

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported) September 30, 2021 (September 27, 2021)

SHIFT TECHNOLOGIES, INC.
(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	001-38839 (Commission File Number)	82-5325852 (I.R.S. Employer Identification No.)
290 Division Street, Suite 400, San Francisco, CA (Address of principal executive offices)		94103 (Zip Code)

Registrant's telephone number, including area code: **(855) 575-6739**

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13a-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value \$0.0001 per share	SFT	Nasdaq Capital Market

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

Emerging growth company

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

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers; Compensatory Arrangements of Certain Officers.

On September 30, 2021, Shift Technologies, Inc. (the “Company”) announced that Jeff Clementz will become the Company’s President, effective October 1, 2021. In connection with Mr. Clementz’s appointment, Tobias Russell stepped down from this role as President and will remain the Company’s Co-Chief Executive Officer.

Mr. Clementz, age 47, previously served in various management positions at Walmart from October 2015 to September 2021, most recently serving as Senior Vice President and General Manager of Marketplace and Partner Operations. Prior to that, he served in various management positions at PayPal from May 2003 to October 2015, including as its Vice President and Managing Director of Australia and New Zealand. Mr. Clementz also previously served in various positions with Vendio Services and Intel. Mr. Clementz holds a Master of Business Administration from the University of California, Berkeley and a Bachelor of Arts in Business Administration from the University of Washington.

There are no family relationships between Mr. Clementz and any director, executive officer, or person nominated or chosen by the Company to become a director or executive officer of the Company. Mr. Clementz is not a party to any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

Pursuant to the employment agreement entered into between the Company and Mr. Clementz, dated September 27, 2021 (the “Employment Agreement”), Mr. Clementz shall initially receive an annual base salary of \$450,000, increasing to \$510,000 beginning January 1, 2022. Mr. Clementz shall also receive a signing bonus of \$500,000, payable in two equal installments on April 1, 2022 and October 1, 2022, subject to continued employment with the Company through each applicable payment date. Mr. Clementz will be eligible to participate in annual bonus programs established by the Company, with a target annual bonus amount of up to two hundred fifty percent (250%) of Mr. Clementz’s base salary in 2021, which amount will be prorated for the remainder of 2021. Thereafter, Mr. Clementz will be eligible to participate in annual bonus programs established by the Company with a target annual bonus amount of up to at least one hundred fifty percent (150%) of Mr. Clementz’s base salary in the applicable performance year. Mr. Clementz will also be eligible to receive a one-time special cash bonus of \$2,000,000, payable on October 1, 2024, subject to continued employment with the Company and achievement of performance acceptable to the Board of Directors of the Company (the “Board”) in the sole discretion of the Board.

Also pursuant to the Employment Agreement, Mr. Clementz will be granted no later than December 31, 2021 an equity grant of 781,784 restricted stock units (“RSUs”). 586,338 RSUs will vest based on the passage of time (“Time RSUs”), with twenty-five percent (25%) of Time RSUs vesting on Mr. Clementz’s one-year anniversary and the remaining Time RSUs vesting quarterly in equal installments over the following three years. 195,446 RSUs will vest quarterly over the third and fourth years of Mr. Clementz’s employment, provided that the applicable performance hurdle for the applicable performance year is met. The vesting of the foregoing RSUs is subject to Mr. Clementz’s continued employment with the Company.

In addition, the Employment Agreement provides that Mr. Clementz will be granted (i) an equity grant of 58,634 RSUs no later than December 31, 2021, which shall vest in full on Mr. Clementz’s six-month anniversary of employment with the Company, (ii) an equity grant of 195,446 RSUs no later than December 31, 2022, which shall vest in full on Mr. Clementz’s three-year anniversary of employment with the Company, and (iii) an equity grant of 117,268 RSUs no later than December 31, 2023, which shall vest in full on Mr. Clementz’s four-year anniversary of employment with the Company, provided that the applicable performance hurdle for the performance year has been met. Each of the foregoing awards is subject to continued employment with the Company through the applicable vesting date, and, for (ii) and (iii), achievement of performance acceptable to the Board.

The foregoing description of the Employment Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Employment Agreement, a copy of which is filed hereto as Exhibit 10.1 and is incorporated herein by reference.

Item 8.01 Other Events.

On September 30, 2021, the Company issued a press release announcing the appointment of Mr. Clementz as President, a copy of which is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

10.1 [Employment Agreement, dated September 27, 2021, between the Company and Jeff Clementz.](#)

99.1 [Press Release dated September 30, 2021.](#)

104 Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURE

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

SHIFT TECHNOLOGIES, INC.

Dated: September 30, 2021

/s/ George Arison

Name: George Arison

Title: Co-Chief Executive Officer and Chairman

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this “Agreement”) is entered into on September 27, 2021 by and among Shift Platform, Inc. (the “Company”) and Jeff Clementz (the “Executive”), collectively referred to herein as the “Parties.”

