess parachute payment" within the meaning of Code Section 280G or in the imposition of an excise Tax under Code Section 4999 (or any corresponding provisions of state, local or foreign Tax Law) or that were not or would not be deductible under Code Sections 162 or 404.

(10) Neither the Seller, nor Shift44, is required to include an item of income, or exclude an item of deduction, for any period after the Closing Date as a result of (a) an installment sale transaction occurring on or before the Closing governed by Section 453 of the Code (or any similar provision of state, local or non-U.S. laws); (b) a transaction occurring on or before the Closing reported as an open transaction for federal income Tax purposes (or any similar doctrine under state, local or non-U.S. laws); (c) a change in method of accounting with respect to a Pre-Closing Tax Period or an adjustment pursuant to Section 481 of the Code (or any similar provision of state, local or non-U.S. laws); (d) an agreement entered into with any Tax Authority (including a "closing agreement" under Section 7121 of the Code) on or prior to the Closing Date; or (e) the use of the cash method of accounting.

(11) The Seller, nor Shift44, have been validly classified as a partnership for federal and state Tax purposes at all times since the date of their formation. The Seller and Shift44, have never made an election to be treated as an "association" taxable as a corporation or an "S corporation" for federal, state, local or foreign tax purposes.

**3.26 Employee Matters.**

(1) Section 3.26(1) of the Disclosure Schedules includes a list of all written or oral employment or independent contractor agreements or arrangement regarding all current employees and independent contractors of the Seller and Shift44 (the "**Seller Personnel**") and their respective salaries, wage rates, fees, bonuses and hire dates. The Seller and Shift44 are in compliance with all laws respecting

employment and employment practices, terms and conditions of employment, pay equity and wages and hours and is not engaged in any unfair labor practice.

(2) No unfair labor practice, complaint or grievance against the Seller or Shift44 is pending or, to the knowledge of the Seller, threatened in writing before any labor relations board or similar Governmental Entity with respect to the Business.

(3) There is no labor strike, dispute, slowdown or stoppage actually pending or involving or, to the knowledge of the Seller, threatened in writing against the Seller or Shift44 with respect to the Business.

(4) No pension plan is currently in effect or being negotiated by the Seller or Shift44 with respect to any employees of the Seller or Shift44.

(5) As of the date of this Agreement, no Seller Personnel has indicated in writing to the Seller or Shift44 that he or she intends to resign or retire as a result of the transactions contemplated by this Agreement, and neither the Seller, nor Shift44, currently have any intention to terminate the employment or services of any Seller Personnel, except in the Ordinary Course of Business or as expressly contemplated by this Agreement.

(6) No Seller Personnel has any agreement as to length of notice required to terminate his or her employment, other than such agreements as have been referred to in Section 3.26(1) of the Disclosure Schedules and except as results by applicable law from the employment of an employee without agreement as to such notice or as to length of employment.

(7) All accrued PTO, bonuses, commissions and other benefit payments due to current and former Seller Personnel are reflected and have been accrued in the Financial Statements as of the respective date thereof.

(8) The aggregate amount of salaries, pensions, bonuses, or other remuneration of any nature paid or payable by the Seller or Shift44 to or for their present or former officers, directors, members, or persons not dealing at arm's length with them during the period ended on the Balance Sheet Date are fully reflected in the Financial Statements and since that date, payments to such persons have been made at no greater rates.

(9) The only benefit plans existing in respect of the Seller Personnel are the Benefit Plans. Copies of all written Benefit Plans and related documentation have been made available or provided to Buyer and Parent and the Benefit Plans are listed in Section 3.26(9) the Disclosure Schedules. The Benefit Plans are duly registered and are in good standing where required by all applicable laws. All required employer and employee contributions and premiums under the Benefit Plans to the date hereof have been made or accrued, the respective fund or funds established under the Benefit Plans are funded in accordance with applicable laws, and no past service funding liabilities exist thereunder, except as disclosed in the Financial Statements.

(10) There are no charges, investigations, administrative proceedings, or formal complaints of discrimination (including discrimination based upon sex, age, marital status, race, national origin, sexual preference, handicap, or veteran status) pending or, to the knowledge of the Seller, threatened in writing before any Governmental Entity pertaining to the Seller or the Seller Personnel.

**3.27 Insurance Policies.**

Section 3.27 of the Disclosure Schedules contains a list of all insurance policies of the Seller and Shift44 in force as of the date hereof, naming the Seller or Shift44 as an insured or beneficiary or as a loss-payable payee or for which the Seller or Shift44 has paid or is obligated to pay all or part of the premiums. All such policies of insurance coverage are in full force and effect and copies of such policies have been made available or provided to Buyer and Parent. Neither the Seller, nor Shift44, is in default with respect to any of the provisions contained in any such insurance policy and has not failed to give any notice or present any Claim under any such insurance policy in due and timely fashion. Neither the Seller, nor Shift44, has received written notice of any pending or threatened termination or retroactive premium increase with respect thereto; and the Seller and Shift44 are in compliance with all conditions contained therein, the noncompliance with which could result in termination of insurance coverage or increased premiums for prior or future periods. There are no pending Claims against such insurance by the Seller or Shift44 as to which insurers have denied liability or are defending under any reservation of rights, and there exists no Claim under such insurance that has not been properly filed by the Seller or Shift44.

**3.28 Real Property.**

The Seller does not own or hold, directly or indirectly, any real property nor has Seller entered into any agreement to acquire any real property that is currently in effect.

**3.29 Permits**

The Acquired Licenses include all Licenses and Permits necessary for the lawful operation of the Business in the Ordinary Course of Business as currently conducted pursuant to all applicable laws of all Regulatory Authorities having jurisdiction over the Seller have been obtained and are valid and in full force and effect. All fees and charges with respect to Licenses and Permits issued to the Seller which are due and payable as of the date hereof have been paid in full. Section 3.29 of the Disclosure Schedules lists all, if any, current Licenses and Permits issued to the Seller, including the names thereof and their respective dates of issuance and expiration. No event has occurred that, with or without notice or lapse of time or both, would reasonably be expected to result in the revocation, suspension, lapse or limitation of any such Licenses and Permits set forth in Section 3.29 of the Disclosure Schedules.

**3.30 Bank Accounts and Powers of Attorney.**

Section 3.30 of the Disclosure Schedules contains a complete and accurate list showing (i) the name of each bank, trust company or other institution (including address and account number) in which the Seller or Shift44 has an account or safe deposit box and the names of all persons authorized to draw thereon or to have access thereto; and (ii) the names of any persons holding powers of attorney from the Seller or Shift44 and a summary statement of the terms thereof.

**3.31 Correspondence and Filings with Governmental Entities.**

The Acquirer Parties have been provided with correct and complete copies of all material correspondence with Governmental Entities regarding the Seller, Shift44, their assets or the Business in the last three years other than correspondence sent or received in the Ordinary Course of Business. The Seller and Shift44 have filed all forms, amendments to forms, reports, filings, statements and other documents required to be filed with any Governmental Entity (all such forms, reports, statements and other documents being collectively referred to as the "**Regulatory Reports**"), which are material to the conduct of the Business in the Ordinary Course of Business. The Regulatory Reports did not at the time they were filed (after giving effect to any amendments filed before the date hereof) contain any material misrepresentation.

**3.32 Advances from Seller.**

There are no amounts owing as loans or shareholder advances by the Seller to the Selling Principals or any other person.

**3.33 Broker's or Finder's Fees.**

No broker or finder is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by the Seller.

**3.34 Applicable Securities Laws.**

(1) Seller is knowledgeable of, or has been independently advised as to, Applicable Securities Laws, and represents and warrants that:

(a) it is a U.S. Accredited Investor and has executed and delivered a completed U.S. Accredited Investor Certificate to confirm its status as such;

(b) it is receiving the Consideration Securities pursuant to an exemption from prospectus and registration requirements under Applicable Securities Laws;

(c) it was not created, and is not being used, solely to purchase and hold securities in reliance on an exemption from prospectus requirements under Applicable Securities Laws;

(d) it is acquiring the Consideration Securities for its own account and not for the account or benefit of any other person, for investment purposes only, and not with a view to resell or otherwise distribute the Consideration Securities in violation of Applicable Securities Laws;

(e) it will comply with Applicable Securities Laws concerning the issuance, holding and resale of the Securities in connection with this Agreement, and will consult with its legal counsel with respect to complying with resale restrictions under Applicable Securities Laws with respect thereto;

(f) it will execute, deliver, file and otherwise reasonably assist the Parent in filing any reports, undertakings and other documents required under Applicable Securities Laws in connection with the issuance of the Consideration Securities in connection with this Agreement;

(g) it has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its investment in the Consideration Securities and is able to bear the economic risks of such investment; and

(h) its decision to accept the Consideration Securities in connection with this Agreement has not been based upon any verbal or written representations as to fact or otherwise made by or on behalf of the Acquirer Parties other than as herein provided for.

(2) Seller acknowledges to the Buyer and Parent (and acknowledges that the Buyer and Parent are relying upon the following acknowledgements in connection with this Agreement and the consummation of the transactions contemplated hereby):

(a) no prospectus, offering memorandum or similar document has been, or will be, filed with any securities Regulatory Authority in connection with the issuance of the Consideration Securities in connection with this Agreement, and no such Regulatory Authority has made any finding or determination as to the merit for investment in, or made any recommendation or endorsement with respect to, the Consideration Securities in connection with this Agreement, or the issuance thereof;

(b) any resale of the Consideration Securities will be subject to resale restrictions contained in the Applicable Securities Laws applicable to the Parent, the Seller or any proposed transferee. The Consideration Securities will bear the following legend imprinted thereon:

"**Unless permitted under securities legislation, the holder of this security must not trade the security before the date that is 4 months and a day after the issuance of this security**"

(c) the Securities will be "restricted securities" (as defined in Rule 144(a)(3) under the U.S. Securities Act), will be subject to resale restrictions under the U.S. Securities Act and under applicable state securities laws and in addition to the legend set forth in Section 3.34(2)(b) above, the certificates representing such Securities will include the following U.S. restrictive legend:

**"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED**

**STATES. THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE ISSUER THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT, (C) IN COMPLIANCE WITH THE EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER, IF AVAILABLE, AND IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE U.S. SECURITIES ACT OR ANY APPLICABLE STATE LAWS AND REGULATIONS GOVERNING THE OFFER AND SALE OF SECURITIES, AND IN THE CASE OF (C) OR (D) THE HOLDER HAS PRIOR TO SUCH SALE FURNISHED TO THE ISSUER AN OPINION OF COUNSEL OR OTHER EVIDENCE OF EXEMPTION IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE ISSUER TO SUCH EFFECT.**

**THE PRESENCE OF THIS LEGEND MAY IMPAIR THE ABILITY OF THE HOLDER HEREOF TO EFFECT "GOOD DELIVERY" OF THE SECURITIES REPRESENTED HEREBY ON A CANADIAN STOCK EXCHANGE."**

(d) the issuance of the Consideration Securities in connection with this Agreement is exempt from prospectus and registration requirements of Applicable Securities Laws and, as a result, (i) the Seller may not receive information that would otherwise be required under Applicable Securities Laws or be contained in a prospectus prepared in accordance with Applicable Securities Laws; (ii) Seller is restricted from using most of the protections, rights and remedies available under Applicable Securities Laws, including statutory rights of rescission or damages; and (iii) the Parent is relieved from certain obligations that would otherwise apply under Applicable Securities Laws;

(e) other than that which is available in the Parent Filings, it has not received, nor has it requested, nor does it have any need to receive, any prospectus, sales or advertising literature, offering memorandum or any other offering document describing or purporting to describe the business and affairs of the Buyer and Parent; and

(f) its decision to execute this Agreement and purchase the Consideration Securities has not been based upon any oral or written representation as to fact or otherwise made by or on behalf of the Buyer and Parent, other than as provided for herein.

**3.35 Accuracy of Information.**

No representation or warranty made by Seller in this Agreement and no statement contained in the Disclosure Schedules or any certificate or other document furnished or to be furnished to Buyer and the Parent by Seller pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

## ARTICLE IV
## REPRESENTATIONS AND WARRANTIES OF THE SELLING PRINCIPALS

Each Selling Principal, to the extent pertaining to that Selling Principal and its ownership of the Seller, makes the following representations and warranties to Buyer and Parent on a several basis, as of the date of this Agreement and the Closing Date, and acknowledges that Buyer and Parent are relying on such representations and warranties in entering into this Agreement and completing the transactions contemplated hereunder.

**4.01 Capacity, Power and Authority.**

Each Selling Principal has the capacity, power and authority to execute, deliver, and perform its obligations under this Agreement and the Ancillary Documents to be executed and delivered by such Selling Principal in connection with the transactions contemplated hereby and thereby. This Agreement has been and, in the case of the Ancillary Documents to be executed and delivered by such Selling Principal will be, as applicable, duly executed and delivered by such Selling Principal. This Agreement is and, in the case of the Ancillary Documents to be executed and delivered by such Selling Principal shall be (assuming due authorization, execution and delivery by Buyer, Parent, the Seller, and the other Selling Principal, as applicable), the legal, valid, and binding obligations of such Selling Principal, enforceable against such Selling Principal in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction (regardless of whether enforcement is sought in a proceeding at law or in equity). Each Selling Principal has executed and delivered this Agreement after having obtained such independent legal and other professional advice as such Selling Principal has deemed necessary or appropriate, on a fully informed basis, and without duress or coercion.

**4.02 No Conflict.**

Neither the execution and delivery by each Selling Principal of this Agreement and each of the Ancillary Documents to be executed and delivered by such Selling Principal in connection with the transactions contemplated hereby or thereby, nor the consummation by such Selling Principal of the transactions contemplated hereby or thereby,

(1) will result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both):

(a) any laws of the jurisdiction in which the Selling Principal resides applicable to such Selling Principal; or

(b) any written mortgage, note, indenture, Contract, agreement, instrument, lease or other document to which such Selling Principal is a party or to which such Selling Principal is bound; or

(2) will result in the creation of any Encumbrance (other than a Permitted Encumbrance) on the membership interests of the Seller owned by such Selling Principal.

**4.03 Restrictive Documents.**

The restrictions on transfer of assets in the Seller's Organizational Documents do not prohibit the valid transfer of the Acquired Assets to the Buyer pursuant to this Agreement. No Selling Principal is subject to, or a party to, any by-law or similar organizational document restriction, any law, any Claim, any stockholders' or members' agreement, voting trust, contract or instrument, any Encumbrance or any other restriction of any kind or character which would prevent the consummation of the transactions contemplated by this Agreement or which would restrict the ability of the Buyer to acquire any of the Acquired Assets.

**4.04 Options, etc.**

There are no outstanding options, warrants, calls, stock appreciation rights, profit participation, subscriptions, conversion privileges or other rights, agreements, arrangements, commitments (pre-emptive, anti-dilutive, contingent or otherwise), or voting agreements for the purchase, sale, transfer, issuance, repurchase or redemption of, or with respect to, any of the securities of the Seller given by either Selling Principal for any securities of the Seller held by either Selling Principal.

**4.05 Government Consents, Approvals, Notices and Filings.**

No Consent, making filings with or taking of any action in respect of or by any Regulatory Authority or Governmental Entity is required to be obtained or given by the Selling Principal with respect to the execution, delivery or performance by Selling Principal of this Agreement, the Ancillary Documents to be executed and delivered by it or the consummation of the transactions contemplated hereby or thereby.

**4.06 Third Party Consents, Approvals and Notices.**

No Consent of any person is required to be obtained or given by either Selling Principal with respect to the execution, delivery or performance by such Selling Principal of this Agreement, the Ancillary Documents to be executed and delivered by it or the consummation of the transactions contemplated hereby or thereby.

**4.07 Broker's or Finder's Fees.**

No broker or finder is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by the Selling Principals on behalf of the Seller.

**4.08 Solvency.**

No Selling Principal is insolvent, nor has any Selling Principal committed an act of bankruptcy, proposed a compromise or arrangement to its creditors generally, taken any proceeding with respect to a compromise or arrangement, taken any proceeding to have it declared bankrupt, taken any proceeding to have a receiver appointed over any part of its assets, had any encumbrancer or receiver take possession of any of its property, had any execution or distress become enforceable or levied upon any of its property or had any petition for a receiving order in bankruptcy filed against it.

**4.09 Litigation.**

There are no (i) actions, suits, complaints, claims, investigations, causes of action, subpoenas, proceedings or claims, at law or in equity, outstanding or, to the knowledge of the applicable Selling Principal, threatened in writing or pending against such Selling Principal, or (ii) Orders outstanding against such Selling Principal or any of its Affiliates which, in either case, prohibit, make illegal or seek to enjoin or restrain the transactions contemplated hereby.

## ARTICLE V
## REPRESENTATIONS AND WARRANTIES OF PARENT AND BUYER

Each of the Parent and the Buyer makes the following representations and warranties to the Seller and the Selling Principals, as of the date of this Agreement and the Closing Date,and acknowledges that the Seller and the Selling Principals are relying on such express representations and warranties in entering into this Agreement and completing the transactions contemplated hereunder.

**5.01 Capacity, Power and Authority.**

Each of the Parent and Buyer have the capacity, power and authority to execute, deliver, and perform its obligations under this Agreement and the Ancillary Documents to be executed and delivered by it in connection with the transactions contemplated hereby and thereby, and has taken all necessary corporate action to authorize the execution and delivery of this Agreement and the Ancillary Documents to be executed by it and the consummation of the transactions contemplated hereby and thereby. This Agreement is, has been and, in the case of the Ancillary Documents will be, as applicable, duly executed and delivered by the Parent and the Buyer. This Agreement is and, in the case of the Ancillary Documents to be executed by it, shall be (assuming due authorization, execution and delivery by the Seller, the Selling Principals and the other Acquirer Party), a legal, valid, and binding obligation of the Parent and the Buyer, as the case may be, enforceable against each of them in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction (regardless of whether enforcement is sought in a proceeding at law or in equity).

**5.02 Organization.**

Each of Parent and Buyer is a corporation duly incorporated and validly existing in good standing under its jurisdiction of incorporation with the corporate power and authority to conduct its business, to own and lease its properties and assets, to enter into this Agreement and the Ancillary

Documents to which it is a party or is to become a party pursuant to the terms hereof and to perform its obligations hereunder and thereunder.