WHEREAS, the board of directors of Shift Technologies, Inc. (“Shift”) (the “Board”) desires to appoint the Executive as President of the Company and the Executive desires to accept such position;

WHEREAS, the Parties desire to enter into this Agreement to reflect the terms and conditions of the Executive’s employment with the Company;

WHEREAS, the Executive has agreed to certain confidentiality and non-solicitation covenants herein in consideration of the benefits provided to the Executive under this Agreement; and

NOW, THEREFORE, in consideration of the premises and of the mutual promises and covenants contained herein, the Company and the Executive, intending to be legally bound, hereby agree as follows:

1. Employment.

(a) Term. This Agreement shall commence on October 1, 2021 or such other date as mutually agreed to by the Parties (the “Effective Date”) and continue until terminated pursuant to the terms of this Agreement (the “Term”).

(b) Duties. During the Term, the Executive shall be employed by the Company as its President and shall serve the Company faithfully and to the best of the Executive’s ability. The Executive shall devote the Executive’s full business time, attention, skill and efforts to the performance of the duties required by or appropriate for the Executive’s position with the Company. The Executive shall report to the Company’s co-chief executive officers (the “CEOs”) and shall perform such duties commensurate with the Executive’s office as contained in the bylaws of the Company or as the Executive shall reasonably be directed by the CEOs or the Board, including if requested, serving in positions at, and providing services to, any parent, subsidiary or affiliate of the Company (collectively with the Company, the “Company Entities” and each a “Company Entity”). The Executive shall be required to work from time to time at the Company’s headquarters (i.e., the primary work location of the senior management team, currently in San Francisco, California) as requested by the Board or the CEOs. The Executive’s primary work location, subject to the Executive’s ability to perform the essential functions of Executive’s employment, shall be the Executive’s home office in the State of California, provided that, (i) such remote work situation shall not materially interfere with the Executive’s ability to perform the Executive’s duties under this Agreement, and (ii) the Executive’s working hours shall be substantially aligned with the working hours of the Company’s workforce generally. The Executive shall engage in such reasonable business travel as may be required to perform the Executive’s duties. References to Company throughout this Agreement shall refer to the Company Entities except where the context clearly indicates otherwise, and references to the CEOs shall be deemed to reference the chief executive officer of the Company in the event the Company ceases to have co-chief executive officers.

(c) Best Efforts. Except for vacation, absences due to temporary illness and absences resulting from Disability (as defined below), the Executive shall devote the Executive's business time, attention and energies on a full-time basis to the performance of the duties and responsibilities referred to in subsection (b) above. The Executive shall not during the Term be engaged in any other business activity which, in the reasonable judgment of the CEOs, would conflict with the ability of the Executive to perform the Executive's duties under this Agreement, whether or not such activity is pursued for gain, profit or other pecuniary advantage. Nothing in this Section 1(c) shall prevent the Executive from engaging in additional activities in connection with personal investments and community affairs, including serving on civic or charitable boards; provided, however, that the Executive shall not serve as a member of the board of directors of any publicly traded or privately held companies without the Board's consent; provided, further, that no such service or activities are materially inconsistent with Executive's duties under this Agreement.

2. Base Salary. During the Term, the Company shall pay to the Executive a base salary of \$450,000 (which shall automatically increase to \$510,000 as of January 1, 2022) annually, which shall be subject to review and, at the option of the Board (or the Leadership Development, Compensation and Governance Committee of the Board (the "Compensation Committee") to the extent delegated by the Board), subject to increase (such salary, as the same may be increased from time to time as aforesaid, being referred to herein as the "Base Salary"). The Base Salary shall be reviewed on an annual basis for increases in accordance with the review process for senior level executives of the Company. The Base Salary shall be payable in accordance with the Company's normal payroll practices.

3. Incentive Compensation.

(a) Annual Incentive Compensation. For 2021, subject to the bonus terms set forth in Exhibit A, the Executive shall be eligible to receive a target bonus of up to two hundred and fifty percent (250%) of the Executive's Base Salary pro-rated for the number of days Executive is employed by the Company in 2021, subject in all respects to achievement of the specified performance goals (the "2021 Bonus"). For subsequent periods, the Executive shall be entitled to participate in an annual bonus program established by the Company with a target annual bonus amount measured as a percentage of the Executive's Base Salary, which shall be set at not less than one hundred and fifty percent (150%) of Executive's Base Salary in the performance year, subject in all respects to achievement of the specified performance goals (together with the 2021 Bonus, the "Annual Bonus"). Performance goals used for purposes of determining the Executive's Annual Bonus shall be established by the Board or the relevant subcommittee of the Board in consultation with the CEOs. Any Annual Bonus earned by the Executive shall be paid after the end of the fiscal year to which it relates, at the same time and under the same terms and conditions as other executives of the Company; provided that in no event shall the Executive's Annual Bonus be paid later than March 15th of the fiscal year following the fiscal year for which it was earned. Subject to Section 8 below, the Executive must be employed through the payment date to earn and receive any Annual Bonus, including, without limitation, the 2021 Bonus. For avoidance of doubt, each of the Special Cash Incentive and the Signing Bonus described below is not an Annual Bonus.

(b) Signing Bonus. The Executive shall be eligible to receive a signing bonus equal to \$500,000 (the “Signing Bonus”) following his commencement of employment with the Company. The Company shall pay the Signing Bonus in two equal installments, with (i) the first installment payable on the six-month anniversary of the Effective Date, and (ii) the second installment payable on the first (1st) anniversary of the Effective Date; in each case, the payment of such installment is subject in all respects to the Executive’s employment being in good standing through the applicable payment date. Each installment of the Signing Bonus shall be paid on the payroll date immediately following the applicable payment date. The Executive must be employed through each payment date to earn and receive each applicable installment of the Signing Bonus. In the event that the Executive voluntarily resigns employment with the Company without Good Reason prior to the first (1st) anniversary of the Effective Date, and subject to Section 8(d)(i), the Executive must return to the Company an amount equal to the portion of the Signing Bonus actually received (net of any and all taxes) within thirty (30) days of Executive’s termination of employment.

(c) Long-Term Incentive Compensation. The Executive shall be eligible to participate in all equity compensation plans and programs in place at the Company and shall receive such grants as may be provided from time to time by the Company to its officers as determined by the Compensation Committee in its sole discretion. Any equity awards made by the Company to the Executive shall be subject to the terms and conditions set forth in the Company’s equity compensation plan and form of grant agreement, as may be amended from time to time. Notwithstanding the foregoing, the Executive shall be awarded an equity grant substantively consistent with the form attached hereto as Exhibit B (the “2021 Equity Grant”), on the date the Company next approves equity grants, which shall be no later than December 31, 2021. Notwithstanding the foregoing, the Company’s obligation to grant the 2021 Equity Grant is contingent upon approval by the Compensation Committee.

(d) Special Long-Term Incentives.

(i) The Executive shall be eligible to receive a one-time special cash bonus equal to \$2,000,000 on the third (3rd) anniversary of the Effective Date (the “Special Cash Incentive”), subject in all respects to the Executive’s employment being in good standing through the payment date and the Executive’s achievement throughout such period of performance acceptable to the Board (or the Compensation Committee) in its sole discretion (in consultation with the CEOs of the Company). If earned by the Executive, the Special Cash Incentive shall be paid within 60 days of the third anniversary of the Effective Date. Subject to Section 8(c)(iv) below, the Executive must be employed through the payment date to earn and receive the Special Cash Incentive.

(ii) Subject to the Executive’s employment through the applicable grant date, the Executive shall be awarded an equity grant substantively consistent with the form attached hereto as Exhibit C in 2022 (the “Year Three Special Equity Grant”), which grant date shall be no later than December 31, 2022. Notwithstanding the foregoing, the Company’s obligation to grant the Year Three Special Equity Grant is contingent upon approval by the Compensation Committee.

(iii) Subject to the Executive's employment through the applicable grant date, the Executive shall be awarded an equity grant substantively consistent with the form attached hereto as Exhibit D in 2023 (the "Year Four Special Equity Grant"), which grant date shall be no later than December 31, 2023. Notwithstanding the foregoing, the Company's obligation to grant the Year Four Special Equity Grant is contingent upon approval by the Compensation Committee.

(iv) In addition, the Executive shall be awarded a sign-on grant substantively consistent with the form attached hereto as Exhibit E (the "Sign-on Equity Grant") on the date the Company next approves equity grants, which shall be no later than December 31, 2021. Notwithstanding the foregoing, the Company's obligation to grant the Sign-on Equity Grant is contingent upon approval by the Compensation Committee.

4. Benefits. During the Term, the Executive shall be eligible to participate in certain retirement and welfare benefit plans and programs made available to the Company's executives as a group, as such retirement and welfare plans may be in effect from time to time and subject to the eligibility requirements of such plans. Except as expressly provided for herein, nothing in this Agreement shall prevent the Company from amending or terminating any incentive, equity compensation, retirement, welfare or other employee benefit plans, programs, policies or perquisites from time to time as the Company deems appropriate.

5. Paid Time Off. During the Term, the Executive shall be entitled to paid time off (vacation, holiday, and sick leave), in accordance with the Company's policies.

6. Reimbursement of Expenses. During the Term, the Company shall reimburse the Executive, in accordance with the policies and practices of the Company in effect from time to time, for all reasonable and necessary traveling expenses and other disbursements incurred by the Executive for or on behalf of the Company in connection with the performance of the Executive's duties hereunder upon presentation by the Executive to the Company of appropriate documentation therefore.

7. Indemnification. The Executive, as an officer and/or director, shall be entitled to indemnification from the Company to the fullest extent permitted by applicable Delaware law. This indemnification shall include the Executive's right to request the Company to advance to the Executive reasonable attorneys' fees and expenses as such fees and expenses are incurred (subject to an undertaking by the Executive to repay such advances if it is ultimately determined that the Executive is not entitled to be indemnified by the Company as authorized under applicable law). No amendment, modification or repeal of the indemnity provisions in the governing documents of the Company shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any amendment, modification or repeal. The rights in this Section 7 shall not be exclusive of any other right that the Executive may have or hereafter acquire with respect to indemnification and advancement and payment of expenses.

8. Termination without Cause or Resignation for Good Reason. If the Executive's employment is terminated by the Company without Cause (as defined below), other than due to Disability, or by the Executive for Good Reason (as defined below) the provisions of this Section 8 shall apply.

(a) The Company may terminate the Executive's employment with the Company at any time without Cause with prior written notice to the Executive and the Executive may resign for Good Reason (as defined below).