**5.03 No Conflict.**

Neither the execution and delivery by Parent and Buyer of this Agreement and each of the Ancillary Documents to be executed and delivered by them in connection with the transactions contemplated hereby or thereby, nor the consummation by Parent and Buyer of the transactions contemplated hereby or thereby will result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both):

(1) any applicable laws;

(2) the Organizational Documents or resolutions of the Parent or Buyer; or

(3) any mortgage, note, indenture, Contract, agreement, instrument, lease or other document to which the Parent or Buyer is a party or to which the Parent or Buyer is bound, the breach or violation of which would have an Acquirer Parties Material Adverse Effect.

**5.04 Government Consents, Approvals, Notices and Filings.**

Subject to the approval of the TSX-V of the listing of the Underlying Shares, no Consent, making filings with or taking of any action in respect of or by any Regulatory Authority or Governmental Entity is required to be obtained or given by the Parent or Buyer with respect to the execution, delivery or performance by the Parent or Buyer of this Agreement, the Ancillary Documents to which each is a party or the consummation of the transactions contemplated hereby or thereby, except for such consents, approvals, notices or filings which, in the aggregate, would not have an Acquirer Parties Material Adverse Effect.

**5.05 Third Party Consents, Approvals and Notices.**

Except for the Parent Senior Lender's Consent, no Consent of any person is required to be obtained or given by the Parent or Buyer with respect to the execution, delivery or performance by the Parent or Buyer of this Agreement and the Ancillary Documents to be executed and delivered by the Parent or Buyer in connection with the transactions contemplated hereby or thereby, the failure of which to obtain or give would have an Acquirer Parties Material Adverse Effect.

**5.06 Authorized and Issued Capital**.

(1) The authorized capital of Parent consists of an unlimited number of Parent Common Shares. As of the date hereof, there are: (i) 282,124,828 Parent Common Shares issued and outstanding; and (ii) an aggregate of not more than 52,727,704 Parent Common Shares reserved for issuance pursuant to outstanding options, warrants, convertible securities and other rights to acquire Parent Common Shares, including, for greater certainty, the Underlying Shares issuable pursuant to the Convertible Debenture.

(2) The authorized capital of Buyer consists of 210 Class A Shares and 4,790 Class B Shares. As of the date hereof, there are 210 Class A Shares issued and outstanding, of which Parent is the sole registered and beneficial owner.

(3) Other than as set forth in Sections 5.06(1) and 5.06(2) there are no outstanding Equity Securities of Parent or the Buyer, respectively.

(4) All outstanding Parent Common Shares and Class A Shares have been authorized and are validly issued and outstanding as fully paid and non-assessable shares, free of pre-emptive rights.

**5.07 Securities.**

(1) Provided the representations and warranties in Section 3.34 are accurate, (i) when issued by the Buyer, the Consideration Shares, and (ii) when issued by Parent, the Underlying Shares, will be validly issued as fully paid and non-assessable shares in the capital of the Buyer and the Parent, as the case may be, free and clear of any Encumbrances other than any hold periods pursuant to Applicable Securities Laws or other restrictions contemplated in this Agreement and all necessary corporate action has been or will be taken, as the case may be, by Buyer and Parent to validly issue and deliver the Consideration Shares and the Underlying Shares as provided herein.

(2) Parent is a "**reporting issuer**" under Applicable Securities Laws in all provinces and territories of Canada, is not on the list of reporting issuers in default under the Applicable Securities Laws of such provinces and territories and is in compliance, in all material respects, with such Applicable Securities Laws.

(3) The Parent Common Shares are listed and posted for trading on the TSX-V and the OTC and are not listed for trading on any other stock exchange.

(4) No action has been taken by or against, or is threatened against, Parent to cease to be a reporting issuer in any province or territory nor has Parent received notification from any Securities Authority seeking to revoke the reporting issuer status of the Parent.

(5) Other than the trading halt of the Parent Common Shares on the TSX-V on August 17, 2021 in connection with the execution of the Federated Letter of Intent, no order, ruling or determination having the effect of ceasing or suspending trading in any securities of the Parent has been issued and no proceedings for such purpose are pending or threatened, and neither Parent or its Representatives has taken any action which would be reasonably expected to result in the delisting or suspension of the Parent Common Shares on or from the TSX-V.

**5.08 Disclosure Record.**

As of the date hereof, the Parent has made all filings required to be made under Applicable Securities Laws and the rules and policies of the TSX-V. As of the date hereof, the Parent is in

compliance in all material respects with its continuous disclosure obligations under Applicable Securities Laws and the rules and policies of the TSX-V, there are no filings that have been made on a confidential basis and all such filings comply in all material respects with the requirements of Applicable Securities Laws. None of the Parent Filings contained, as of its respective date, any untrue statement of a material fact, or omitted to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they were made, not misleading.

**5.09 Broker's or Finder's Fees.**

No broker or finder is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by the Parent or Buyer or any of its Representatives or Affiliates on behalf of the Parent or Buyer.

## ARTICLE VI
## CLOSING DOCUMENTS.

**6.01 Deliveries by the Seller and the Selling Principals to Parent and Buyer.**

The Seller and each Selling Principal, as applicable, shall deliver (or cause to be delivered) to Parent and Buyer at the Time of Closing, the following, in form and substance satisfactory to Parent and Buyer, acting reasonably:

(1) Duly executed bills of sale, if any, and all other instruments of sale, assignment and transfer as are reasonably necessary or appropriate to sell, assign and transfer to the Buyer (and to vest in the Buyer) good and marketable title to tangible and personal property included in the Acquired Assets, in recordable form, where appropriate.

(2) Assignments, and, if applicable, as required by any Governmental Authority with which Seller's rights to any Acquired Intellectual Property have been filed, assigning to Buyer the Acquired Intellectual Property.

(3) Assignment and assumption agreements assigning to Buyer all rights of Seller and in and to all of the Assumed Contracts, exclusive of any Excluded Liabilities.

(4) Executed counterparts of the Ancillary Agreements to which the Seller or Selling Principals are a party executed by such Person.

(5) A certificate of status, compliance, good standing or like certificate with respect to Seller issued by appropriate government officials of the jurisdiction of its formation.

(6) A duly executed certification that Seller is not a foreign Person within the meaning set forth in Treasury Regulation Section 1.1445-2(b)(2)(iii)(A).

(7) A certificate of the Secretary or an authorized officer of Seller attesting: (a) that a true and correct copy of the Certificate of Formation and Operating Agreement of

the Seller are attached in the form in effect immediately prior to the Time of Closing; (b) that a copy of the resolutions of the Members of Seller authorizing the execution and delivery of this Agreement and the Ancillary Agreements to which Seller is a party and the performance by Seller of its obligations hereunder and thereunder are attached and were duly adopted by such Members; (c) that a true and correct copy of the member interest register of Seller is attached; and (d) as to the incumbency of the officer or officers executing this Agreement and the Ancillary Documents.

(8) The Books and Records relating to the Business.

(9) Postponement and subordination agreement duly executed by the Selling Principals and the Seller in respect of the Convertible Debenture in a form required by the Parent Senior Lender.

(10) Evidence that all Required Consents have been obtained.

(11) Evidence of the discharge and release of all Encumbrances on the Acquired Assets, excluding the Permitted Encumbrances;

(12) An employment agreement entered into by the Buyer with each Transferred Employee in a form mutually agreeable to the Buyer and such Transferred Employee (each, a "**New Employment Agreement**"), duly executed by each Transferred Employee.

(13) A U.S. Accredited Investor Certificate completed and executed by each Selling Principal and Seller.

(14) All necessary assurances, transfers, assignments and Consents and any other documents or instruments reasonably necessary or reasonably required by Parent and Buyer to effectively carry out the intent of this Agreement, any Ancillary Document and the transactions contemplated hereunder.

**6.02 Deliveries by Parent and Buyer to Seller and Selling Principals.**

Parent and Buyer, as applicable, shall deliver to the Seller and the Selling Principals the following at the Time of Closing, in form and substance satisfactory to the Selling Principals and Seller, acting reasonably:

(1) A certificate of the Secretary or an authorized officer of the Parent attesting: (a) that a true and correct copy of the Certificate of Incorporation and Bylaws of the Parent are attached in the form in effect immediately prior to the Time of Closing; (b) that a copy of the resolutions of the board of directors of the Parent authorizing the execution and delivery of this Agreement and the Ancillary Agreements to which Parent is a party and the performance by Parent of its obligations hereunder and thereunder are attached and were duly adopted by such board of directors; and (c) as to the incumbency of the officer or officers executing this Agreement and the Ancillary Documents on behalf of the Parent.

(2) A certificate of Parent's transfer agent and registrar certifying the number of Parent Common Shares issued and outstanding as of the close of business on the date immediately preceding the Closing Date.

(3) A certificate of the Secretary of Buyer attesting: (a) that a true and correct copy of the Certificate of Incorporation and By-laws of Buyer are attached in the form in effect immediately prior to the Time of Closing; (b) that a copy of the resolutions of the board of directors of Buyer authorizing the execution and delivery of this Agreement and the Ancillary Agreements to which Buyer is a party and the performance by Buyer of its obligations hereunder and thereunder are attached and were duly adopted by such board of directors; and (c) as to the incumbency of the officer or officers executing this Agreement and the Ancillary Documents on behalf of Buyer.

(4) A certificate of status, compliance, good standing or like certificate with respect to the Parent and the Buyer issued by appropriate government officials of the jurisdiction of their respective incorporation.

(5) Evidence the Underlying Shares have been approved for listing on the TSX-V, subject only to the completion of the transactions contemplated herein, and the completion, satisfaction or waiver of all conditions precedent to such listing, except for the documents that are required to be delivered to the TSX-V following completion of the transactions contemplated hereunder.

(6) The Security Documents duly executed and delivered by Buyer in favor of the Seller and Selling Principals;

(7) The Initial Cash Consideration by way of wire transfer in accordance with Section 2.07(1)(a).

(8) Certificates representing the Consideration Shares in accordance with Section 2.07(1)(c), bearing appropriate legends required under Applicable Securities Laws.

(9) A certificate representing the Convertible Debenture in accordance with Section 2.07(1)(b), duly executed by the Parent and bearing appropriate legends required under Applicable Securities Laws.

(10) A New Employment Agreement for each Transferred Employee, duly executed and delivered by the Buyer.

(11) The Support Agreement duly executed and delivered by Parent and Buyer.

# ARTICLE VII
# CLOSING AND POST-CLOSING COVENANTS

## 7.01 Time and Place of Closing

The Closing shall take place remotely via the electronic exchange of execution versions of the agreements and documents contemplated hereby and the signature pages thereto via facsimile or via email by .pdf at the Time of Closing on the Closing Date or such other place or time as may be agreed by the Acquirer Parties and Seller's Representative.

## 7.02 Further Assurances.

At and after the Closing, without further consideration, Parent, Buyer, the Seller and the Selling Principals shall take, and shall cause their respective Affiliates and Representatives to take, all such other action and shall procure or execute, acknowledge, and deliver all such further certificates, conveyance instruments, Consents, and other documents as the other Party or its counsel may reasonably request to ensure more effectively the compliance of such Party with its agreements, covenants, warranties, and representations under this Agreement and the Ancillary Documents.

## 7.03 Tax Matters.

(1) The Parties intend that (i) each Contribution will be part of a series of transactions constituting a single integrated transaction qualifying as a tax-deferred transaction under Section 351 of the Code; (ii) the acquisition of the Purchased Assets by Buyer in exchange for the Convertible Debenture will, for tax purposes, be treated as a taxable sale pursuant to Code Section 1001; and (iii) the (x) amount of the Contributed Assets contributed and exchanged for the Consideration Shares, and (y) the amount of the Purchased Assets acquired for the Debenture Amount, will be determined on a *pro rata* basis according to the value of each portion of the Consideration described in this Agreement. To the extent applicable, the sale of the Purchased Assets shall be treated as an installment sale under Section 453 of the Code. To the extent that the Seller Contribution and the acquisition of the Purchased Assets are treated as a single integrated transaction occurring simultaneously then all such transactions shall be treated together as an exchange described in Code Section 351 with "boot."

(2) Each Party hereto agrees not to take any position on any Tax Return or otherwise take any Tax reporting position inconsistent with the intended Tax treatment set forth in this Section 7.03(1) (the "**Intended Tax Treatment**"), unless otherwise required by a "determination" within the meaning of Section 1313 of the Code that such treatment is not correct. Each Party agrees to act in a manner that is consistent with the Intended Tax Treatment. Notwithstanding the foregoing, the Parties do not make any representation, warranty or covenant to any other Party or their equity holders (and, including without limitation, holders of any options, warrants, debt instruments or other similar rights or instruments) regarding the U.S. tax treatment

of the Contributions, the acquisition of the Purchased Assets or any other transaction contemplated by this Agreement.

(3) In addition to the indemnification provisions of Section 8.02, the Seller and the Selling Principals shall be jointly and severally liable for, and shall indemnify and hold each Acquirer Parties Indemnified Persons harmless from, (a) all Taxes of the Selling Principals, (b) all Taxes imposed on or incurred by the Selling Principals and the Seller with respect to any Pre-Closing Tax Period, and (c) all Taxes of any person imposed on the Buyer as a transferee or successor, by contract or otherwise, which Taxes relate to an event or transaction occurring before the Closing.

(4) All transfer (including real estate transfer), documentary, sales, use, stamp, registration and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement or the transactions contemplated hereby will be paid by the Selling Principals (on behalf of the Selling Principals or the Seller, as applicable), when due, and the Selling Principals, notwithstanding any other provision of this Section 7.03 will, at the expense of the Selling Principals, file all necessary Tax Returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other Taxes and fees, and, if required by applicable law, the Buyer and Parent will join in the execution of any such Tax Returns and other documentation.

(5) The Seller shall comply with any "bulk sales" laws under relevant sales and use Tax laws applicable to the sale of the Acquired Assets by the Seller to the Buyer. The Buyer shall cooperate with the Seller in the preparation and filing of any forms or schedules necessary to comply with such Tax laws.

(6) The Buyer and the Seller agree that they will prepare and file, or cause to be prepared or filed, all of the Tax Returns and related documents, and take all relevant actions, relating to payroll withholding and reporting with respect to the Transferred Employees, in accordance with the so-called "Standard Procedure" set forth in Revenue Procedure 2004-53, 2004-2 C.B. 320 (August 18, 2004).

(7) For federal income tax purposes, the consideration paid in connection with the Buyer's purchase of the Acquired Assets shall be the sum of (a) the Consideration and (b) the Assumed Liabilities (the "**Tax Consideration**"). Within sixty (60) days following the final determination of the Net Working Capital Adjustment, the Buyer shall provide the Selling Principals with an allocation of the Tax Consideration among the Acquired Assets in accordance with Section 1060 of the Code and the Treasury Regulations promulgated thereunder (and any similar provisions of state, local or foreign Law, as appropriate). The Tax Consideration shall be allocated among the assets using the methodology as set forth on Schedule C attached hereto (the "**Final Tax Consideration Allocation**"). The Final Tax Consideration Allocation shall be used by the Selling Principals, the Seller, and the Acquirer Parties as the basis for reporting asset values and other items for purposes of all Tax Returns. The allocations set forth in the Final Tax Consideration Allocation shall also be used by the Selling Principals and the Acquirer Parties in

preparing Internal Revenue Service Form 8594, Asset Acquisition Statement, and other required Tax forms. The Final Tax Consideration Allocation shall be final, conclusive and binding on the Selling Principals, the Seller and the Acquirer Parties for purposes of this Agreement, and each shall (a) be bound by the Final Tax Consideration Allocation (for all Tax purposes), (b) prepare and file all Tax Returns in a manner consistent with the Final Tax Consideration Allocation, and (c) take no position inconsistent with the Final Tax Consideration Allocation in any Tax Return, in each case except as otherwise required pursuant to a final determination (as defined in Section 1313(a) of the Code) or corresponding provisions of law by a Tax Authority. In the event that the Final Tax Consideration Allocation is disputed by any Tax Authority, the party receiving notice of such dispute shall promptly notify and consult with the other parties bound by the Final Tax Consideration Allocation hereunder and keep the other parties bound by the Final Tax Consideration Allocation hereunder apprised of material developments concerning resolution of such dispute.

(8) The Selling Principals shall undertake to prepare, at the sole expense of the Selling Principals, all Tax Returns (including Form 8594) required to be made by the Seller or Shift44 for the Pre-Closing Tax Period to the extent such Tax Returns include or relate to Seller's or Shift44's operation of the Business or use or ownership of the Acquired Assets with respect to the Pre-Closing Tax Period. Such Tax Returns shall be prepared in accordance with the Seller's and Shift44's past practices. The Tax Returns shall be submitted to the Parent at least forty-five (45) days prior to the final date upon which they are legally required to be filed, and all other returns shall be so submitted at least fifteen (15) days prior to the final date upon which they are legally required to be filed. The Parent shall have the right to review and approve such filings, which approval shall not be unreasonably withheld. The Parent must communicate in writing to the Selling Principals its approval of the Tax Returns, or any objections thereto (in which case, such writing shall specify with particularity any such item and stating the basis for any such objection), within thirty (30) days following receipt in case of income Tax Returns and five (5) days in the case of all other Tax Returns. Upon such approval, the Selling Principals shall file the Tax Returns within the time period prescribed by applicable Tax laws and any other applicable legislation. If such approval is not received by the Selling Principals within the time or times specified above, the Selling Principals shall be entitled to file such Tax Returns without Parent's approval.

(9) The Acquirer Parties shall use their reasonable commercial efforts to provide the Selling Principals such assistance as they may reasonably request in connection with matters relating to Taxes, including information with respect to the Selling Principals preparation of any returns of Taxes, any audit or other examination by any Tax Authority, any judicial or administrative proceeding relating to the Selling Principals' liability for Taxes, or any Claims arising hereunder after the Closing Date. The Acquirer Parties shall retain and provide the Selling Principals and their Representatives with reasonable access during normal business hours to records or information pertaining to periods prior to the Closing Date which may be relevant to any such return, audit, examination, proceeding, or determination, and

notwithstanding this Section 7.03 the Acquirer Parties shall retain all such Books and Records for so long as necessary in keeping with applicable statutes of limitations.