(b) Unless the Executive complies with the Release Requirement (as defined below), no other payments or benefits shall be due under this Agreement to the Executive, but the Executive shall be entitled to any amounts earned, accrued and owing, but not yet paid under Section 2, any benefits accrued and due in accordance with the terms of any applicable benefit plans and programs of the Company (the "Accrued Obligations").

(c) Notwithstanding the provisions of Section 8(b), upon termination under Section 8(a) above, subject to the Release Requirement, and so long as the Executive continues to comply with the provisions of Section 15 below, in addition to the Accrued Obligations, the Executive shall be entitled to receive:

(i) Continuation of the Executive's Base Salary for eighteen (18) months (the "Severance Term"), at the rate in effect for the year in which the Executive's date of termination occurs (but no less than the amount scheduled to be in effect when a payment is made pursuant to Section 2), which amount shall be paid in regular payroll installments over the applicable period following the Executive's termination date; and

(ii) A prorated Annual Bonus for the year in which the Executive's termination of employment occurs, which shall be determined by multiplying the Executive's Annual Bonus, determined based on actual performance of Company goals, without negative discretion, and provided that any personal goals shall be considered to be fulfilled, by a fraction, the numerator of which is the number of days during which the Executive was employed by the Company in the year in which the termination date occurs and the denominator of which is 365. The prorated Annual Bonus, if any, shall be paid at the same time as bonuses are paid to other employees of the Company, but not later than March 15 of the fiscal year following the fiscal year for which it was earned;

(iii) If applicable, any Annual Bonus amount earned in the year prior to Executive's termination, but not yet paid in accordance with the Company's annual bonus plan terms; provided that any such bonus shall be paid at the same time as bonuses are paid to other employees of the company, but not later than March 15th of the fiscal year following the fiscal year for which it was earned;

(iv) If applicable, for any termination under Section 8(a) above occurring after the third anniversary of the Effective Date, any Special Cash Incentive amount earned (if any) prior to Executive's termination (based on Executive's employment through the third anniversary of the Effective Date), but not yet paid in accordance with Section 3(d)(i) above; provided that any such bonus shall be paid not later than March 15th of the fiscal year following the fiscal year for which it was earned;

(v) If the Executive timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), then continued health (including hospitalization, medical, dental, vision etc.) insurance coverage substantially similar in all material respects as the coverage provided to the Company's then other active senior executives for eighteen (18) months; provided that the Executive shall pay an amount equal to the amount active employees pay for such coverage per month as of the date of the Executive's termination and the period of COBRA health care continuation coverage provided under section 4980B of the Internal Revenue Code, as amended and the regulations and guidance promulgated thereunder (the "Code") shall run concurrently with the period; provided further that, notwithstanding the foregoing, the amount of any benefits provided by this Section 8(c)(v) shall be reduced or eliminated to the extent the Executive becomes entitled to duplicative benefits by virtue of the Executive's subsequent or other employment. The Executive acknowledges that the payments pursuant to this Section 8(c)(i)-(v) are taxable and subject to applicable withholding and payroll taxes.

(d) Notwithstanding the provisions of Section 8(b) and subject to (1) the Executive's employment being in good standing through his termination date and (2) the Release Requirement, upon the Company's termination of the Executive's employment without Cause or, solely for Sections 8(d)(i) and 8(d)(iii) below, the Executive's resignation due to an Adverse Employment Action, and so long as the Executive continues to comply with the provisions of Section 15 below, in addition to the above, the Executive shall be entitled to receive:

(i) If the Executive's employment terminates prior to the first (1st) anniversary of the Effective Date, the Executive shall be eligible to receive the Signing Bonus (less any portion already paid) which shall be paid within 30 days of the Release Effective Date (as defined below) and the last sentence of Section 3(b) shall not apply;

(ii) If the Executive's employment terminates after the 30-month anniversary of the Effective Date and prior to the third (3rd) anniversary of the Effective Date, then, subject to the Executive's achievement through such termination date of performance acceptable to the Board (or the Compensation Committee) in its sole discretion (in consultation with the CEOs of the Company), the Executive shall be eligible to receive a prorated portion of the Special Cash Incentive, which shall be paid within 30 days of the Release Effective Date (with such proration based on whole months worked versus 36 months); and

(iii) If the Executive's employment terminates prior to the grant of either of the 2021 Equity Grant or the Sign-on Equity Grant, then Executive shall receive a cash payment equal in value (determined as of termination date) to any portions of such awards that would have vested in connection with such termination of employment, had the applicable equity award been granted to Executive on the Effective Date.

9. Voluntary Termination. The Executive may voluntarily terminate the Executive's employment for any reason or no reason, with prior written notice. In such event (other than a resignation with Good Reason), after the effective date of such termination, no payments shall be due under this Agreement, except that the Executive shall be entitled to the Accrued Obligations.

10. Death; Disability. If the Executive's employment is terminated by the Company by reason of death or, subject to the requirements of applicable law, Disability, upon the Executive's date of termination or death, no payments shall be due under this Agreement, except that the Executive (or in the event of the Executive's death, the Executive's executor, legal representative, administrator or designated beneficiary, as applicable), shall be entitled to the Accrued Obligations.