(10) The Buyer, at its sole cost and expense, will prepare or cause to be prepared and file or cause to be filed all Tax Returns (including Form 8594) required to be made by the Buyer with respect to Buyer's ownership or use of the Acquired Assets or its operation of the Business after the Closing Date ("**Buyer Returns**"). The Buyer will provide Selling Principals with a copy of any Buyer Return that is reasonably expected to result in a material indemnification obligation pursuant to this Agreement at least thirty (30) days before the due date for filing (as may be extended) for the Selling Principals review and comment or as soon as reasonably practicable in the case of any Expedited Return and (a) Selling Principals will provide any written comments to the Buyer not later than twenty (20) days after receiving any such Buyer Return (or as soon as reasonably practicable in the case of any Expedited Return), (b) if Selling Principals do not provide any written comments within twenty (20) days, the Selling Principals will be deemed to have accepted such Buyer Return, and (c) the Buyer will not unreasonably refuse to incorporate any comments timely received from the Selling Principals before finalizing any such Buyer Return.

(11) In the case of any Straddle Period, the amount of any Taxes based on or measured by income, receipts, or payroll of the Seller or Shift44 for the Pre-Closing Tax Period shall be determined based on an interim closing of the books as of the close of business on the Closing Date and the amount of other Taxes of the Seller or Shift44 for a Straddle Period that relates to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date and the denominator of which is the number of days in such Straddle Period.

(12) If any Tax Authority issues to the Buyer or any of its Affiliates a written notice of its intent to audit, examine or conduct any other action with respect to Taxes that are Pre-Closing Taxes (a "**Tax Claim**"), the Buyer will within ten (10) Business Days following its receipt thereof from the applicable Tax Authority give notice to the Selling Principals of such Tax Claim. No failure or delay of the Buyer in the performance of the foregoing shall reduce or otherwise affect the obligations or liabilities of the Seller and Selling Principals pursuant to this Agreement, except to the extent the Seller or the Selling Principals are materially and adversely prejudiced by such failure or delay. The Selling Principals will control, at the Seller's sole expense, any Tax Claim with respect to any Pre-Closing Tax Period (a "**Seller's Tax Contest**"); provided, that the Buyer shall have the right, at its own expense, to participate in any such Seller's Tax Contest. The Selling Principals (and the Seller) will not settle, resolve or abandon any Seller's Tax Contest without the prior written consent of the Buyer, which consent will not be unreasonably withheld, conditioned or delayed.

**7.04 Non-Competition, Non-Solicitation and Confidentiality**

(1) The Seller and Selling Principals hereby covenant and agree, that they will not, during the Restricted Period, directly or indirectly:

(a) in any capacity whatsoever, whether as a principal, agent, owner, partner, consultant, shareholder or otherwise, own, operate, or be engaged in the operation of, or have any financial or other interest or otherwise be commercially involved in, any business operation, whether a proprietorship, partnership, joint venture or a private or public corporation, or otherwise carry on or engage in any business which is similar to or competitive in any way with the Restricted Business; provided, however, that ownership of less than 2% of the outstanding stock of any class of any publicly traded corporation shall not be deemed to be in violation of the foregoing solely by reason thereof;

(b) call upon, canvass, take away or solicit, or attempt to call upon, canvass, take away or solicit, any customer with whom the Parent Group has an agreement or contract or with whom the Parent Group is in negotiations, to withdraw, curtail or cancel business with the Parent Group, however nothing contained herein will prohibit a Selling Principal or the Seller from engaging with any customer of the Parent Group that is not competitive with the Restricted Business;

(c) advise or attempt to advise any of the customers, contacts or suppliers of the Acquirer Parties or their Affiliates to withdraw, curtail or cancel business with the Parent Group;

(d) initiate contact with any present employee, independent contractor, officer, director, agent, or executive of the Parent Group for the purpose of offering him or her employment, either directly or indirectly, with any person other than a member of the Parent Group, provided that nothing in this paragraph shall preclude a Selling Principal or the Seller from soliciting, hiring or considering and accepting an application from any individual who responds to a general solicitation of employment through an advertisement not specifically targeted at the Parent Group or their respective employees; or

(e) take any act that could reasonably be expected to be detrimental to the Parent Group, or that would interfere with or cause the relations between the Parent Group and any of their respective clients, customers, suppliers, contractors, advisors, consultants, employees or others to be impaired, nor will it disparage the Parent Group or the Restricted Business.

(2) Each Selling Principal and the Seller acknowledges that in the course of having been an owner of the Seller or of the Acquired Assets, as the case may be, and further as a securityholder of Buyer or Parent, as the case may be, such Selling Principal and Seller may have acquired, or may in the future acquire, knowledge

and/or information relating to the Restricted Business, financing and operations of the Parent Group, all of which is confidential to the Parent Group (collectively, the "**Parent Group Confidential Information**"), including, without limitation, customer lists, employee lists, partnership lists, supplier contracts, customer contracts, pricing policies, patents, trademarks and other intellectual property, marketing or product knowledge, software, source code, technical information, user manuals and any other information that concerns the Parent Group and that is not generally available to the public. Each Selling Principal and Seller acknowledges that the Parent Group owns all right, title and interest in and to the Parent Group Confidential Information, and the right to maintain exclusivity of such Parent Group Confidential Information constitutes a proprietary right that each is entitled to protect. Each Selling Principal and Seller hereby covenants and agrees to treat the Parent Group Confidential Information in the strictest confidence, and agrees not to, directly or indirectly, disclose or permit disclosure of same to any third party, and will not use the Parent Group Confidential Information other than as is required to perform duties of such Selling Principal or Seller, to the extent applicable, as a securityholder, director, officer, employee or consultant of the Parent Group. The obligations of each Selling Principal and Seller under this Section 7.04(2) with respect to Parent Group Confidential Information of or relating to the Parent Group will terminate three (3) years following the Restricted Period.

(3) Parent Group Confidential Information shall not include any such information which a Selling Principal or Seller can establish (i) was publicly known or made generally available prior to the time of disclosure by the Parent Group to such Selling Principal or Seller; (ii) becomes publicly known or made generally available after disclosure by the Parent Group to such Selling Principal or Seller through no wrongful action or omission by such Selling Principal or Seller; (iii) is in the rightful possession of such Selling Principal or Seller, without confidentiality obligations, at the time of disclosure by the Parent Group as shown by then-contemporaneous written records of such Selling Principal or Seller; or (iv) is independently developed by such Selling Principal or Seller without use of or reference to the Purchaser Group Confidential Information; provided that any combination of individual items of information shall not be deemed to be within any of the foregoing exceptions merely because one or more of the individual items are within such exception, unless the combination as a whole is within such exception.

(4) Each Selling Principal and Seller acknowledges that a breach or threatened breach of Section 7.04(1) would give rise to irreparable harm to the Parent Group, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by any of them of any such obligations, Acquirer Parties shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach or threatened breach, be entitled to seek equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond).

**7.05 Lock-Up and Transfer Restrictions**

(1) Seller and each Selling Principal covenants and agrees that it shall not, directly or indirectly, in any single transaction or series of related transactions, without the prior written consent of, or waiver by, the Parent, (i) offer to sell, sell, assign, pledge, hypothecate, gift or otherwise transfer or dispose of in any manner whatsoever (or enter into any Contract or other obligation regarding any future offer to sell, sale, assignment, pledge, hypothecation, gift or transfer or disposition in any manner whatsoever of) beneficial ownership of (each, a "**Transfer**"), any Locked-Up Securities, or (ii) enter into any derivative instrument, hedging arrangement or other similar agreement or arrangement that transfers in whole or in part, the economic risk of ownership of any Locked-Up Securities, in either case, for a period beginning on the date of the Closing Date and continuing until, and to the extent that, such Locked-Up Securities are released in accordance with the Release Schedule, provided that nothing herein shall preclude Seller or a Selling Principal from (i) exchanging any Consideration Shares for Underlying Shares in accordance with the terms of such Consideration Share and the Support Agreement; or (ii) converting all or any portion of the Debenture Amount into Underlying Shares in accordance with the terms of the Convertible Debenture.

(2) Seller and each Selling Principal covenants and agrees that (i) during the Restricted Period and (ii) for an additional twelve (12) months following the Restricted Period if Seller or such Selling Principal is a Major Shareholder, it will not Transfer in any calendar month an aggregate number of Parent Common Shares representing more than two percent (2%) of the then issued and outstanding Parent Common Shares (on a non-diluted basis) other than with the Parent's prior written consent (which shall not be unreasonably withheld).

(3) Seller and each Selling Principal covenants and agrees that (i) during the Restricted Period and (ii) for an additional twelve (12) months following the Restricted Period if Seller or such Selling Principal is a Major Shareholder, it will not Transfer any Parent Common Shares, including beneficial ownership of any Parent Common Shares, to any Competitor or any Activist Investor, provided that in no event shall the foregoing limitation apply to a Transfer of Parent Common Shares effected on any stock exchange on which the Parent Common Shares are listed if such Transfer is not specifically directed to be made to a particular counterparty and the Seller or Selling Principal, as applicable, does not believe, after reasonable enquiry, that the Transfer is or will be to any Competitor or Activist Investor.

(4) Seller and each Selling Principal covenants and agrees that (i) during the Restricted Period and (ii) for an additional twelve (12) months following the Restricted Period if Seller or such Selling Principal is a Major Shareholder, it shall not, directly or indirectly, and shall not authorize or permit any of its Affiliates, directly or indirectly, to, without the prior written consent of, or waiver by, the Parent:

(a) acquire, offer or seek to acquire, agree to acquire or make a proposal to acquire, by purchase or otherwise (including through the acquisition of

beneficial ownership), any securities (including any Equity Securities), or rights to acquire any securities (including any Equity Securities) of the Parent, or any subsidiary of the Parent, or any securities (including any Equity Securities) or indebtedness convertible into or exercisable or exchangeable for any such securities or indebtedness (other than with the Parent's prior written consent). For greater certainty, this Section 7.05(4)(a) shall not preclude the conversion of the Convertible Debenture into Parent Common Shares, or the exchange of the Consideration Shares into Parent Common Shares, nor shall it preclude the issuance of Equity Securities pursuant to any securities-based compensation plan of the Parent or the acquisition of Equity Securities in connection with the exercise or conversion thereof;

(b) acquire, offer or seek to acquire, agree to acquire or make a proposal to acquire any assets or business of the Parent or its Affiliates;

(c) conduct, propose or seek to effect any tender offer or take-over bid (as such term is used in Canadian securities laws) or exchange offer or other similar transaction involving Parent Common Shares or Equity Securities of the Parent, or any securities convertible into, or exercisable or exchangeable for, Equity Securities of the Parent, in each case that has not been approved and publicly recommended for acceptance by the majority of the shareholders of the Parent and/or by the board of directors of the Parent;

(d) otherwise act Jointly or In Concert with others to seek to control or influence the board of directors, management or shareholders of the Parent or its subsidiaries;

(e) make or join or become a participant in any "solicitation" of "proxies" (as such terms are defined in the *Business Corporations Act* (Ontario)) or consents to vote any Equity Securities of the Parent or any of the securities of any subsidiaries of the Parent (including through action by written consent);

(f) conduct, propose or seek to effect (whether publicly or otherwise) any merger, plan of arrangement, amalgamation, consolidation, business combination, take-over bid, insider bid, tender offer, exchange offer, recapitalization, reorganization, purchase or license of a material portion of the assets, properties, securities or indebtedness of the Parent or any subsidiary of the Parent, or other similar transaction involving the Parent, any subsidiary of the Parent or any of their respective securities or indebtedness, or enter into any discussions, negotiations, arrangements, understandings or agreements (whether written or oral) with any other person regarding any of the foregoing;

(g) call or seek to call a meeting of shareholders of the Parent or initiate any shareholder proposal for action of the Parent's shareholders, or seek

election or appointment to or to place a representative on the board of directors of Parent or seek the removal or suspension of any director from the board of directors of Parent;

(h) deposit any Parent Common Shares or Equity Securities of the Parent in a voting trust or similar Contract or subject any such securities to any voting agreement, pooling arrangement or similar arrangement or Contract, or grant any proxy with respect to any such securities (except for the restrictions contemplated herein);

(i) make any public proposal or publicly disclose any intention or plan, or cause or authorize any of its and their directors, officers, employees, agents, advisors and other Representatives to make any public proposal or publicly disclose any intention or plan on its or their behalf, inconsistent with the foregoing restrictions;

(j) advise, assist, knowingly encourage or act as a financing source for or otherwise join or invest in any third party with respect to any of the foregoing; or

(k) contest the validity of, or publicly seek an amendment, waiver, suspension or termination of, any provision of this Section 7.05(4) (including this subclause).

**7.06 Transfer Restriction Enforcement**

(1) Without prejudice to and in addition to any rights and remedies of the Buyer or Parent (including under this Agreement or otherwise), in the event the board of directors of Parent determines in good faith that Seller or any Selling Principal, as applicable, is in contravention of Section 7.05(3):

(a) the Parent shall not be required to register or otherwise recognize the Transfer of any Parent Common Shares involved in such transaction to the Competitor or Activist Investor; and

(b) the Seller or Selling Principal, as applicable, shall use their commercially reasonable efforts to cause the Parent Common Shares to be sold and no longer held by any Competitor or Activist Investor, provided that such commercial reasonably efforts shall not be deemed to require that the Seller or Selling Principal, as applicable, buy back the Parent Common Shares from the Competitor or Activist Investor for a purchase price that is greater than the purchase price for which the Seller or Selling Principal, as applicable, sold the Parent Common Shares.

**7.07 Public Filing Documents.**

The Selling Principals hereby covenant and agree to, for a period of least two (2) years following the Closing, upon reasonable request of Parent, use their best efforts to provide to Parent, at

Parent's sole cost and expense, as soon as reasonably practicable following such request, (i) information and documents related to the Seller and the Business reasonably required by Parent or its Affiliates to prepare and file any Public Filing Documents, including in respect of the preparation of any Filed Financial Statements; and (ii) their full cooperation and assistance as may be required by Parent in connection therewith.

**7.08 Books and Records.**

(1) In order to facilitate the resolution of any claims made against or incurred by the Seller or the Selling Principals prior to the Closing, or for any other reasonable purpose, for a period of five (5) years after the Closing, the Acquirer Parties shall, or shall cause their Representatives and subsidiaries to (i) retain the Books and Records of the Business (including personnel files) relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of the Seller; and (ii) upon reasonable advance notice, afford the Selling Principals or their Representatives with reasonable access (including the right to make, at the expense of the Selling Principals, photocopies), during normal business hours, to such Books and Records.

(2) No party shall be obligated to provide the other Party with access to any books or records (including personnel files) pursuant to this Section 7.08 where such access would violate any law.

**7.09 Seller Names**

(1) Effective immediately upon the Closing, (i) the Seller irrevocably sells, conveys, assigns and transfers to the Buyer and its successors and assigns forever, without any restrictions, limitations or reservations, any and all rights and goodwill in and to the name(s) "Shift44", "S44", and those names listed on Schedule 7.09, and the "Shift44", "S44", trademark(s) and those trademarks listed on Schedule 7.09, along with any other trademark owned or purported to be owned by the Seller or any other confusingly similar derivative or variation thereof ("**Seller Names**") (together, the "**Assigned Rights**"), and the Buyer accepts assignment of the Assigned Rights from the Seller, and (ii) subject to Section 7.09(2), the Seller shall cease using Seller Names as or as part of any trademark (including its corporate name) or in any other manner and shall make all filings necessary to effect such changes.

(2) Promptly after the Closing Date, Seller shall, (i) in no event later than March 31, 2024, cease use of the Seller Names or change its legal name to a legal name which does not include, has no references to, and is not a confusingly similar derivative or variation of the Seller Names, and make all other filings necessary to effect such name change, and (ii) as promptly as practical thereafter (but in no event more than fifteen (15) days thereafter), withdraw all fictitious name filings and/or "doing business as" filings that include or contain a reference to the Seller Names. In each case, the Seller shall provide a copy of the evidence of name change or withdrawal to the Buyer promptly upon the Seller's receipt of such evidence.

**7.10 Employee and Employee Benefit Matters**

(1) Effective as of the Time of Closing, the Buyer will offer employment to each employee set forth on Schedule 7.10(1) (collectively, the "**Transferred Employees**") (each employee who accepts such offer of employment and commences employment with the Buyer, a "**Hired Employee**") and the Selling Principals agree to use commercially reasonable efforts to cooperate with and assist the Buyer in facilitating the transfer of the Transferred Employees to the Buyer.

(2) Each Hired Employee, unless earlier terminated, will, for a period of three (3) months following the Closing Date, be provided with (i) a rate of base salary, wages, bonus opportunity and other cash compensation that is not less favorable in the aggregate than the rate of base salary, wages, bonus opportunity and other cash compensation paid by, or on behalf of, Seller or Shift44 to such Hired Employee immediately prior to Closing, and (ii) with other benefits that are either substantially similar in the aggregate to the benefits provided by, or on behalf of Seller or Shift44 to such Hired Employee immediately prior to Closing or substantially similar in the aggregate to the benefits provided by the Buyer to its employees generally (excluding the Hired Employees) who are similarly situated to such Hired Employee (with the comparison of benefits under this this Section 7.10(2) determined with reference to benefits other than stock option or other equity compensation programs).

(3) In the case of any Hired Employee who is offered employment by Buyer and who is on an approved leave of absence as of the Closing Date, the employment of such Hired Employee with the Buyer shall be effective upon the date of his or her return to active work.

(4) With respect to each benefit Plan, program, practice, policy or arrangement maintained by the Buyer following the Closing Date and in which any of the Hired Employees participates (the "**Buyer Plans**"), for purposes of determining eligibility to participate and for vesting purposes (but not for accrual of benefits other than determining the level of PTO accrual), service with Seller or Shift44 (or predecessor employers to the extent the Seller or Shift44 provides past service credit) shall be treated as service to the Buyer, except to the extent such service credit would result in any duplication of benefits. Each applicable Buyer Plan shall waive eligibility waiting periods, evidence of insurability requirements and pre-existing condition limitations.