11. Cause. The Company may terminate the Executive's employment at any time for Cause upon written notice to the Executive, in which event all payments under this Agreement shall cease, except for the Accrued Obligations.

12. Application of Section 280G. If any of the payments or benefits received or to be received by the Executive (including, without limitation, any payment or benefits received in connection with a Change in Control or the Executive's termination of employment, whether pursuant to the terms of this Agreement or any other plan, arrangement or agreement, or otherwise) (all such payments collectively referred to herein as the "280G Payment") constitute "parachute payments" within the meaning of Code Section 280G and will be subject to the excise tax imposed under Code Section 4999 (the "Excise Tax"), then the 280G Payment shall be equal to the Reduced Amount. The "Reduced Amount" shall be either (i) the largest portion of the 280G Payment that would result in no portion of the 280G Payment being subject to the Excise Tax, or (ii) the largest portion of the 280G Payment, up to and including the total 280G Payment, whichever amount, after taking into account all applicable federal, state and local employment taxes, income taxes and the Excise Tax (all computed at the highest applicable marginal rate), results in the Executive's receipt, on an after-tax basis, of the greater amount of the 280G Payment, notwithstanding that all or some portion of the 280G Payment may be subject to the Excise Tax. In making the determination described above, the Company, in its sole and absolute discretion, shall make a reasonable determination of the value to be assigned to any restrictive covenants in effect for the Executive, and the amount of the 280G Payment shall be reduced by the value of those restrictive covenants to the extent consistent with Code Section 280G. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the 280G Payment equals the Reduced Amount, the amounts payable or benefits to be provided to the Executive shall be reduced such that the economic loss to the Executive as a result of the "parachute payment" elimination is minimized. In applying this principle, the reduction shall be made in a manner consistent with the requirements of Code Section 409A and where two economically equivalent amounts are subject to reduction but payable at different times, such amounts shall be reduced on a pro rata basis but not below zero. All determinations to be made under this Section 12 shall be made by an independent accounting firm, consulting firm or other independent service provider selected by the Company immediately prior to the Change in Control (the "Firm"), which shall provide its determinations and any supporting calculations both to the Company and the Executive within ten (10) days of the Change in Control. Any such determination by the Firm shall be binding upon the Company and the Executive. All of the fees and expenses of the Firm in performing the determinations referred to in this Section 12 shall be borne solely by the Company.

13. Definitions.

(a) Cause. For purposes of this Agreement, "Cause" shall mean the Executive's action, or failure to act, during the Executive's employment with the Company that is determined to constitute any of the following: (i) the Executive's failure to reasonably perform the duties assigned to the Executive by the CEOs or the Board; (ii) dishonesty, intentional misconduct or material breach of any agreement with any Company Entity; or (iii) commission of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person. Prior to any termination for Cause pursuant to each such event listed in (i) or (ii) above, to the extent such event(s) is capable of being cured by the Executive, the Company shall give the Executive written notice thereof describing in reasonable detail the circumstances constituting Cause and the Executive shall have the opportunity to remedy the same within thirty (30) days after receiving written notice.

(b) Change in Control. For purposes of this Agreement, a “Change in Control” shall have the same meaning ascribed to such term under the Company’s 2020 Omnibus Equity Compensation Plan, as in effect on the date hereof and as may be amended from time to time, or such successor plan.

(c) Disability. For purposes of this Agreement, “Disability” shall mean the Executive has been unable to perform the essential functions of the Executive’s position with the Company, either with or without a reasonable accommodation, by reason of physical or mental incapacity for a period of six consecutive months, subject to any obligations or limitations imposed by federal, state or local laws, including any duty to accommodate Executive under the federal Americans with Disabilities Act or applicable state law.

(d) Good Reason. For purposes of this Agreement, “Good Reason” shall mean: (i) a material diminution in the Executive’s compensation as set forth in Sections 2 and 3(a) hereof (including the failure to grant any of the equity awards contemplated by Section 3); or (ii) a meaningful and detrimental alteration in the Executive’s position or in the nature or status of the Executive’s responsibilities or authority. The Executive must provide written notice of termination for Good Reason to the Company within sixty (60) days after the event constituting Good Reason first occurs, which notice shall state such Good Reason in reasonable detail. The Company shall have a period of thirty (30) days in which it may correct the act or failure to act that constitutes the grounds for Good Reason as set forth in the Executive’s notice of termination. If the Company does not correct the act or failure to act, the Executive must terminate the Executive’s employment for Good Reason within sixty (60) days after the end of the cure period in order for the termination to be considered a Good Reason termination.

(e) Adverse Employment Action. For purposes of this Agreement, “Adverse Employment Action” shall mean one of the following actions taken by the Company prior to the first (1st) anniversary of the Effective Date: (i) a reduction in base salary (except for across-the-board reductions affecting all or substantially all similarly situated executives of the Company); or (ii) relocation of the Executive’s primary work location (as provided in Section 1(b)) to anywhere other than the San Francisco Bay Area or the Executive’s home office. The Executive must provide written notice of termination due to an Adverse Employment Action to the Company within sixty (60) days after the event constituting an Adverse Employment Action first occurs, which notice shall state such Adverse Employment Action in reasonable detail. The Company shall have a period of thirty (30) days in which it may correct the act or failure to act that constitutes the grounds for an Adverse Employment Action as set forth in the Executive’s notice of termination. If the Company does not correct the act or failure to act, the Executive must terminate the Executive’s employment due to an Adverse Employment Action within sixty (60) days after the end of the cure period in order for the termination to be considered an Adverse Employment Action termination.

(f) Release Requirement. Notwithstanding anything herein to the contrary, the Executive shall not be entitled to receive any payment that is subject to the requirements of this Section 13(e) (the “Release Requirement”) unless, in each case, the Executive (or the Executive’s legal representative) has executed and delivered to the Company a general release in the form attached hereto as Exhibit F (subject to updates for changes in law and facts, as reasonably determined by the Company) (the “General Release”), which General Release shall be in full force and effect (and no longer subject to revocation) within sixty (60) calendar days after the Executive’s termination of employment. The General Release will become effective on the eighth (8th) calendar day after the Executive signs and delivers such release, provided that the Executive does not timely revoke it (the “Release Effective Date”). To the extent that any payment subject to the Release Requirement is deferred compensation under Section 409A that is not otherwise exempt from the application of Section 409A, and if the sixty (60) calendar day period referenced in the preceding sentence spans two calendar years, then, solely to the extent necessary to avoid the incurrence of adverse personal tax consequences under Section 409A, the payment of such amount will not occur until the second calendar year.

14. Representations, Warranties and Covenants of the Executive.

(a) Restrictions. The Executive represents and warrants to the Company that:

(i) There are no restrictions, agreements or understandings whatsoever to which the Executive is a party which would prevent or make unlawful the Executive’s execution of this Agreement or the Executive’s employment hereunder, which is or would be inconsistent or in conflict with this Agreement or the Executive’s employment hereunder, or would prevent, limit or impair in any way the performance by the Executive of the obligations hereunder; and

(ii) The Executive has disclosed to the Company all restraints, confidentiality commitments, and other employment restrictions that the Executive has with any other employer, person or entity.

(b) Obligations to Former Employers. The Executive covenants that in connection with the Executive’s provision of services to the Company, the Executive shall not breach any obligation (legal, statutory, contractual, or otherwise) to any former employer or other person, including, but not limited to, obligations relating to confidentiality and proprietary rights.

(c) Obligations upon Termination. Upon and after the Executive’s termination or cessation of employment with the Company and until such time as no obligations of the Executive to the Company hereunder exist, the Executive shall provide a complete copy of this Agreement to any person, entity or association which the Executive proposes to be employed, affiliated, engaged, associated or to establish any business or remunerative relationship prior to the commencement of any such relationship.

15. Restrictive Covenants.

(a) Non-Solicitation. In consideration of the promises contained herein and the consideration to be received by the Executive hereunder (including, without limitation, the potential compensation described in Sections 8, 9, 10 and 12, if any), without the prior written consent of the Company, during the Term (and except for the benefit of the Company Entities) and, subject to applicable law, for a period of eighteen (18) months immediately following the Executive’s separation from the Company, however caused, the Executive shall not, directly or indirectly, either for or on behalf of herself or any other person or entity, solicit or induce or attempt to solicit or induce any employee, consultant or independent contractor of any Company Entity, to discontinue employment or engagement with such Company Entity; or otherwise interfere or attempt to interfere with the relationships between the any Company Entity, and their employees, consultants, or independent contractors. This provision does not apply to any employee or contractor who responds to a general advertisement not targeted at any specific employees or contractors of any Company Entity or to any employee or contractor who independently seeks employment with the Executive’s subsequent employer through no solicitation or contact by the Executive.

(b) Non-Disparagement. The Executive shall not disparage the Company Entities or their respective officers, directors, investors, employees, and affiliates or make any public statement reflecting negatively on the Company Entities or their respective officers, directors, investors, employees, and affiliates, including (without limitation) any matters relating to the operation or management of the Company Entities, irrespective of the truthfulness or falsity of such statement. The Company shall instruct and take all reasonable steps to cause its officers and members of the Board not to disparage the Executive on any matters relating to the Executive's services to the Company Entities, business, professional or personal reputation or standing in the Company's industry, irrespective of the truthfulness or falsity of such statement. Nothing in this Section 15(b) shall prohibit the Parties from testifying truthfully in any forum or to any governmental agency.

(c) Proprietary Information. At all times the Executive shall hold in strictest confidence and will not disclose, use, lecture upon or publish any Proprietary Information (defined below) of the Company Entities, except as such disclosure, use or publication may be required in connection with the Executive's work for the Company Entities, or unless the Company expressly authorizes such disclosure in writing or it is required by law or in a judicial or administrative proceeding in which event the Executive shall promptly notify the Company of the required disclosure and assist the Company if a determination is made to resist the disclosure. For purposes of this Section 15(c), "Proprietary Information" shall mean any and all confidential and/or proprietary knowledge, data or information of the Company or its respective affiliated entities, including (without limitation) any information relating to financial matters, investments, budgets, business plans, marketing plans, personnel matters, business contacts, products, processes, know-how, designs, methods, improvements, discoveries, inventions, ideas, data, programs, and other works of authorship; provided, that it shall not include any information that is known to the Company to be publicly available.