(5) Unless otherwise required by applicable law, the Seller shall not pay out to any Hired Employees any paid time off benefits ("**PTO**") earned but not yet used as of the Closing Date. The Buyer shall recognize, honor and assume the Liability for each Hired Employee's PTO balance, as accrued but unused and unpaid as of the Closing Date, provided such PTO balance is included in the calculation of the Closing Date Working Capital Amount.

(6) Seller and Buyer shall adopt the "standard procedure" for preparing and filing IRS Forms W-2 (Wage and Tax Statements), as described in Revenue Procedure 2004-53. Under this procedure Seller shall cause all required Forms W-2 to be provided to all Hired Employees reflecting all wages paid and Taxes withheld prior to the Closing Date and the Buyer shall do the same in respect of the period following the Closing Date. Under this procedure each Transferred Employee is required to provide the Buyer with a new IRS Forms W-4 and W-5.

(7) Seller shall be responsible for performing and discharging all requirements, if any, under the WARN Act, or any state plant closing or notification law, or similar law of other jurisdictions, for the notification to its employees of any "employment loss" within the meaning of the WARN Act or any "mass termination" under applicable law which occurs on or prior to the Closing Date. The Buyer shall be responsible for all Liabilities under the WARN Act, or any state plant closing or notification law, or similar law in other jurisdictions, arising out of, or relating to, (i) in respect of Transferred Employees, the failure of the Buyer to offer employment to such Transferred Employees in accordance with Section 7.10(1), or (ii) in respect of Hired Employees, any actions taken by the Parent Group after the Closing Date.

**7.11 Transition Services**.

For a period of up to six (6) months following the Closing, the Seller and Selling Principals shall, at the request of the Buyer, provide any or all of the services set forth on Schedule 7.11 (the "**Transition Services**") to the Buyer, for no additional consideration and otherwise in accordance with this Section 7.11. The Transition Services shall be provided in good faith, in accordance with applicable law and in a manner generally consistent with the historical provision of the Transition Services and with the same standard of care as historically provided.

## ARTICLE VIII
## SURVIVAL OF REPRESENTATIONS AND WARRANTIES; INDEMNITIES

**8.01 Survival of Representations and Warranties**

(1) All representations and warranties of the Seller and the Selling Principals contained in this Agreement and any Ancillary Documents shall survive the Closing and, notwithstanding such Closing or any investigation made by or on behalf of Parent and Buyer, shall continue in full force and effect for the benefit of the Parent and the Buyer for a period of twelve (12) months from the Closing Date and any Claim in respect thereof (except a Claim based on tax matters under Section 3.25, which shall continue until the expiry of the relevant limitation period, or a Claim based on a breach of Sections 3.01, 3.02, 3.03, 3.04, 4.01, 4.02, 4.03 or 4.08 (collectively, including Section 3.25, the "**Seller's Excluded Representations**") or on fraud or willful misconduct, which shall have no restriction) shall be made in writing within such time period. All covenants and agreements of the Seller and Selling Principals contained in this Agreement and any Ancillary Documents shall survive the Closing for the period explicitly specified therein, or if no period is specified, for a period

of twelve (12) months from the Closing Date, except for (a) the covenants of the Seller under Section 3.25, and the indemnification obligations of Seller and Selling Parties pursuant to Sections 7.03(3), and 8.02(5), which will survive until the expiry of the relevant limitation period, and (b) the indemnification obligations of Seller and Selling Parties pursuant to 8.02(4) and 8.02(6), which shall survive until November 30, 2026.

(2) All representations and warranties of Parent and Buyer contained in this Agreement and in any Ancillary Document shall survive the Closing and, notwithstanding such Closing or any investigation made by or on behalf of the Seller and Selling Principals, shall continue in full force and effect for the benefit of the Seller and the Selling Principals for a period of twelve (12) months from the Closing Date and any Claim in respect thereof (except a Claim based on a breach of Sections 5.01, 5.02 or 5.03 (the "**Acquirer Parties Excluded Representations**") or on fraud or willful misconduct, which shall have no restriction) shall be made in writing within such time period. All covenants and agreements of Parent and Buyer contained in this Agreement and any Ancillary Documents shall survive the Closing for the period explicitly specified therein, or if not specified, until the expiry of the relevant limitation period.

(3) Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching Party to the breaching Party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of such survival period and such claims shall survive until finally resolved.

**8.02 Indemnification in Favor of Acquirer Parties.**

Subject to this Article VIII, the Seller and Selling Principals shall defend, indemnify and hold harmless each Acquirer Parties Indemnified Persons, on a joint and several basis, from and against any and all Claims and losses ("**Damages**") suffered by, imposed upon or asserted against any Acquirer Parties Indemnified Person as a result of, in respect of, connected with or arising out of, under or pursuant to:

(1) any breach or inaccuracy of any representation, warranty or covenant given by the Selling Principals or the Seller contained in this Agreement or any Ancillary Documents;

(2) any breach or default in the performance of any of the terms, conditions, covenants or agreements made by or on behalf of the Selling Principals or the Seller in this Agreement or any Ancillary Documents;

(3) the Excluded Liabilities;

(4) any actions, causes of actions, contracts and covenants, whether express or implied, or claims that any employee or consultant of the Seller or Shift44 may now or hereafter have in respect of matters or events arising prior to the Closing Date, including, without limitation, as applicable, any claim for notice, pay in lieu of

notice, wrongful dismissal, severance pay, bonus, overtime pay, incentive compensation, outstanding commissions, interest, vacation pay or any claims under applicable minimum standards, employment and human rights legislation;

(5) any Pre-Closing Taxes, except to the extent such Taxes are reflected as liabilities in the calculation of the Closing Date Working Capital Amount or to the extent such Taxes are attributable to actions of Parent Group after the Closing Date that are outside the Ordinary Course of Business; and

(6) events, circumstances, acts or omissions in respect of the Business occurring prior to the Closing Date relating to the conduct of the Seller and/or its Affiliates.

**8.03 Indemnification in Favor of the Seller and the Selling Principals.**

Subject to this Article VIII, the Acquirer Parties shall indemnify and save each Selling Principal Indemnified Person harmless of and from any Damages suffered by, imposed upon or asserted against any Selling Principal Indemnified Person as a result of, in respect of, connected with or arising out of, under or pursuant to:

(1) any breach or inaccuracy of any representation, warranty or covenant given by Parent or Buyer in this Agreement or any Ancillary Documents;

(2) any breach or default in the performance of any of the terms, conditions, covenants or agreements made by or on behalf of Parent or Buyer in this Agreement or any Ancillary Documents; and

(3) the Acquired Assets following the Closing or the Assumed Liabilities, including, without limitation, the Assumed Liabilities for any obligations under the Assumed Contracts arising after the Closing.

**8.04 Limitations.**

(1) **Mutual Limitations.**

(a) Subject to Section 8.04(2) and 8.04(3), an indemnifying party has no obligation to make any payment for indemnification or otherwise with respect to the matters described in Section 8.02 or Section 8.03, as applicable, until the total liability of all Claims in respect of such matters exceeds $100,000 (the "**Aggregate Threshold**"). Once the total liability of all Claims exceeds the Aggregate Threshold, any indemnified party may assert all Claims for Damages, including amounts below the Aggregate Threshold.

(2) **Selling Principals and Seller Limitations.**

(a) Subject at all times to the provisions of this Section 8.04(2), the liability of the Selling Principals and the Seller under Section 8.02 shall collectively be limited to $5,000,000 (the "**Indemnification Cap**") and the liability of each

Selling Principal hereunder shall be limited to an amount equal to their respective Pro Rata Share of the Indemnification Cap.

(b) The limitations of liability set out in Section 8.04(1)(a) and 8.04(2)(a) shall not apply with respect to any Damages arising out of or in connection with (a) the indemnification obligations of the Seller and the Selling Principals pursuant to Sections to 8.02(4) and 8.02(6), which shall be limited to $15,000,000, or (b) the Seller's Excluded Representations, the indemnification obligations of the Seller and the Selling Principals pursuant to Sections 8.02(5), and 7.03(3) or any act of fraud or willful misconduct by the Seller or the Selling Principals, which shall be uncapped.

(c) Damages for which the Acquirer Parties are entitled to collect indemnification from a Seller or Selling Principal, as applicable, under Section 8.02, shall not be affected by any investigation conducted by the Acquirer Parties or their counsel or any knowledge acquired at any time, whether before or after execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of, or compliance with the representations, warranties, covenants or obligations of the Seller or the Selling Principals, and shall be satisfied:

i. *first*, by reducing the Holdback on a dollar-for-dollar basis by an amount equal to the Damages;

ii. *second,* by way of set-off of the Damages in excess of the Holdback against the then-outstanding Debenture Amount outstanding under the Convertible Debenture on a dollar-for-dollar basis

iii. *third,* if any Damages are not satisfied in the manner set forth in Section 8.04(2)(c)ii, because the amount of the excess is greater than the then-outstanding Debenture Amount, then from the Underlying Shares (to the extent all or a portion of the Convertible Debenture has been converted) through either, in the Acquirer Parties' sole and absolute discretion, the sale or cancellation of such number of Parent Common Shares (with each such share being valued for this purpose at the Market Price) equal to the Damages (rounded down to the nearest whole share). The Acquirer Parties shall be entitled to sell or cancel the shares unilaterally as attorney on behalf of the Seller or the Selling Principals, as the case may be, in accordance with Section 8.04(2)(d); and

iv. *lastly,* any remaining Damages shall be paid by the Selling Principals and the Seller, to the Acquirer Parties in cash by way of wire transfer, provided that recourse under this Section 8.04(2)(c)iv shall only be available in respect of Damages arising out of or in connection with the Seller's Excluded Representations, the indemnification obligations of the Seller and the Selling Principals

pursuant to Sections 8.02(5), and 7.03(3) or any act of fraud or willful misconduct by the Seller or the Selling Principals.

(d) The Seller and each Selling Principal does hereby irrevocably consent to any action taken by the Acquirer Parties for purposes of executing all documents necessary or appropriate in accordance with the set-off, sale and forfeiture rights set forth in this Section 8.04(2)(c)iii. If the Seller or any Selling Principal fails to comply with the provisions of Section 8.04(2)(c)iii, the Acquirer Parties shall have the right, to execute and deliver, on behalf of and in the name of Seller or a Selling Principal, as the case may be, such deeds, transfers, share certificates or other documents that may be necessary to complete any sale or cancellation of the Parent Common Shares contemplated herein and the Seller and each Selling Principal hereby irrevocably appoints the Acquirer Parties as its or his attorney in that regard. Such appointment and power of attorney, being coupled with an interest, shall not be revoked by the Seller's or a Selling Principal's insolvency or bankruptcy and the Seller and each Selling Principal hereby ratifies and confirms and agrees to ratify and confirm all that the Seller and such Selling Principal may lawfully do or cause to be done by virtue of such appointment and power.

(3) **Acquirer Parties Limitations.**

(a) Subject at all times to the provisions of this Section 8.04(3), the liability of the Acquirer Parties under Section 8.03 shall be limited to the Indemnification Cap. For purposes of this Article VIII, Damages shall be net of any amounts received by the Selling Principals to the extent a claim is made under Applicable Securities Laws.

(b) The limitations of liability set out in Section 8.04(1)(a) and 8.04(3)(a) shall not apply with respect to any Damages arising out of or in connection with the Acquirer Parties Excluded Representations or any act of fraud or willful misconduct by the Parent or the Buyer.

(c) Damages for which a Seller or Selling Principal is entitled to collect indemnification from the Acquirer Parties under Section 8.03, shall not be affected by any investigation conducted by the Seller or Selling Principals or their counsel or any knowledge acquired at any time, whether before or after execution and delivery of this Agreement or the Closing Date, with respect to the accuracy or inaccuracy of, or compliance with the representations, warranties, covenants or obligations of the Acquirer Parties and be satisfied at the Acquirer Parties' option by:

i. subject to TSX-V approval, adjusting the Debenture Amount upwards on a dollar-for-dollar basis;

ii. subject to TSX-V approval, delivery of Class B Shares to the Seller (with each such share being valued for this purpose at the volume-weighted average trading price of the Parent Common Shares on the TSX-V for the five (5) trading day period ended on the Business Day prior to the day of delivery); and/or

iii. by payment in cash by the Parent or Buyer to the Seller.

**8.05 Indemnification Proceedings.**

(1) Any Party seeking indemnification under this Article (the "**indemnified party**") shall forthwith notify the Party against whom a Claim for indemnification is sought hereunder (the "**indemnifying party**") in writing, which notice shall specify, in reasonable detail, the nature and estimated amount of the Claim (if reasonably practicable) and include copies of all material written evidence thereof, provided that, in so doing, it may restrict or condition any disclosure in the interest of preserving privileges of importance in any foreseeable litigation. If a Claim by a third party is made against an indemnified party, and if the indemnified party intends to seek indemnity with respect thereto under this Article, the indemnified party shall promptly (and in any case within fifteen (15) days of such Claim being made) notify the indemnifying party of such with reasonable particulars. The failure to give notice as set forth above shall not, however, relieve the indemnifying party of its indemnification obligations, except and only to the extent that the indemnifying party forfeits rights or defenses by reason of such failure. The indemnifying party shall have thirty (30) days after receipt of either such notice to undertake, conduct and control, through counsel of its own choosing and at its expense, the settlement or defense thereof, and the indemnified party shall co-operate in all reasonable respects with it in connection therewith; except that with respect to settlements entered into by the indemnifying party (i) the consent of the indemnified party shall be required if the settlement provides for equitable relief against the indemnified party, which consent shall not be unreasonably withheld, conditioned or delayed; and (ii) the indemnifying party shall obtain the release of the indemnified party. If the indemnifying party undertakes, conducts and controls the settlement or defense of such Claim (i) the indemnifying party shall permit the indemnified party to participate in (subject to the indemnifying party's right to conduct and control) such settlement or defense through counsel chosen by the indemnified party, provided that the fees and expenses of such counsel shall be borne by the indemnified party; and (ii) the indemnifying party shall promptly reimburse the indemnified party for the full amount of any loss resulting from any Claim and all related expenses (other than the fees and expenses of counsel as aforesaid) incurred by the indemnified party upon the final settlement or adjudication of such claims. The indemnified party shall not pay or settle any Claim so long as the indemnifying party is reasonably contesting any such Claim in good faith on a timely basis. Notwithstanding the two immediately preceding sentences, the indemnified party shall have the right to pay or settle any such Claim, provided that in such event it shall waive any right to indemnity therefor by the indemnifying party.

(2) With respect to third party Claims, if the indemnifying party does not notify the indemnified party within thirty (30) days after the receipt of the indemnified party's notice of a Claim of indemnity hereunder that it elects to undertake the defense thereof, the indemnified party shall have the right, but not the obligation, to contest, settle or compromise the Claim in the exercise of its reasonable judgment at the expense of the indemnifying party.

(3) In the event of any Claim by a third party against an indemnified party, the defense of which is being undertaken and controlled by the indemnifying party, the indemnified party will use reasonable commercial efforts to make available to the indemnifying party those employees whose assistance, testimony or presence is necessary to assist the indemnifying party in evaluating and in defending any such Claims; provided that the indemnifying party shall be responsible for the expense associated with any employees made available by the indemnified party to the indemnifying party hereunder, which expense shall be equal to a reasonable amount to be mutually agreed upon per person per hour or per day for each day or portion thereof that such employees are assisting the indemnifying party and which expenses shall not exceed the actual cost to the indemnified party associated with such employees.

(4) With respect to third party Claims, the indemnified party shall make available to the indemnifying party or its Representatives on a timely basis all documents, records and other materials in the possession of the indemnified party, at the expense of the indemnifying party, reasonably required by the indemnifying party for its use in defending any Claim and shall otherwise co-operate in all reasonable respects on a timely basis with the indemnifying party in the defense of such Claim.

(5) With respect to any re-assessment for income, corporate, sales, excise, or other tax or other liability enforceable by Encumbrance against the property of the indemnified party, the indemnifying party's right to so contest shall only apply after the payment of such re-assessment or the provision of such security, in each case as is necessary to avoid an Encumbrance being placed on the property of the indemnified party, or the taking of such other steps as are acceptable to the indemnified party, acting reasonably.

**8.06 Treatment of Indemnification Payments.**

Any payment under Article VIII of this Agreement shall be treated by the Parties for income Tax purposes as a purchase price adjustment unless otherwise required by applicable law. In the event that any Regulatory Authority successfully asserts that such indemnification payments are taxable, then such indemnification payments shall be made on an after-Tax basis. The amount of any Damages for which indemnification is provided under this Article VIII will be (i) increased to take account of any net cost due to Taxes incurred by the indemnified party arising from the receipt of indemnity payments under this Agreement, and (ii) reduced to take account of any net benefit due to Taxes realized by the indemnified party arising from the incurrence or payment of that loss, to the extent necessary to ensure that the indemnified party receives a net amount which, taking into account any net cost or benefit due to Taxes, is sufficient to fully compensate for the Damages,

but results in no net gain to the indemnified party. In computing the amount of any net cost or benefit due to Taxes, the indemnified party will be deemed to recognize all other items of income, gain, loss, deduction or credit before recognizing any item arising from the receipt of any indemnity payment under this Agreement or the incurrence or payment of any indemnified Damages.

**8.07 Exclusive Remedy.**

After Closing, and except for remedies for injunctive or equitable relief and claims for fraud, dishonesty, willful misconduct, willful concealment, fraudulent misrepresentations or as otherwise expressly provided in this Agreement, the indemnification rights set forth in this Article VIII shall be the sole and exclusive remedy for any Claim arising out of this Agreement or the transactions contemplated hereby.

## ARTICLE IX
## MISCELLANEOUS

**9.01 Parties Bound by Agreement; Successors and Assigns.**

The terms, conditions, and obligations of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and the respective heirs, executors, personal representatives, successors and assigns thereof. None of the rights or obligations hereunder shall be assignable or transferable by any Party without the prior written consent of the other Parties.