(d) Invention Assignment.

(i) Company Ownership. The Executive acknowledges and agrees that the Company owns, and has all rights, title and interests in and to, the Company Property (as defined below). To the extent that any Company Property is capable of protection by copyright as a work made for hire, such Company Property is a work made for hire, as defined in the United States Copyright Act (17 U.S.C. Section 101), and ownership of all copyrights worldwide (including all renewals and extensions) therein vests in the Company from the time of creation. To the extent not already vested in or assigned to the Company, the Executive agrees to and does hereby irrevocably assign, transfer and grant to the Company, its successors and assigns, all rights, title and interests in and to any and all Company Property, free and clear of all liens and encumbrances, and without further consideration. The Company, and its successors and assigns, accept all such rights, title and interests. To the extent the Executive retains any Moral Rights (as defined below), the Executive hereby irrevocably waives, to the extent permitted by applicable law, such Moral Rights (and any claims for such rights) as may have existed in the past, exist now or come into existence in the future.

(ii) “Work Product” means any and all discoveries, inventions, concepts, formulas, ideas, confidential or proprietary information, know-how, trade secrets, techniques, technologies, research, development, prototypes, designs, engineering and manufacturing information, processes, products, services, methods, systems, improvements, modifications, derivative works, specifications, requirements, data, parameters, drawings, reports, hardware, algorithms, flow charts, software (including all programs, code, firmware, source code, object code, executable code and related documentation), works of authorship, proposals, customer, sales, marketing, and purchasing information, other information and materials, and any and all tangible embodiments of any of the foregoing (in each case whether or not technical, business or financial, and whether or not patentable, copyrightable or registerable) that may be, are, have been, or were created, conceived, reduced to practice, prepared, contributed, developed or learned by the Executive, either alone or jointly with others, resulting from or in the course of employment with the Company Entities. For purposes of clarity and avoidance of doubt, Work Product shall not include any of the above to the extent developed in the course of the Executive’s provision of services as a member of the board of directors of another company as permitted pursuant to Section 1(c).

(iii) “Company Property” means any and all Work Product as well as any and all trade secrets, trademarks, service marks, associated goodwill, patents (including utility models, utility patents and design patents), copyrights, design rights, economic rights, mask works, database rights, the right of priority, publicity rights, privacy rights, shop rights, and all other intellectual property or proprietary rights in and to the Work Product, in any jurisdictions throughout the worldwide, whether registered or unregistered, whether published or not published, including all applications, including all registrations, certificates, governmental grants, and renewals for any of the foregoing, and including all rights to claim priority, file applications, and obtain grants, renewals and extensions in connection with any of the foregoing, all rights to assert, defend and recover title in connection with any of the foregoing, and all rights to sue and recover for any past, present and future infringement, misappropriation, violation, injunctive relief, damages, lost profits, royalties, and payments in connection with any of the foregoing, in each case, as may have existed in the past, exist now, or come into existence in the future throughout the world. To the fullest extent allowed by law, the Company Property includes any and all rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as “moral rights,” “artist’s rights,” “droit moral,” or the like in and to the Work Product (the “Moral Rights”).

(iv) Prior Materials. If the Executive utilizes or incorporates any Prior Materials (as defined below) in connection with or into any Company Property or any business, operation, products or services of any of the Company or the Company Entities, (i) the Executive shall inform the Company of such utilization or incorporation, in writing, in advance of such utilization or incorporation, and (ii) whether or not the Executive complies with the foregoing provision, to the maximum extent permitted by applicable law, the Company and the Company Entities are hereby granted a nonexclusive, fully-paid up, royalty-free, perpetual, irrevocable, worldwide license (including the right to sublicense for multiple tiers) under the Prior Materials and all intellectual property rights therein to use, execute, reproduce, transmit, display, perform, prepare derivative works based upon and distribute (internally and externally) copies of any and all Prior Materials and derivative works thereof, to use, make, sell, offer to sell, import and export any and all products, methods and services, and to perform any and all activities that may constitute direct or indirect infringement of any of the intellectual property rights in the Prior Materials. “Prior Materials” means any and all inventions, improvements, developments, formulas, procedures, methods, processes, techniques, concepts, discoveries, works of authorship and other information and materials owned by the Executive or in which the Executive has an interest, including listed on Exhibit G. The Executive shall provide Exhibit G, to be attached to this Agreement no later than the Effective Date.

(v) Further Assistance. The Executive will deliver promptly to the Company or its designee (without charge to the Company but at the expense of the Company) such written instruments and do such other acts as may be necessary to preserve the property rights, to obtain, maintain and enforce applications and registrations, and to effect or perfect the rights and ownership of the Company, its successors, and assigns in connection with any Company Property, including (i) executing assignments, declarations, powers of attorney and other documents related to any Company Property, (ii) rendering assistance in making, filing, prosecuting, maintaining and registering applications related to any Company Property, and (iii) rendering assistance in connection with defending and enforcing any Company Property. The Executive hereby irrevocably designates and appoints the Company, its successors and assigns and their designees, as the Executive's agent and attorney-in-fact, with full power of substitution and revocation, to act for and on behalf of the Executive, to execute, verify and file any such document and to do all other lawfully permitted acts to further the purposes of this Section, with the same force and effect as if the Executive had signed the documents or taken those actions itself.