**9.02 Time of the Essence.**

Time shall be of the essence of this Agreement.

**9.03 Counterparts.**

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the United States federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**9.04 Specific Performance.**

The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which it is entitled at law or in equity.

**9.05 Expenses.**

The Seller shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by the Seller and the Selling Principals in

connection with the negotiation and settlement of this Agreement, the Ancillary Documents and the completion of the transactions contemplated hereunder and thereunder. The Acquirer Parties shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by them in connection with the negotiation and settlement of this Agreement, the Ancillary Documents and the completion of the transactions contemplated hereunder and thereunder.

**9.06 Notices.**

Any notice, request, instruction, or other document to be given hereunder by any Party hereto to any other Party hereto shall be in writing and delivered personally, or by registered or certified mail, postage prepaid, or electronic form of communication:

If to the Seller:

Notice to be sent to the Selling Principals

with a copy of all of the above notices to the following person (which copy will not itself constitute notice to any of the above):

De Diego Law LLC
Attention: Sarah de Diego
Email: [redacted]

If to the Selling Principals:

Joseph Barreca
[redacted]

[redacted]

Corey McCutchen
[redacted]

[redacted]

with a copy of all of the above notices to the following person (which copy will not itself constitute notice to any of the above):

De Diego Law LLC
Attention: Sarah de Diego
Email: [redacted]

if to Parent or Buyer, to:

PopReach Corporation (dba Ionik)
1 University Avenue, 3rd Floor
Toronto, Ontario M5J 2P1

Attention: Amy Hastings, General Counsel
Email: amy.hastings@popreach.com

or at such other address for a Party as shall be specified by like notice. Any notice that is delivered personally in the manner provided herein shall be deemed to have been duly given to the Party to whom it is directed upon actual receipt by such Party (or its agent for notices hereunder). Any notice that is delivered by form of electronic communication shall be deemed to have been duly given to the Party to whom it is directed on the next Business Day following such transmission. Any notice that is addressed and mailed in the manner herein provided shall be conclusively presumed to have been duly given to the Party to which it is addressed at the close of business, local time of the recipient, on the third Business Day after the day it is so placed in the mail.

**9.07 Public Announcements.**

Each Party shall receive the prior consent, not to be unreasonably withheld, conditioned or delayed, of the other Parties prior to issuing or permitting any director, officer, employee or agent to issue, any press release or other written statement with respect to this Agreement or the transactions contemplated hereby. Notwithstanding the foregoing, if a Party is required by law, including Applicable Securities Laws or a stock exchange having jurisdiction, to make any disclosure relating to the transactions contemplated herein, such disclosure may be made, but that Party will use reasonable commercial efforts to consult with the other Parties as to the wording of such disclosure prior to its being made. Prior to any such press release or public announcement, none of the Parties shall disclose this Agreement or any aspect of the transactions contemplated hereunder except to its board of directors, its senior management, its legal, accounting, financial or other professional advisors, any financial institution contacted by it with respect to any financing required in connection with the transactions contemplated hereunder and counsel to such institution, or as may be required by any applicable law or stock exchange having jurisdiction.

**9.08 Release.**

Effective as of the Closing Date, except for any rights or obligations under this Agreement or the Ancillary Documents, (a) each of the Acquirer Parties on behalf of itself and each of their Affiliates, hereby irrevocably and unconditionally releases and forever discharges Seller and Selling Principal and each of their Affiliates of and from any and all Claims duties, dues, accounts, bonds, contracts and covenants (whether express or implied) whatsoever whether in law or in equity which they may have against Seller and Selling Principal and their Affiliates, now or in the future, in respect of any cause, matter or thing relating to Seller and Selling Principal and their Affiliates occurring or arising on or prior to the date of this Agreement, but only to the extent that such cause, matter or thing does not otherwise constitute fraudulent conduct, gross negligence or willful misconduct, and (b) Seller and Selling Principal on behalf of themselves and each of their Affiliates hereby irrevocably and unconditionally releases and forever discharges the Acquirer

Parties and their Affiliates of and from any and all Claims duties, dues, accounts, bonds, contracts and covenants (whether express or implied) whatsoever whether in law or in equity which they may have against the Acquirer Parties and their Affiliates, now or in the future, in respect of any cause, matter or thing relating to the Acquirer Parties or their Affiliates and occurring or arising on or prior to the date of this Agreement, but only to the extent that such cause, matter or thing does not otherwise constitute fraudulent conduct, gross negligence or intentional misconduct.

**9.09 Assignment.**

Neither Parent, nor Buyer may assign its rights under this Agreement in whole or in part to any other person without the prior written consent of Seller and the Selling Principals. None of the Seller or the Selling Principals may assign their rights under this Agreement without the prior written consent of Buyer and the Parent.

**9.10 Third-Party Beneficiaries.**

There shall exist no right of any person, other than the Parties, to claim a beneficial interest in this Agreement or any rights arising by virtue of this Agreement except for the indemnified persons set forth in Sections 8.02 and 8.03, who are intended third party beneficiaries of such provisions.

**9.11 Further Assurances.**

Each of the Parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Parties may reasonably require from time to time after Closing at the expense of the requesting Party for the purpose of giving effect to this Agreement and shall use reasonable commercial efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

**9.12 Entire Agreement.**

This Agreement, including all Schedules, Exhibits and the Ancillary Documents, constitute the entire agreement between the Parties with respect to the subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter except provided in this Agreement. No reliance is placed by any Party on any warranty, representation, opinion, advice or assertion of fact made by any Party or its directors, officers, employees or agents, to any other Party or its directors, officers, employees or agents, except to the extent that it has been reduced to writing and included in this Agreement. If there is any conflict between the provisions of this Agreement and the provisions of any Ancillary Document, the provisions of this Agreement shall govern.

**9.13 Arms' Length Negotiation.**

The Parties have negotiated the transactions contemplated by this Agreement on an arms-length basis and the Buyer believes the Consideration is fair consideration for the Acquired Assets and the Seller believe the Acquired Assets are fair consideration for the Consideration.

**9.14 Construction.**

Each of the Parties acknowledges that it has been represented by independent counsel of its choice throughout all negotiations that have preceded the execution of this Agreement and that it has executed the same with consent and upon the advice of said independent counsel. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise, or rule of strict construction applied, favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Accordingly, any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against the Party that drafted it is of no application and is hereby expressly waived by the Parties hereto.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]***

**IN WITNESS WHEREOF**, each of the Parties hereto has caused this Asset Contribution and Acquisition Agreement to be executed on its behalf as of the date first above written.

**SELLER:**

**PARENT:**

**POPREACH CORPORATION,**
**an Ontario corporation**

By: _____
Te

**S44 LLC**

By: _____
Co , CEO

**BUYER:**

**Shift44, INC.**
**a Delaware corporation**

By: _____

Name: Ted Hastings

Title: President

**SELLING PRINCIPALS**

_____
Corey M

_____
Joseph Barreca

## SCHEDULES AND EXHIBITS

The following are the schedules and exhibits attached to and incorporated in this Agreement:

**Schedules**

Schedule 2.01(2)(f) – Assumed Contracts
Schedule 2.02(5) - Non-Excluded Benefit Plans
Schedule 2.02(7) – Excluded Contracts
Schedule 2.11 – Non-Transferrable Assets
Schedule A – Seller and Selling Principals Disclosure Schedules

- Section 3.07 – Dividends and Distributions
- Section 3.10 – Third Party Consents, Approvals and Notices
- Section 3.13(2) – Licensed Intellectual Property
- Section 3.13(6) – Third Party Programs
- Section 3.13(9) – Open Source Software Codes
- Section 3.19(1)(h) – Contracts
- Section 3.20 – Accounts Receivable
- Section 3.21(a) – Financial Statements
- Section 3.23 – Material Partners
- Section 3.25(3) – Tax Matters
- Section 3.26(1) – Employee Matters
- Section 3.26(9) – Benefit Plans
- Section 3.27 – Insurance Policies
- Section 3.30 – Bank Accounts and Powers of Attorney

Schedule 7.09 – Seller Names
Schedule 7.10(1) – Transferred Employees
Schedule 7.11 – Transition Services
Schedule B – Example of Closing Date Working Capital Calculation
Schedule C – Final Tax Consideration Allocation

**Exhibits**

Exhibit A – Form of Convertible Debenture (with the Security Documents attached)
Exhibit B – U.S. Accredited Investor Certificate

**Schedule 2.01(2)(f)**

**Assumed Contracts**

**See attached.**

*[Redacted]*

**Schedule 2.02(5)**

**Non-Excluded Benefit Plans**

*[Redacted]*

**Schedule 2.02(7)**

**Excluded Contracts**

*[Redacted]*

**Schedule 2.11**

**Non-Transferable Assets**

*[Redacted]*

## SCHEDULE A

## SELLERS AND SELLING PRINCIPALS DISCLOSURE SCHEDULES

See attached.

**Schedule 3.07**

**Dividends and Distributions**

*[Redacted]*

**Schedule 3.10**

**Third Party Consents, Approvals and Notices**

*[Redacted]*

**Schedule 3.13(2)**

**Licensed Intellectual Property**

*[Redacted]*

**Schedule 3.13(6)**

**Third Party Programs**

*[Redacted]*

**Schedule 3.13(9)**

**Open Source Software Codes**

*[Redacted]*

**Schedule 3.19(1)(h)**

**Contracts**
(Restrictive Covenants)

*[Redacted]*

**Schedule 3.20**

**Accounts Receivable**

**See attached.**

*[Redacted]*

**Schedule 3.21(a)**

**Financial Statements**

**See attached.**

*[Redacted]*

**Schedule 3.25(3)**

**Tax Matters**

*[Redacted]*

**Schedule 3.26(1)**

**Employee Matters**

**See attached.**

*[Redacted]*

**Schedule 3.26(9)**

**Benefit Plans**

*[Redacted]*

**Schedule 3.27**

**Insurance Policies**

*[Redacted]*

**Schedule 3.30**

**Bank Accounts and Powers of Attorney**

*[Redacted]*

**Schedule 7.09**

**Assumed Names**[1]

*[Redacted]*

**Schedule 7.10(1)**

**Transferred Employees**

*[Redacted]*

# Schedule 7.11

## Transition Services

*[Redacted]*

# Schedule C

## Final Tax Consideration Allocation

*[Redacted]*

**Exhibit A**
**Convertible Debenture**

**UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDERS OF THIS SECURITY MUST NOT TRADE THIS SECURITY BEFORE THE DATE THAT IS FOUR (4) MONTHS AND A DAY AFTER THE DATE OF ISSUANCE OF THIS SECURITY.**

**THIS CONVERTIBLE DEBENTURE AND THE SECURITIES ISSUABLE UPON CONVERSION OF THIS CONVERTIBLE DEBENTURE HAVE NOT BEEN REGISTERED UNDER UNITED STATES FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE OFFERED FOR SALE, SOLD, OR OTHERWISE TRANSFERRED OR ASSIGNED FOR VALUE, DIRECTLY OR INDIRECTLY, NOR MAY THIS CONVERTIBLE DEBENTURE OR THE SECURITIES ISSUABLE UPON CONVERSION OF THIS CONVERTIBLE DEBENTURE BE TRANSFERRED ON THE BOOKS OF THE CORPORATION, WITHOUT REGISTRATION OF SUCH CONVERTIBLE DEBENTURE OR SECURITIES, AS APPLICABLE, UNDER ALL APPLICABLE UNITED STATES FEDERAL OR STATE SECURITIES LAWS OR COMPLIANCE WITH AN APPLICABLE EXEMPTION THEREFROM, SUCH COMPLIANCE, AT THE OPTION OF THE CORPORATION, TO BE EVIDENCED BY AN OPINION OF COUNSEL FOR THE HOLDER, IN A FORM ACCEPTABLE TO THE CORPORATION, THAT NO VIOLATION OF SUCH REGISTRATION PROVISIONS WOULD RESULT FROM ANY PROPOSED TRANSFER OR ASSIGNMENT.**

## CONVERTIBLE DEBENTURE

US$16,750,000 November___, 2023

FOR VALUE RECEIVED PopReach Corporation (dba Ionik) (the "**Corporation**"), a corporation existing under the *Business Corporations Act* (Ontario), hereby acknowledges itself indebted to, and promises to pay to the Holders set forth on Schedule 1 attached hereto (each individually, a "**Holder**" and collectively, the "**Holders**"), in lawful money of the United Sates, the principal amount of $16,750,000 (the "**Principal Amount**"), allocated in accordance with each Holder's Pro Rata Entitlement as set forth on Schedule 1 attached hereto, and in accordance with the terms of this Convertible Debenture (this "**Debenture**").

This Debenture is being issued by the Corporation to the Holders in connection with the Asset Contribution and Acquisition Agreement entered into among the Corporation, Shift44, Inc., a Delaware corporation ("**Purchaser**"), S44 LLC, a New York limited liability company (the "**Seller**"), Joseph Barreca, an individual residing in the State of New York ("**Barreca**") and Corey McCutchen, an individual residing in the State of New York ("**McCutchen**", and together with Barreca, collectively, the "**Principals**"), dated as of the Effective Date (the "**Purchase Agreement**"), as partial satisfaction for the consideration owing by the Purchaser to the Seller for the Purchaser's purchase of substantially all of the assets of the Seller pursuant to the Purchase Agreement. The Holders are membership interest holders of the Seller, and the Seller has instructed the Parent and the Purchaser, by way of direction in writing, to issue this Debenture to the Holders in accordance with each such Holder's Pro Rata Entitlement set forth in Schedule 1

attached hereto as partial satisfaction of a member distribution declared by the Seller and payable to the Holders.

Capitalized terms not otherwise defined herein shall have the meaning attributed thereto in the Purchase Agreement.

1. **Interpretation**

Whenever used in this Debenture, the following words and terms have the meanings set out below:

"**Business Day**" means any day of the year, other than a Saturday, Sunday or any other day on which Canadian chartered banks are required or authorized to close in Toronto, Ontario.

"**Collateral**" shall mean the "Collateral" as defined in the General Security Agreement.

"**Common Shares**" means the common shares in the capital of the Corporation.

"**Conversion Price**" means $0.78.

"**Effective Date**" means the date hereof.

"**Event of Default**" has the meaning given in Section 10 of this Debenture.

"**General Security Agreement**" means the general security agreement to be executed by the Purchaser in favour of the Holders as collateral security for the Corporation's obligations pursuant to the Guarantee, substantially in the form set out as Exhibit "A" attached hereto.

"**Guarantee**" means the guarantee of the Corporation's obligations pursuant to this Debenture to be executed by the Purchaser in favour of the Holders, substantially in the form set out as Exhibit "B" attached hereto.

"**Governmental Authority**" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals, or dispute settlement panels or other law, rule or regulation-making organizations or entities:

(a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state, or other geographic or political subdivision of any of them; or

(b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

"**Obligations**" means, at any time, the outstanding Principal Amount of this Debenture.

"**Parent Senior Lender**" means the Bank of Montreal, in its capacity as administrative agent for certain secured parties in connection with the credit agreement among, *inter alios*, the Bank of Montreal, as administrative agent, and the Corporation, as borrower, as such agreement may be amended, amended and restated or supplemented from time to time.

"**Person**" means any individual, sole proprietorship, partnership, firm, company, entity, unincorporated association (including a limited liability company), unincorporated syndicate, unincorporated organization, trust (including a business trust), body corporate, government, government regulatory authority, governmental department, municipality, agency, commission, board, tribunal, dispute settlement panel or body, bureau, court, and where the context requires, any of them when they are acting as trustee, executor, administrator or other legal representative.

"**Pro Rata Entitlement**" means with respect to each Holder, the quotient obtained by dividing (a) the portion of the Principal Amount allocated to each Holder on Schedule 1 attached hereto by (b) the total Principal Amount. For greater certainty, the Pro Rata Entitlement of each Holder is the number allocated to such Holder on Schedule 1 attached hereto.

"**Security Documents**" means the Guarantee and the General Security Agreement.

2. **Maturity**

Unless earlier demanded as provided in Section 10 or converted as provided in Section 5, repayment of the Obligations will be made to the Holders, based on their Pro Rata Entitlement, on November 30, 2026 (the "**Maturity Date**").

3. **Payments**

(a) All payments made hereunder shall be made in lawful money of the United States at such place as the Holders may from time to time designate in writing to the Corporation.

(b) Upon payment in full of all of the Obligations in accordance with this Debenture, this Debenture shall be surrendered to the Corporation for cancellation.

(c) The Corporation waives presentment, protest, presentation, or notice of any kind of the Debenture and any other condition precedent to payment to the Holders.

4. **Prepayment**

The Corporation will be entitled to prepay the Principal Amount, in whole or in part, at any time prior to the Maturity Date ("**Prepayment**"), without any notice being given to the Holders and without any bonus or penalty being paid to the Holders, provided that (i) any such Prepayment shall be made to the Holders based on their Pro Rata Entitlement, and (ii) in the case of any Prepayment intended to be made the Corporation shall provide the Holders with a reasonable opportunity to exercise their conversion right set forth in Section 5 hereof prior to the Prepayment, which reasonable opportunity shall be deemed to mean the delivery of written notice by the Corporation to the Holders within no less than 10 Business Days' prior to such Prepayment.

5. **Optional Conversion**

(a) A Holder ("**Converting Holder**") may, at any time following the Effective Date, convert all or a portion of the Obligations owing to such Converting Holder hereunder into Common Shares based on the Conversion Price, by delivering a notice in writing to the Corporation, substantially in the form of the notice set forth

in Exhibit "C" attached hereto (the "**Conversion Notice**"). Any Obligations so converted shall be deemed to have been converted on the date that is five (5) Business Days following the date the Corporation receives the Conversion Notice (the "**Conversion Date**").

(b) Notwithstanding anything to the contrary contained herein, the number of Common Shares that may be acquired by the a Converting Holder upon conversion of any Obligations shall be limited to the extent necessary that, following such conversion, the total number of Common Shares then beneficially owned by such Converting Holder and any persons acting "jointly or in concert" (as such phrase is understood pursuant to applicable securities laws) with such Converting Holder ("**Joint Actors**"), does not exceed (1) 9.999% of the total number of issued and outstanding Common Shares (including for such purpose the Common Shares issuable upon such conversion), prior to such Converting Holder and its Joint Actors satisfying the personal information form requirements set out in Policy 3.2 of the TSX Venture Exchange (the "**Exchange**") and the Exchange further providing clearance of the new insider position of the Corporation, including completion of satisfactory background searches; and (ii) 19.9999% of the total number of issued and outstanding Common Shares (including for such purpose the Common Shares issuable upon such conversion), prior to the Corporation obtaining disinterested shareholder approval in respect of a new Control Person (as defined under Exchange Policy 1.1) of the Corporation. Each delivery of a Conversion Notice hereunder will constitute a representation by the Converting Holder that it has evaluated the limitation set forth in this Section 5(b) and determined that issuance of the full number of Common Shares requested in such Conversion Notice is permitted under this Section 5(b). This Section 5(b) shall not restrict the number of Common Shares which a Converting Holder may receive or beneficially own in order to determine the amount of securities or other consideration that such Converting Holder may receive in the event of a merger or other business combination or reclassification involving the Corporation. This restriction may not be waived by the Corporation.

6. **Effect of Conversion**

(a) Upon conversion of the Obligations, the Corporation shall issue to the Converting Holder the Common Shares to which it is entitled to receive in connection with the conversion.

(b) The Converting Holder shall become a shareholder of the Corporation in respect of the Common Shares so issued with effect from the Conversion Date and shall be entitled to delivery of certificates evidencing such Common Shares. As soon as reasonably practicable following the Conversion Date, the Corporation shall cause such certificates to be delivered to the Converting Holder at the address specified in Schedule 1 (or such other address as may be specified by the Converting Holder to the Corporation in the Conversion Notice), and in any event within three (3) Business Days of the Conversion Date.

(c) All Common Shares which may be issued upon the conversion of the Obligations shall upon issuance be validly issued, fully paid and nonassessable and free from all taxes, liens and charges with respect to the issuance thereof.

(d) The Corporation shall not be required upon the occurrence of any conversion to issue fractional Common Shares and, in any such case, the number of Common Shares issuable upon the conversion of the Obligations shall be rounded down to the nearest whole number, without payment or compensation in lieu thereof.

(e) Upon conversion of the Obligations, this Debenture shall be deemed to be paid in full and the Obligations shall be deemed satisfied.

7. **Adjustments**

If while the Obligations remain outstanding pursuant to this Debenture:

(a) the Corporation at any time subdivides or consolidates the shares issuable upon conversion of this Debenture, each Holder shall thereafter be entitled on conversion to receive the shares to which it was before such subdivision or consolidation entitled, as subdivided or consolidated, and the Conversion Price shall be adjusted accordingly. Any such adjustment shall become effective on the date and at the time that such subdivision or consolidation becomes effective.

(b) any reclassification of the shares issuable upon conversion of this Debenture occurs, or a consolidation, amalgamation, arrangement or merger of the Corporation with any other body corporate, trust, partnership or other entity or a sale or conveyance of the property and assets of Corporation as an entirety or substantially as an entirety (provided adjustment to the Conversion Price is made pursuant to Section 7(a) hereof, if applicable) occurs (collectively, a "**Capital Reorganization**"), then upon conversion of this Debenture in accordance with its terms, each Holder shall be entitled to receive and shall accept, in lieu of the Common Shares issuable upon conversion of this Debenture, the kind and number of securities or property that such Holder would have been entitled to receive if on the record date or effective date of the Capital Reorganization, such Holder had been the registered holder of the number of Common Shares issuable upon the conversion of this Debenture.

(c) When any adjustment is required to be made pursuant to this Section 7, the Corporation shall promptly deliver, or cause to be delivered, to the Holders a notice setting forth, as applicable (i) a brief statement of the facts requiring such adjustment, (ii) the Conversion Price after such adjustment, and (iii) the kind and amount of share or other securities into which this Debenture shall be converted after such adjustment.

8. **Security**

(a) The due and timely payment and performance and discharge of this Debenture by the Corporation and the obligations of the Purchaser under the Guarantee shall be

secured by the Collateral. In the event of an Event of Default, the Holders' recourse against collateral shall be solely limited to realizing upon the Collateral and exercising its rights and remedies under the Security Documents.

(b) Each Holder hereby agrees to execute and deliver a postponement and subordination agreement in respect of the subordination and postponement of the Obligations and the Collateral to and in favour of the Parent Senior Lender, in a form required by such Parent Senior Lender.

(c) Each Holder hereby irrevocably authorizes and appoints any director or officer of Corporation as its true and lawful attorney, with full power of substitution for and in the name of such Holder, to sign and seal all documents and to fill in all blanks and to execute, deliver and do all such acts, deeds, documents, transfers, demands, conveyances, assignments, contracts, assurances, consents, and any additional powers of attorney necessary to give effect to such Holder's obligations pursuant to Section 8(b) above and generally to use the name of such Holder in connection therewith. This appointment shall be coupled with an interest and shall not be revoked by the insolvency or bankruptcy of such Holder.

9. **Transfer of Debenture**

The Holders shall not sell, transfer or otherwise dispose of or encumber this Debenture without the consent of the Corporation.

10. **Events of Default**

The Obligations shall, at the option of the Holders acting jointly, be immediately due and payable upon the occurrence of any of the following events of default (each, an "**Event of Default**"):

(a) **Performance of Obligations** – The Corporation defaults in payment or performance of any of the Obligations, including, without limitation, conversion of the Obligations in accordance with this Debenture;

(b) **Covenant Default** – The Corporation commits a breach of, or fails or neglects to observe, perform or comply with any obligation (other than as contemplated by Section 10(a) above), covenant, representation, warranty or any other provision in favour of the Holders set out herein, and such breach is not remedied within 10 days' notice to the Corporation;

(c) **Event of Insolvency** – The occurrence of any one of the following events:

(i) **Dissolution** – The Corporation is wound up, dissolved or liquidated under any law or otherwise has its existence terminated or passes any resolution or becomes subject to any order in connection with any of the above, including under the provisions of the *Winding-Up and Restructuring Act* (Canada) or any similar law of any jurisdiction;

(ii) **Insolvency** – The Corporation makes a general assignment for the benefit of its creditors, acknowledges its insolvency or is declared or becomes bankrupt or insolvent, or ceases to carry on or fails in its business;

(iii) **Act of Bankruptcy** – The Corporation commits an act of bankruptcy under the *Bankruptcy and Insolvency Act* (Canada) or any similar law of any jurisdiction;

(iv) **Bankruptcy Proposal** – Any filing of a proposal or notice of intention to make a proposal is made or a notice of intention to enforce security is issued in respect of the Corporation under the *Bankruptcy and Insolvency Act* (Canada) or any similar law of any jurisdiction;

(v) **Protection from Creditors** – Any filing is made or a proceeding is commenced in respect of the Corporation (whether voluntary or involuntary) seeking any stay of proceedings, protection from creditors, moratorium, reorganization, arrangement, composition, re-adjustment, or any other relief under any present or future law of any jurisdiction relative to bankruptcy, insolvency, reorganization or other relief for debtors or affecting creditors' rights, including the *Companies' Creditors Arrangement Act* (Canada);

(vi) **Appointment of Trustee or Receiver** – Any trustee in bankruptcy, interim receiver, receiver, receiver and manager, agent, custodian, sequestrator, administrator, monitor or liquidator or any other Person with similar powers shall be appointed in respect of the Corporation, or all or any part of the secured property of the Corporation, or any filing is made or proceeding is commenced in respect of any obligor seeking the entry of an order for the appointment or relief in respect of any of the above and such appointment or filing or proceeding is not contested in good faith and on a timely basis and vacated, dismissed or withdrawn within 10 days of its commencement or issuance; or

(vii) **Seizure** – A distress, execution, warrant, garnishment, attachment, sequestration, levy, writ, or any similar process is issued or enforced upon or against all or any part of the secured property of the Corporation, or any third party demand is issued by the Crown, Governmental Authority, administrative body or any taxation authority in respect of the Corporation or all or any part of the secured property of the Corporation, or any other seizure is made in respect of all or any part of the secured property of the Corporation.

## 11. Governing Law and Submission to Jurisdiction

This Debenture and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Corporation and, by its acceptance hereof, each Holder hereby attorns and submits to the exclusive jurisdiction of the

courts of the Province of Ontario in connection with this Debenture. The parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

12. **Notices**

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by facsimile or other means of electronic communication or by delivery as hereinafter provided. Any such notice or other communication, if sent by facsimile or other means of electronic communication, shall be deemed to have been received on the Business Day following the sending, or, if delivered by hand, shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this section. Notice and other communications shall be addressed as follows:

(a) To the Corporation at:

PopReach Corporation (dba Ionik)
1 University Avenue, 3rd Floor
Toronto, Ontario M5J 2P1

Attention: Amy Hastings, General Counsel
Email: ahastings@popreach.com

(b) To the Holders, to the address set forth opposite its name in Schedule 1 attached hereto, with a copy to:

With a Copy to:
Sarah de Diego
Email: [redacted]

13. **Waiver**

No failure or delay on the part of the Holders in exercising any right, power or remedy provided herein may be, or may be deemed to be a waiver thereof; nor any single or partial exercise of any right, power or remedy preclude any other or further exercise of such right power or remedy or any other right, power or remedy.

14. **Severability**

If any provision (or any part of any provision) contained in this Debenture shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or remaining part of the affected provision) of the Debenture, but the Debenture shall be construed as if such invalid, illegal or unenforceable provision (or part thereof) had never been contained herein but only to the extent such provision

(or part thereof) is invalid, illegal or unenforceable.

15. **Amendment**

This Debenture may be amended only with the written agreement of the Corporation and the Principals.

16. **Enurement**

The rights and obligations of the Corporation and the Holders under this Debenture shall be binding upon and enure, as applicable, to their respective successors, heirs, executors, trustees, administrators and permitted assigns.

17. **Currency**

Unless indicated otherwise, all references to money amounts in this Debenture are to lawful currency of the United States.

18. **Execution and Delivery**

This Debenture may be executed by the Corporation and the Holders in counterparts and may be executed and delivered by facsimile or electronic means and all such counterparts and facsimiles together constitute one and the same agreement.

19. **Release and Discharge**

This Debenture shall no longer be considered outstanding and the Corporation shall be deemed to have discharged all of its obligations under this Debenture upon the: (a) payment of the entire Obligations outstanding under the terms of this Debenture; or (b) full conversion in accordance with Section 5 hereof.

20. **Further Assurances**

The Corporation shall promptly do, make, execute, deliver or cause to be done, made, executed or delivered, all such further acts, documents and things as the Holders may reasonably require from time to time for the purpose of giving effect to this Debenture and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Debenture.

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**IN WITNESS WHEREOF** the Corporation has caused this Debenture to be signed in its name as of the Effective Date.

**POPREACH CORPORATION**

By: _____

Name:

Title:

**ACCEPTED AND AGREED** as of this _____ day of _____ 2023.

**HOLDERS:**

_____
Joseph Barreca

_____
Corey McCutchen

_____
Steven Thompson

_____
Nicholas Econs

**SCHEDULE 1**

| Holder | Principal Amount | Pro Rata Entitlement | Address for Notice |
|---|---|---|---|
| Corey McCutchen | [redacted] | [redacted] | [redacted] |
| Joseph Barreca | [redacted] | [redacted] | [redacted] |
| Steven Thompson | [redacted] | [redacted] | [redacted] |
| Nicholas Econs | [redacted] | [redacted] | [redacted] |
| **TOTAL** | **$16,750,000** | **100%** | - |

**EXHIBIT "A"**

**TO CONVERTIBLE DEBNTURE**

**FORM OF GENERAL SECURITY AGREEMENT**

See attached.

# SECURITY AGREEMENT

**THIS AGREEMENT** is effective as of the _____ day of _____, 2023.

**B E T W E E N:**

**SHIFT44, INC.**, a corporation incorporated under the laws of the State of Delaware (the "**Company**")

- and –

**EACH OF THE CREDITORS SET FORTH ON SCHEDULE A ATTACHED HERETO** (each, a "**Creditor**" and, collectively, the "**Creditors**")

**THIS AGREEMENT WITNESSES** that, in consideration of the sum of $1.00 and other lawful consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

## ARTICLE 1
## INTERPRETATION

1.1 In this Agreement and in any amendments hereto, unless the context otherwise requires:

(a) "**Act**" means the *Uniform Commercial Code* (Delaware), as the same may from time to time hereafter be amended or any legislation that may be substituted therefor, as the same may from time to time be amended;

(b) "**Business Day**" means a day (other than a Saturday or Sunday) on which chartered banks are open for business during normal banking hours in Toronto, Ontario;

(c) "**Collateral**" means all present and after-acquired personal property owned, leased, licensed, possessed or acquired by the Company, or in which the Company has rights, including, without limitation, all present and after-acquired Goods (including Equipment and Inventory), Investment Property, Instruments, Documents of Title, Chattel Paper, Intangibles (including Accounts), Money, Deposit Accounts, Letters of Credit and Letter-of-Credit Rights, Securities Collateral, intellectual property, fixtures, owned, leased, licensed, possessed or acquired by the Company, or in which the Company has rights, and all Proceeds and products of that property, and to the extent not covered by the foregoing, all other assets, personal property and rights of the Company, whether tangible or intangible, all Proceeds and products of each of the foregoing and all accessions to, substitutions and replacements for, and rents, profits and products of, each of the foregoing, and any and all Proceeds of any insurance, indemnity, warranty or guaranty payable to the Company from time to time with respect to any of the foregoing;

(d) "**Debenture**" means the interest bearing convertible debenture in the principal amount of US$16,750,000 dated as of the date hereof issued by the Debtor to the Creditors;

(e) "**Debtor**" means PopReach Corporation, a corporation incorporated under the laws of the Province of Ontario;

(f) "**Event of Default**" has the meaning ascribed thereto in Section 5.1;

(g) "**Guarantee**" means the guarantee agreement between the Company and the Creditors dated the date hereof, pursuant to which the Company has guaranteed the Debtor's performance of its obligations pursuant to the Debenture;

(h) "**Obligations**" means the aggregate of all indebtedness, obligations and liabilities of the Company pursuant to the Guarantee;

(i) "**Permitted Encumbrances**" means any one or more of the following with respect to the property and assets of the Company:

(i) liens for taxes, assessments or governmental charges or levies not at the time due and delinquent or the validity of which are being contested in good faith by proper legal proceedings;

(ii) the lien of any judgment rendered or claim filed which is being contested in good faith by proper legal proceedings;

(iii) undetermined or inchoate liens and charges incidental to current operations which have not at such time been filed pursuant to law or which relate to obligations not yet due or delinquent;

(iv) the right reserved to or vested in any municipality or governmental or other public authority by the terms of any lease, license, franchise, grant or permit acquired by the Company, or by any statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;

(v) the encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, surety or appeal bonds, costs of litigation when required by law and public and statutory obligations, liens or claims incidental to construction, mechanics', warehouseman's, carriers' and other similar liens;

(vi) security given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operations of the Company, all in the ordinary course of its business;

(vii) encumbrances, liens, charges and reservations and renewals thereof to secure the payment of the purchase price or the repayment of moneys borrowed to pay the purchase price of any property or properties hereafter or previously acquired by the Company; and

(viii) any security granted to the Parent Senior Lender as contemplated pursuant to Section 3.2; and

(j) "**Parent Senior Lender**" means the Bank of Montreal, in its capacity as administrative agent for certain secured parties in connection with the credit agreement among, *inter alios*, the Bank of Montreal, as administrative agent, and the Debtor, as borrower, as such agreement may be amended, amended and restated or supplemented from time to time; and

(k) "**Security Interest**" means the security interest in the Collateral granted to the Creditors by the Company pursuant to Section 2.1.

1.2 If any provision herein is determined to be void, voidable or unenforceable, in whole or in part, such determination shall not affect or impair or be deemed to affect or impair the validity of any other provision hereof and all the provisions hereof are hereby declared to be separate, severable and distinct.

1.3 Capitalized terms not otherwise defined in this Agreement have the definitions set out in the Act.

1.4 Unless otherwise specified herein, all statements of or references to dollar amounts in this Agreement shall mean lawful money of the United States.

1.5 The insertion of headings in this Agreement is for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.6 Any reference in this Agreement to any person, firm or corporation in the singular shall, where the context permits, include a reference to more than one of such person, firm or corporation, and the use of any gender shall be applicable to all genders.

1.7 This Agreement is governed by and shall be construed in accordance with the Act and the other laws of the State of Delaware, and the parties hereby attorn to the non-exclusive jurisdiction of the courts of such state.

## ARTICLE 2
## CREATION, ATTACHMENT AND PERFECTION OF SECURITY INTEREST

2.1 As continuing collateral security for the full, due, and timely payment and performance by the Company of the Obligations, the Company hereby mortgages, charges, pledges, assigns, transfers and sets over to the Creditors, and grants to the Creditors, a continuing security interest in the Collateral.

2.2 The Creditors and the Company hereby acknowledge and agree that value has been given for the granting of the Security Interest, that the Company has rights in the Collateral (except future Collateral), and that the parties have agreed not to postpone the time for attachment or perfection of the Security Interest.

## ARTICLE 3
## PRIORITY OF SECURITY INTEREST

3.1 Each Creditor hereby covenants and agrees with each other Creditor that its Security Interest in the Collateral shall rank and be enforceable in all respects and for all purposes equally and rateably among each of the other Creditors without discrimination, preference or priority and each of the Creditors shall be entitled to share, based on their Pro Rata Entitlement (as set forth in Schedule A attached hereto), in the Collateral, in the event of an enforcement of their respective Security Interests pursuant to this Agreement.

Each Creditor hereby postpones and subordinates its Security Interest in the Collateral to and in favour of each other Creditor to the extent necessary to give effect to the ranking set out in this Section 3.1.

3.2 Each Creditor further agrees to postpone and subordinate its Security Interest in the Collateral to any Security Interest in the Collateral granted to any to and in favour of the Parent Senior Lender, in a form required by such Parent Senior Lender.

3.3 Each Creditor hereby irrevocably authorizes and appoints any director or officer of the Debtor as its true and lawful attorney, with full power of substitution for and in the name of such Creditor, to sign and seal all documents and to fill in all blanks and to execute, deliver and do all such acts, deeds, documents, transfers, demands, conveyances, assignments, contracts, assurances, consents, and any additional powers of attorney necessary to give effect to such Creditor's obligations pursuant Section 3.2 above and generally to use the name of such Creditor in connection therewith. This appointment shall be coupled with an interest and shall not be revoked by the insolvency or bankruptcy of such Creditor.

## ARTICLE 4
## NEGATIVE COVENANTS

4.1 Except as herein provided, the Company shall not, without the prior written consent of Creditors holding in the aggregate not less than a majority of the then outstanding principal amount owing, in the aggregate, under the Debenture:

(a) create, allow to be created or suffer to exist any assignment, pledge, hypothec, option, charge, lien or encumbrance upon the Collateral, other than Permitted Encumbrances; or

(b) sell, offer to sell, lease, offer to lease, license, offer to license, transfer, or otherwise dispose of the Collateral or any part thereof, other than in the ordinary course of business.

## ARTICLE 5
## EVENTS OF DEFAULT

5.1 Default hereunder shall be deemed to occur in each of the following instances (each of which is herein called an "**Event of Default**"):

(a) the Company defaults in payment or performance of any of the Obligations and such default is not remedied by the Company in three days from the date on which notice of such default is provided to the Company by the Creditor(s) affected by such default;

(b) the Company defaults in making any payment hereby required or in performing or complying with any covenant, undertaking, condition or obligation contained herein, and such default is not remedied by the Company in 15 days from the date on which notice of such default is provided to the Company by the Creditor(s) affected by such default;

(c) any order is made or a resolution passed for the winding-up of the Company or if a petition (voluntary or involuntary) is filed against the Company or an authorized assignment for the benefit of creditors is made by or against it or if a receiver or agent is appointed by or on behalf of a secured creditor of the Company or pursuant to a court order or an application is made or notice of intention to make a proposal is filed or a proposal is made by the

Company to its creditors, provided that in the case of any such proceedings or assignments made against the Company, the same shall not constitute an Event of Default if it has been stayed or dismissed within 30 days of the initiation thereof;

(d) an encumbrancer, whether permitted or otherwise, takes possession of any substantial part of the Collateral, or any process of a court, execution, distress, or analogous process becomes enforceable or is enforced against any substantial part of the Collateral and such execution, distress or analogous proceeding has not been vacated or lifted within 30 days; or

(e) the Company is liquidated, dissolved or its corporate charter expires or is revoked.

## ARTICLE 6
## REMEDIES

6.1 If an Event of Default occurs and is continuing, and provided that Creditor(s) holding not less than a majority of the then outstanding principal amount owing, in the aggregate, under the Debenture have consented to enforce their remedies hereunder, the Security Interest shall immediately become enforceable and the Creditors may, forthwith or at any time thereafter and without notice to the Company except as required by the Act or by this Agreement:

(a) declare the Obligations immediately due and payable;

(b) require the Company to assemble and make available the Collateral at a specific time and place designated by the Creditors;

(c) sell, lease, or otherwise dispose of the Collateral at any public or private sale in accordance with applicable law;

(d) commence legal action to enforce payment or performance of any or all of the Obligations;

(e) take possession of all or any part of the Collateral with power to exclude the Company, its agents and its servants therefrom;

(f) notify the account debtors or obligors in connection with the Collateral of the assignment of such accounts to the Creditors and direct such account debtors or obligors to make payment of all amounts due or to become due to the Company thereunder directly to the Creditors and give valid and binding receipts and discharges therefor and in respect thereof and, upon such notification and at the expense of the Company, enforce collection of the Collateral, and adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as the Company might have done;

(g) enjoy and exercise all of the rights and remedies of a secured party under the Act;

(h) file such proofs of claim or other documents as may be necessary or desirable to have its claim lodged in any bankruptcy, winding-up, liquidation, dissolution or other proceedings (voluntary or involuntary) relating to the Company; and

(i) preserve, protect and maintain the Collateral and make such replacements thereof and additions thereto as the Creditors shall deem advisable,

provided, however, that the Creditors shall act in a commercially reasonable manner in exercising their rights under this Agreement. All rights and remedies contained in this Agreement or by law afforded shall be cumulative and all shall be available to the Creditors until the Obligations have been paid in full.

6.2 The Company agrees to indemnify and reimburse the Creditors for all reasonable costs and expenses of the Creditors, their agents, advisors and consultants (including without limitation legal fees and disbursements on a solicitor-and-client basis) incurred with respect to the exercise by the Creditors of any of their rights, remedies and powers under this Agreement, or with respect to dealing with other creditors of the Company in connection with the establishment, confirmation, amendment or preservation of the priority of the Security Interest, and such costs and expenses shall be added to and shall form part of the Obligations.

6.3 Each Creditor hereby agrees that upon the occurrence of an Event of Default, the Creditors' recourse against Company shall be solely limited to enforcing its rights, powers and remedies pursuant to this Agreement against the Collateral (or any amounts received upon realization of the Collateral).

## ARTICLE 7
## GENERAL

7.1 Provided all Obligations (including, without limitation all payment obligations thereunder) have been irrevocably satisfied in full, this Agreement will automatically terminate without any further liability of the Company whatsoever and further the Security Interest shall be automatically released and the Creditors hereby authorize the Company and the Parent Senior Lender (or agent thereof) to register financing change statements to discharge all security registrations registered under the Act, and any other filings or registrations made, against the Company in favour of the Creditors in respect of the Security Interest.

7.2 No delay or omission to exercise any right or remedy accruing to the Creditors upon any breach or default by the Company hereunder shall impair any such right or remedy by the Creditors nor be construed as a waiver of any such breach or default or of any similar breach or default thereafter occurring, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers hereunder must be in writing and signed by the waiving party.

7.3 Any demand, notice or other communication in connection with this Agreement shall be in writing and shall be personally delivered to an officer or other responsible employee of the addressee, mailed by registered mail or sent by direct written electronic means, charges prepaid, at or to the address or email address of the party set out opposite its name below:

In the case of the Creditors, the address set forth opposite each Creditor's name in Schedule "A" attached hereto.

In the case of the Company:

Shift44, Inc.
c/o PopReach Corporation (dba Ionik)
1 University Avenue, 3rd Floor
Toronto, Ontario M5J 2P1

Attention: Amy Hastings, General Counsel
Email: ahastings@popreach.com

or to such other address or addresses as either party may from time to time designate to the other party in such manner. Any demand, notice or other communication which is personally delivered as aforesaid shall be deemed to have been validly and effectively given on the date of such delivery if such date is a Business Day and such delivery was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly and effectively given on the Business Day next following such date of delivery. Any demand, notice or other communication mailed as aforesaid shall be deemed to have been validly and effectively given on the fifth Business Day following the date of mailing provided that, in the event of an interruption in postal services before such fifth Business Day, such communication shall be given by one of the other means. Any demand, notice or other communication which is transmitted by telefacsimile or other direct written electronic means as aforesaid shall be deemed to have been validly and effectively given on the date of transmission if such date is a Business Day and such transmission was made during normal business hours of the recipient; otherwise, it shall be deemed to have been validly given on the Business Day next following such date of transmission.

7.4 This Agreement shall become effective according to its terms immediately upon the execution hereof by the parties hereto. This Agreement and the Security Interest are in addition to and not in substitution for any other agreement made between the Creditors and the Company or any other security granted by the Company to the Creditors whether before or after the execution of this Agreement.

7.5 There are no representations, agreements, warranties, conditions, covenants or terms, express or implied, collateral or otherwise, affecting this Agreement or the Security Interest or the Company's obligations and liabilities hereunder other than as expressed herein.

7.6 Time shall be of the essence hereof.

7.7 This Agreement may not be assigned by the Company without the prior written consent of Creditors holding in the aggregate not less than a majority of the then outstanding principal amount owing, in the aggregate, under the Debenture. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

7.8 This Agreement may be signed in counterparts and by facsimile or other electronic means.

***[REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK]***

**IN WITNESS WHEREOF** the parties hereto have executed this agreement as of the date first above written.

**Company:**

**SHIFT44, INC.**

Per: _____
Name: Ted Hastings
Title: President

**Creditors:**

_____
**JOSEPH BARRECA**

_____
**STEVEN THOMPSON**

_____
**COREY MCCUTCHEN**

_____
**NICHOLAS ECONS**

**SCHEDULE "A"**

**Creditors**

| Creditor | Pro Rata Entitlement | Address for Notice |
|---|---|---|
| Corey McCutchen | [redacted] | [redacted] |
| Joseph Barreca | | |
| Steven Thompson | | |
| Nicholas Econs | | |
| **Total** | **100%** | |

**EXHIBIT "B"**

**TO CONVERTIBLE DEBNTURE**

**FORM OF GUARANTEE**

See attached.

# GUARANTEE AGREEMENT

To: The Creditors set forth in Schedule A attached hereto (collectively, the "**Creditors**")

**WHEREAS**, S44 LLC (the "**Seller**"), a New York limited liability company, sold substantially all of its assets (the "**Acquired Assets**") to Shift44, Inc. (the "**Guarantor**"), a Delaware corporation, pursuant to an Asset Contribution and Acquisition Agreement entered into between PopReach Corporation (the "**Debtor**"), an Ontario Corporation, the Guarantor, the Seller and certain principals of the Seller dated the date hereof;

**AND WHEREAS**, the Debtor, has agreed to satisfy, on behalf of the Guarantor, a portion of the consideration for the Acquired Assets by way of issuance to the Seller of an interest-bearing convertible debenture in the principal amount of US$16,750,000 dated as of the date hereof (the "**Debenture**");

**AND WHEREAS**, the Debtor, has agreed to satisfy, on behalf of the Guarantor, a portion of the consideration for the Acquired Assets by way of issuance to the Seller of an interest-bearing convertible debenture in the principal amount of US$16,750,000 dated as of the date hereof (the "**Debenture**");

**AND WHEREAS**, the Seller has instructed the Debtor, by way of instruction in writing, to issue the Debenture to the Creditors as partial satisfaction of a member distribution declared by the Seller and payable to the Creditors;

**AND WHEREAS**, as security for the payment of the full amount of the indebtedness, liabilities and obligations of the Debtor to the Creditors under the Debenture, the Guarantor has agreed to guarantee payment of the Debtor's present and future indebtedness, liabilities and obligations to the Creditors under the Debenture on the terms and subject to the conditions hereinafter set forth; and

**AND WHEREAS**, it is in the best interests of the Guarantor to execute and deliver this agreement, inasmuch as the Guarantor will derive substantial direct and indirect benefits from the transaction contemplated by the Purchase Agreement.

**NOW THEREFORE**, effective as of the date hereof, in consideration of the premises and other good and valuable consideration, the Guarantor hereby covenants to and for the benefit of the Creditors as follows:

## ARTICLE 1
## INTERPRETATION

**1.01 Defined Terms.** All capitalized terms which are used herein and not otherwise defined herein shall have the respective meanings ascribed thereto in the Purchase Agreement. In this agreement or any amendment to this agreement, unless the context clearly indicates to the contrary:

**"Banking Day"** means any day other than a Saturday or a Sunday on which banks generally are open for business in Toronto, Ontario.

**"Designated Currency"** shall have the meaning ascribed thereto in Section 2.01.

**"General Security Agreement"** means the general security agreement between the Guarantor and the Creditors dated as of the date hereof, pursuant to which the Guarantor grants to the Creditors a security interest in all of its property.

**"Obligations"** means all debts, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Debtor to the Creditors or remaining unpaid by the Debtor to the Creditors under the Debenture.

**"Person"** means any natural person, corporation, firm, partnership, joint venture, joint stock company, incorporated or unincorporated association, government, governmental agency or any other entity, whether acting in an individual, fiduciary or other capacity.

**1.02 Other Usages.** References to "this agreement", "the agreement", "hereof", "herein", "hereto" and like references refer to this Guarantee Agreement, as amended, modified, supplemented or replaced from time to time, and not to any particular Article, Section or other subdivision of this agreement.

**1.03 Plural and Singular.** Where the context so requires, words importing the singular number shall include the plural and vice versa.

**1.04 Headings.** The division of this agreement into Articles and Sections and the insertion of headings in this agreement are for convenience of reference only and shall not affect the construction or interpretation of this agreement.

**1.05 Applicable Law.** This agreement shall be governed by and construed in accordance with the laws of the State of Delaware and the federal laws of the United States applicable therein. Any legal action or proceeding with respect to this agreement may be brought in the courts of the State of Delaware, by execution and delivery of this agreement, the Guarantor hereby accepts for itself and in respect of it property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts.

**1.06 Time of the Essence.** Time shall in all respects be of the essence of this agreement, and no extension or variation of this agreement or any obligation hereunder shall operate as a waiver of this provision.

## ARTICLE 2
## GUARANTEE

**2.01 Guarantee.** The Guarantor hereby unconditionally, absolutely and irrevocably guarantees the full and punctual payment to the Creditors as and when due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise of all of the Obligations in the same currency (the "**Designated Currency**") as the currency of the Obligations, whether for principal, interest, fees, expenses, indemnities or otherwise.

**2.02 Acceleration of Guarantee.** The Guarantor agrees that, in the event of the dissolution or insolvency of the Guarantor, or the inability or failure (after any applicable grace periods) of the Guarantor to pay debts as they become due, or an assignment by the Guarantor for the benefit of creditors, or the commencement of any proceeding in respect of the Guarantor under any bankruptcy, insolvency or similar laws, and if such event shall occur at a time when any of the Obligations may not then be due and payable, the Guarantor will pay to the Creditors forthwith the full amount which would be payable hereunder by the Guarantor if all such Obligations were then due and payable.

**2.03 Nature of Guarantee.** Subject to Section 2.02, the guarantee herein provided for shall in all respects be a continuing, absolute, unconditional and irrevocable guarantee of payment when due and not of collection, and shall remain in full force and effect until all Obligations have been paid in full. The Guarantor guarantees that the Obligations will be paid strictly in accordance with the terms of the agreement or contract under which they arise, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of the Creditors with respect thereto (provided the Guarantor shall not be in breach of any such law, regulation or order by doing so). The Creditors shall apply all payments received from the Guarantor hereunder against the Obligations in such manner as they see fit.

**2.04 Liability Not Lessened or Limited.** Subject to the provisions hereof, the liability of the Guarantor under this agreement shall be absolute, unconditional and irrevocable irrespective of, and without being lessened or limited by:

(a) any lack of validity, legality, effectiveness or enforceability of the Debenture;

(b) the failure of the Creditors:

(i) to assert any claim or demand or to enforce any right or remedy against the Debtor or any other Person (including any other guarantor), or

(ii) to exercise any right or remedy against any other guarantor of, or collateral securing, any of the Obligations;

(c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other extension, compromise, indulgence or renewal of any Obligation;

(d) any reduction, limitation, variation, impairment, discontinuance or termination of the Obligations for any reason (other than by reason of any payment which is not required to be rescinded), including any claim of waiver, release, discharge, surrender, alteration or compromise, and shall not be subject to (and the Guarantor hereby waives any right to or claim of) any defence or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality, nongenuineness, irregularity, compromise, unenforceability of, or any other event or occurrence affecting, the Obligations or otherwise (other than by reason of any payment which is not required to be rescinded);

(e) any amendment to, rescission, waiver or other modification of, or any consent to any departure from, any of the terms of the Debenture or any other guarantees or security in respect thereof;

(f) any addition, exchange, release, discharge, renewal, realization or non-perfection of any collateral security for the Obligations or any amendment to, or waiver or release or addition of, or consent to departure from, any other guarantee held by the Creditors as security for any of the Obligations;

(g) the loss of or in respect of or the unenforceability of any other guarantee or other security which the Creditors may now or hereafter hold in respect of the Obligations, whether occasioned by the fault of the Creditors or otherwise;

(h) any change in the name of the Debtor or in the constating documents, capital structure, capacity or constitution of the Debtor, the bankruptcy or insolvency of the Debtor, the sale of any or all of the Debtor's business or assets or the Debtor being consolidated, merged or amalgamated with any other Person; or

(i) any other circumstance (other than final payment in full of all Obligations) which might otherwise constitute a defence available to, or a legal or equitable discharge of, the Debtor, any surety or any guarantor.

Any Obligation which may not be recoverable from the Guarantor as guarantor shall be recoverable from the Guarantor as principal debtor in respect thereof.

**2.05 Limited Recourse Guarantee.** Notwithstanding any other provision hereof, the Creditors hereby acknowledge and agree that they shall only have recourse under the General Security Agreement in enforcing this Guarantee against the Guarantor.

**2.06 Creditors not Bound to Exhaust Recourse.** The Creditors shall not be bound to pursue or exhaust their recourse against the Debtor or others or any security or other guarantees it may at any time hold before being entitled to payment hereunder from the Guarantor.

**2.07 Enforcement.** Upon any of the Obligations becoming due and payable, the Guarantor shall forthwith pay to the Creditors the total amount of such Obligations and the Creditors may apply the sum so paid against such Obligations as the Creditors may see fit and change any such application in whole or in part from time to time. A written statement of the Creditors as to the amount remaining unpaid to the Creditors by the Debtor at any time shall be conclusive evidence against the Guarantor, absent manifest error, as to the amount remaining unpaid to the Creditors by the Debtor at such time.

**2.08 Guarantee in Addition to Other Security.** This guarantee shall be in addition to and not in substitution for any other guarantee or other security which the Creditors may now or hereafter hold in respect of the Obligations, and the Creditors shall be under no obligation to marshal in favour of the Guarantor any other guarantee or other security or any moneys or other assets which the Creditors may be entitled to receive or may have a claim upon.

**2.09 Reinstatement.** This guarantee and all other terms of this agreement shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment (in whole or in part) of any of the Obligations is rescinded or must otherwise be returned or restored by the Creditors by reason of the insolvency, bankruptcy or reorganization of the Debtor or for any other reason not involving the wilful misconduct of the Creditors, all as though such payment had not been made.

**2.10 Waiver of Notice, etc.** The Guarantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Obligations and this agreement.

**2.11 Subrogation Rights.** Until satisfaction in full of all of the Obligations, all dividends, compositions, proceeds of security or payments received by the Creditors from the Debtor or others in respect of the Obligations shall be regarded for all purposes as payments in gross without any right on the part of the Guarantor to claim the benefit thereof in reduction of the liability under this agreement. The Guarantor will not exercise any rights which it may acquire by way of subrogation under this agreement, by any payment made hereunder or otherwise, until the prior satisfaction in full of all of the Obligations. Any amount paid to the Guarantor on account of any such subrogation rights prior to the satisfaction in full of all Obligations shall be held in trust for the benefit of the Creditors and shall immediately be paid to the Creditors and credited and applied against the Obligations, whether matured or unmatured; provided, however, that if:

(a) the Guarantor has made payment to the Creditors of all or any part of the Obligations, and

(b) all Obligations have been paid in full and all commitments of the Creditors to the Debtor have been permanently terminated,

the Creditors agree that, at the Guarantor's request, the Creditors will execute and deliver to the Guarantor appropriate documents (without recourse and without representation or warranty) necessary to evidence the transfer by subrogation to the Guarantor of an interest in the Obligations resulting from such payment by the Guarantor. In furtherance of the foregoing, for so long as any Obligations or any commitments of the Creditors to the Debtor remain outstanding, the Guarantor hereby postpones any and all claims it may have against the Debtor to the claims of the Creditors against the Debtor, hereby assigns to the Creditors any and all claims it may have against the Debtor and agrees to refrain from taking any action or commencing any proceeding against the Debtor or its successors or assigns, whether in connection with a bankruptcy proceeding or otherwise, to recover any amounts in respect of payments made hereunder to the Creditors, although the Guarantor may take such actions as may be necessary to preserve its claims against the Debtor. In the event any payments are made by the Debtor to the Guarantor in contravention of the preceding sentence, the Guarantor shall hold the amount so received in trust for the Creditors and shall forthwith pay such amount to the Creditors.

**2.12 Indemnity.** As an original and independent obligation under this Guarantee, the Guarantor shall:

(a) indemnify the Creditors and keep the Creditors indemnified against any cost, loss, expense or liability of whatever kind resulting from the failure by the Debtor to

make due and punctual payment of any of the Obligations or resulting from any of the Obligations being or becoming void, voidable, unenforceable or ineffective against the Debtor (including, but without limitation, all reasonably incurred legal and other costs, charges and expenses incurred by the Creditors in connection with preserving or enforcing, or attempting to preserve or enforce, their rights under this Guarantee or any of the other document); and

(b) pay on demand the amount of such reasonable costs, loss (other than loss of profits), expense or liability whether or not the Creditors have attempted to enforce any rights against the Debtor, any other guarantor, or any other Person or otherwise.

## ARTICLE 3
## REPRESENTATIONS AND WARRANTIES

**3.01 Representations and Warranties.** To induce the Creditors to extend credit to the Debtor, the Guarantor hereby represents and warrants to the Creditors as follows and acknowledges and confirms that the Creditors are relying upon such representations and warranties in extending credit to the Debtor:

(a) **Status and Power.** The Guarantor is duly formed and validly subsisting in good standing under the laws of its formation. The Guarantor has all requisite capacity, power and authority to own, hold under licence or lease its properties, to carry on its business as now conducted and to otherwise enter into, and carry out the transactions contemplated by, this agreement and the General Security Agreement.

(b) **Authorization and Enforcement of Documents.** All necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance of this agreement and the General Security Agreement by the Guarantor. The Guarantor has duly executed and delivered this agreement and the General Security Agreement. This agreement and the General Security Agreement are legal, valid and binding obligations of the Guarantor, enforceable against the Guarantor by the Creditors in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium, reorganization and other similar laws limiting the enforcement of creditors' rights generally and the fact that the courts may deny the granting or enforcement of equitable remedies.

(c) **Offices and Places of Business.** The address of the registered office of the Guarantor is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, located in the County of New Castle.

(d) **Trade Names, etc.** The Guarantor does not carry on any business under any business name, business style or trade name other than its legal name except for "S44".

(e) **Principal Place of Business; Location of Assets.** The principal place of business of the Guarantor is the [redacted] (the "**Principal Place Business**") and the

Guarantor's assets over which the Guarantor has granted the Creditors a security interest under the General Security Agreement are now and will be located at the Principal Place of Business. In the event that such assets become located at any other address, the Guarantor shall promptly notify the Creditors in writing of the details thereof.

**3.02 Survival of Representations and Warranties.** All of the representations and warranties of the Guarantor contained in Section 3.01 shall survive the execution and delivery of this agreement notwithstanding any investigation made at any time by or on behalf of the Creditors.

## ARTICLE 4
## GENERAL CONTRACT PROVISIONS

**4.01 Notices.** Any notice, consent or approval required or permitted to be given in connection with this Agreement (a "**Notice**") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or other forms of electronic transmission:

in the case of a Notice to the Creditors at the addresses indicated in Schedule A attached hereto.

if to the Guarantor, to:

Shift44, Inc.
c/o PopReach Corporation (dba Ionik)
1 University Avenue, 3rd Floor
Toronto, Ontario M5J 2P1

Attention: Amy Hastings, General Counsel
Email: ahastings@popreach.com

Any Notice given, delivered or transmitted to a party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is given, delivered or transmitted on a Banking Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is given, delivered or transmitted after 5:00 p.m. local time, or if such day is not a Banking Day, then the Notice shall be deemed to have been given and received on the next Banking Day. Any part may, from time to time, change its address or the Person to whom Notice is to be given by giving Notice to the other party in accordance with the provisions of this Section.

**4.02 Further Assurances.** The Guarantor shall do, execute and deliver or shall cause to be done, executed and delivered all such further acts, documents and things as the Creditors may reasonably request for the purpose of giving effect to this agreement.

**4.03 Severability.** Wherever possible, each provision of this agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this agreement.

**4.04 Successors and Assigns.** This agreement shall enure to the benefit of the Creditors and their successors and assigns and shall be binding upon the Guarantor and its successors and assigns.

**4.05 Amendments and Waivers.** No amendment to or waiver of any provision of this agreement, nor consent to any departure by the Guarantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Creditors, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

**4.06 Entire Agreement.** This agreement and the agreements, instruments and documents referred to herein, constitute the entire agreement between the parties hereto and supersede any prior agreements, undertakings, declarations, representations and understandings, both written and verbal, in respect of the subject matter hereof.

**4.07 No Waiver; Remedies; No Duty.** No failure on the part of the Creditors to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Creditors have no duty or responsibility to provide the Guarantor with any credit or other information concerning the Debtor's affairs, financial condition or business which may come into the Creditors' possession.

***[Remainder of page intentionally blank]***

**IN WITNESS WHEREOF** the Guarantor has executed this agreement as of the _____ day of _____, 2023.

**SHIFT44, INC.**

Per: _____
Name: Ted Hastings
Title: President

**ACCEPTED AND AGREED** as of this _____ day of _____, 2023.

**CREDITORS:**

_____
**JOSEPH BARRECA**

_____
**COREY MCCUTCHEN**

_____
**STEVEN THOMPSON**

_____
**NICHOLAS ECONS**

## Schedule A

## Creditors

| Creditor Name | Address for Notice |
|---|---|
| Corey McCutchen | [redacted] |
| Joseph Barreca | |
| Steven Thompson | |
| Nicholas Econs | |

**EXHIBIT "C"**

**FORM OF CONVERSION NOTICE**

**TO:** PopReach Corporation (dba Ionik) (the "**Corporation**")

The undersigned, a registered holder of the Convertible Debenture issued by the Corporation to the undersigned on _____, 202_ (the "**Debenture**"), hereby irrevocably elects to convert $_____ owing under the Debenture into **[_____ Common Shares]** (the "**Conversion Shares**") of the Corporation in accordance with the terms of the Debenture.

The undersigned hereby confirms it is a U.S. Person and is purchasing the Conversion Shares as a U.S. Accredited Investor, and, upon reasonable request of the Corporation, the undersigned shall provide to the Corporation a written certificate in a form satisfactory to the Corporation, acting reasonably, confirming such status. "**U.S. Person**" means a U.S. Person as defined in Rule 902(k) of Regulation S under the U.S. Securities Act. "**U.S. Accredited Investor**" means an "accredited investor" as that term is defined in Rule 501(a) of Regulation D under the U.S. Securities Act. "**U.S. Securities Act**" means the United States Securities Act of 1933, as amended.

The undersigned hereby irrevocably directs that the Common Shares be delivered, subject to the conditions set out in the Debenture, and that the said Common Shares be registered, as follows:

| Name in Full | Address | Number of Conversion Shares |
|---|---|---|
| _____ | _____ | _____ |

DATED this _____ day of _____, 20___.

_____
Signature of Holder
Print Name and Address in full below:

Name _____
Address _____

# Exhibit B

## U.S. ACCREDITED INVESTOR CERTIFICATE

To: **PopReach Corporation (dba Ionik) (the "Corporation")**

In connection with the acquisition by the undersigned of common shares, and a debenture convertible into common shares, of the Corporation (which are hereinafter referred to as the "Securities"), the undersigned hereby represents, warrants, covenants and certifies that the undersigned (or any beneficial purchaser on whose behalf it is acting) is a U.S. Person (as defined under Regulation S of the U.S. Securities Act) and is an "Accredited Investor" as defined in Rule 501(a) of Regulation D under the U.S. Securities Act as a result of satisfying one or more of the following categories of Accredited Investor below to which the undersigned has affixed his or her initials (the line identified as "**BP**" is to be initialed by the beneficial purchaser, if any, on each line that applies):

| | | |
|---|---|---|
| _____ _____(BP) | Category 1. | A bank, as defined in Section 3(a)(2) of the United States *Securities Act of 1933* (the "U.S. Securities Act"), whether acting in its individual or fiduciary capacity; or |
| _____ _____(BP) | Category 2. | A savings and loan association or other institution as defined in Section 3(a)(5)(A) of the U.S. Securities Act, whether acting in its individual or fiduciary capacity; or |
| _____ _____(BP) | Category 3. | A broker or dealer registered pursuant to Section 15 of the *Securities Exchange Act of 1934*; or |
| _____ _____(BP) | Category 4. | An insurance company as defined in Section 2(a)(13) of the U.S. Securities Act; or |
| _____ _____(BP) | Category 5. | An investment company registered under the *Investment Company Act of 1940*; or |
| _____ _____(BP) | Category 6. | A business development company as defined in Section 2(a)(48) of the *Investment Company Act of 1940*; or |
| _____ _____(BP) | Category 7. | A small business investment company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the *Small Business Investment Act of 1958*; or |
| _____ _____(BP) | Category 8. | A plan established and maintained by a state, its political subdivision or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, with assets in excess of U.S. $5,000,000; or |

| | | |
|---|---|---|
| _____ _____(BP) | Category 9. | A private business development company as defined in Section 202(a)(22) of the *Investment Advisers Act of 1940*; or |
| _____ _____(BP) | Category 10. | A corporation, Massachusetts or similar business trust, a partnership, a limited liability company or an organization described in Section 501(c)(3) of the *Internal Revenue Code*, not formed for the specific purpose of acquiring the Securities, with total assets in excess of U.S.$5,000,000; or |
| _____ _____(BP) | Category 11. | A director, executive officer or general partner of the Corporation; or |
| _____ _____(BP) | Category 12. | A natural person whose individual net worth, or joint net worth with that person's spouse, at the time of purchase, exceeds U.S.$1,000,000 (for the purposes of calculating net worth, (i) the person's primary residence shall not be included as an asset; (ii) indebtedness that is secured by the person's primary residence, up to the estimated fair market value of the primary residence at the time of this certification, shall not be included as a liability (except that if the amount of such indebtedness outstanding at the time of this certification exceeds the amount outstanding 60 days before such time, other than as a result of the acquisition of the primary residence, the amount of such excess shall be included as a liability); and (iii) indebtedness that is secured by the person's primary residence in excess of the estimated fair market value of the primary residence shall be included as a liability); or |
| _____ _____(BP) | Category 13. | A natural person who had an individual income in excess of U.S.$200,000 in each year of the two most recent years or joint income with that person's spouse in excess of U.S.$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year; or |
| _____ _____(BP) | Category 14. | A trust, with total assets in excess of U.S.$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Rule 506(b)(2)(ii) of Regulation D under the U.S. Securities Act; or |
| _____ _____(BP) | Category 15. | An entity in which each of the equity owners meets the requirements of one of the above categories. ***(if this is your applicable category, each equity owner of the entity must individually complete and submit to the Corporation it own copy of this Certificate for U.S. Accredited Investors)*** |

In addition, the undersigned covenants, represents and warrants to the Corporation that:

(a) the place at which the undersigned received and accepted the offer to acquire the Securities is located in the state identified on the signature page of this Certificate;

(b) it has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Securities and it is able to bear the economic risk of loss of its entire investment;

(c) the Corporation has provided to it the opportunity to ask questions and receive answers concerning the Corporation, and it has had access to such information concerning the Corporation as it has considered necessary or appropriate in connection with its decision to acquire the Securities;

(d) it is acquiring the Securities for its own account, or for the account of another "accredited investor" (as defined Rule 501(a) of Regulation D) over which it exercises sole investment discretion, for investment purposes only and not with a view to any resale, distribution or other disposition of the Securities in violation of United States federal or state securities laws;

(e) it acknowledges that it has not acquired the Securities as a result of any form of general solicitation or general advertising, as such terms are defined in Rule 502(c) of Regulation D, including, without limitation, advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or on the Internet, or broadcast over radio, television or the Internet, or any seminar or meeting whose attendees have been invited by general solicitation or general advertising;

(f) if it decides to offer, sell, pledge or otherwise transfer any of the Securities, it will not offer, sell, pledge or otherwise transfer any of such Securities directly or indirectly, unless:

(i) the sale is to the Corporation;

(ii) the sale is made outside the United States in a transaction meeting the requirements of Rule 904 of Regulation S under the U.S. Securities Act and in compliance with applicable local laws and regulations;

(iii) the sale is made pursuant to the exemption from the registration requirements under the U.S. Securities Act provided by Rule 144 thereunder, if available, and in accordance with any applicable state securities or "Blue Sky" laws; or

(iv) the Securities, are sold in a transaction that does not require registration under the U.S. Securities Act or any applicable state laws and regulations governing the offer and sale of securities;

and, in the case of clauses (iii) or (iv) above, it has prior to such sale furnished to the Corporation an opinion of counsel or other evidence of exemption in form and substance reasonably satisfactory to the Corporation;

(g) it understands and acknowledges that upon the issuance thereof, and until such time as the same is no longer required under the applicable requirements of the U.S. Securities Act or applicable state securities laws and regulations, the Securities will bear a legend in substantially the following form:

**"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES. THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE ISSUER THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT, (C) IN COMPLIANCE WITH THE EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER, IF AVAILABLE, AND IN COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE U.S. SECURITIES ACT OR ANY APPLICABLE STATE LAWS AND REGULATIONS GOVERNING THE OFFER AND SALE OF SECURITIES, AND IN THE CASE OF (C) OR (D) THE HOLDER HAS PRIOR TO SUCH SALE FURNISHED TO THE ISSUER AN OPINION OF COUNSEL OR OTHER EVIDENCE OF EXEMPTION IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE ISSUER TO SUCH EFFECT.**

**THE PRESENCE OF THIS LEGEND MAY IMPAIR THE ABILITY OF THE HOLDER HEREOF TO EFFECT "GOOD DELIVERY" OF THE SECURITIES REPRESENTED HEREBY ON A CANADIAN STOCK EXCHANGE.";**

(h) it understands that all Securities are or will be "restricted securities" as defined in Rule 144(a)(3) under the U.S. Securities Act, and that it may dispose of the Securities only pursuant to an effective registration statement under the U.S. Securities Act or an exemption from the registration requirements of the U.S. Securities Act; it understands and acknowledges that the Corporation is not obligated to file and has no present intention of filing with the United States Securities and Exchange Commission or with any state securities administrator any registration statement in respect of resales of the Securities in

the United States; accordingly, it understands that absent registration under the U.S. Securities Act or an exemption therefrom, it may be required to hold the Securities indefinitely;

(i) it understands that the Corporation is not obligated to make Rule 144 under the U.S. Securities Act available for resales of the Securities;

(j) it consents to the Corporation making a notation on its records or giving instruction to their respective registrar and transfer agents in order to implement the restrictions on transfer set forth and described herein;

(k) it understands and agrees that there may be material tax consequences to the undersigned of an acquisition or disposition of any of the Securities; the Corporation gives no opinion and makes no representation with respect to the tax consequences to the undersigned under United States, state, local or foreign tax law of the undersigned's acquisition or disposition of such securities. In particular, no determination has been made whether the Corporation will be a "passive foreign investment company" ("PFIC") within the meaning of Section 1297 of the United States Internal Revenue Code of 1986, as amended (the "Code");

(l) it understands that the financial statements of the Corporation have been or will be prepared in accordance with Canadian generally accepted accounting principles or International Financial Reporting Standards and thereof may be materially different from financial statements prepared under U.S. generally accepted accounting principles and therefore may not be comparable to financial statements of United States companies;

(m) it understands that no agency, governmental authority, regulatory body, stock exchange or other entity (including, without limitation, the United States Securities and Exchange Commission or any state securities commission) has made any finding or determination as to the merit of investment in, nor have any such agencies or governmental authorities made any recommendation or endorsement with respect, to the Securities;

(n) if required by applicable securities legislation, regulatory policy or order or by any securities commission, stock exchange or other regulatory authority, it will execute, deliver and file and otherwise assist the Corporation in filing reports, questionnaires, undertakings and other documents with respect to the issue of the Securities; and

(o) it understands and acknowledges that it is making the representations and warranties and agreements contained herein with the intent that they may be relied upon by the Corporation in determining its eligibility to purchase the Securities.

The statements made in this Certificate are true and accurate to the best of my information and belief.

Dated:_____

_____
Print name (or person signing as agent)

By:_____
Signature

_____
Title

_____
(Please print name of individual whose signature appears above, if different from name above)