(vi) Records. The Executive agrees to keep accurate, complete and timely records of all Work Product. The Executive agrees to promptly and fully disclose and describe all Company Property in writing to the Company.

(vii) Exclusions. The Executive understands and acknowledges that the Executive has been advised, pursuant to Section 2872 of the California Labor Code, that the provisions of this Agreement requiring the assignment of inventions do not apply to any invention that qualifies fully under Section 2870 of the California Labor Code, which provides:

- “(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:
- (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or
 - (2) Result from any work performed by the employee for the employer.”

(e) Return of Property. Upon termination of the Executive's employment with the Company for any reason, voluntarily or involuntarily, and at any earlier time the Company requests, the Executive will deliver to the person designated by the Company all originals and copies of all documents and property of the Company in the Executive's possession, under the Executive's control or to which the Executive may have access. The Executive will not reproduce or appropriate for the Executive's own use, or for the use of others, any property, Proprietary Information or Work Product.

(f) Permitted Conduct. Notwithstanding the foregoing restrictions, nothing in this Agreement shall (i) prohibit the Executive from owning a five (5%) percent or smaller interest in any corporation required to file period reports with the United States Securities and Exchange Commission, so long as the Executive performs no services or lends any assistance to such corporation during the Term; (ii) deny the Executive the right to disclose information about unlawful acts in the workplace, including, but not limited to, sexual harassment; (iii) prohibit the Executive from providing information to, or testifying or otherwise assisting in any investigation or proceeding brought by, any federal or state regulatory or law enforcement agency or legislative body, or any self-regulatory organization or filing, testifying, participating in, or otherwise assisting in a proceeding relating to an alleged violation of any federal, state, or municipal law relating to fraud, whistleblowing or any rule or regulation of the Securities and Exchange Commission or other self-regulatory organization; (iv) prohibit the Executive from filing an administrative charge with the Equal Employment Opportunity Commission ("EEOC") and/or participating in an investigation by the EEOC; (v) prohibit the Executive from making any disclosure of information required by process of law; or (vi) pursuant to the Defend Trade Secrets Act of 2016, prevent the Executive from disclosing trade secrets where the disclosure is made: (x) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; (y) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; or (z) to an attorney for use in a court proceeding in connection with a lawsuit against the employer for retaliation for reporting a suspected violation of law if the information is filed under seal and not disclosed except pursuant to court order.

16. Miscellaneous Provisions.

(a) Entire Agreement; Amendments.

(i) This Agreement and the other agreements referred to herein contain the entire agreement between the Parties hereto and supersede any and all prior agreements and understandings concerning the Executive's employment by the Company (including, for the avoidance of doubt, the prior version of this Agreement executed by the Parties hereto on September 14, 2021).

(ii) This Agreement shall not be altered or otherwise amended, except pursuant to an instrument in writing signed by each of the Parties hereto.

(b) Descriptive Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement. When the context admits or requires, words used in the masculine gender shall be construed to include the feminine, the plural shall include the singular, and the singular shall include the plural.

(c) Notices. All notices or other communications pursuant to this Agreement shall be in writing and shall be deemed to be sufficient if delivered personally, telecopied, sent by nationally-recognized, overnight courier or mailed by registered or certified mail (return receipt requested), postage prepaid, to the Parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(i) if to the Company, to:

Chief People Officer
Shift Technologies, Inc.
290 Division St, Suite 400, San Francisco, CA 94103
(770) 626-6289
tracy.notte@shift.com

with a copy to:

Raymond Sinnappan
Jenner & Block LLP
353 N. Clark Street, Chicago, IL 60654
(312) 840-8634
rsinnappan@jenner.com

(ii) if to the Executive, to the address in the Company's personnel records.

All such notices and other communications shall be deemed to have been delivered and received (A) in the case of personal delivery, on the date of such delivery, (B) in the case of delivery by telecopy, on the date of such delivery, (C) in the case of delivery by nationally-recognized, overnight courier, on the Business Day following dispatch, and (D) in the case of mailing, on the third Business Day following such mailing. As used herein, "Business Day" shall mean any day that is not a Saturday, Sunday or a day on which banking institutions in the state of California are not required to be open.

(d) Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement. This Agreement may be executed and delivered by facsimile.

(e) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the state of California applicable to contracts made and performed wholly therein without regard to rules governing conflicts of law, provided that, the parties agree that the definition of a Change in Control shall be governed by Delaware law.

(f) Non-Exclusivity of Rights; Resignation from Boards; Clawback.

(i) Nothing in this Agreement shall prevent or limit the Executive's continuing or future participation in or rights under any benefit, bonus, incentive or other plan or program provided by the Company and for which the Executive may qualify; provided, however, the Executive hereby waives the Executive's right to receive payments under any severance plan or similar program applicable to employees of the Company.

(ii) Except as otherwise determined by the Board, if the Executive's employment with the Company terminates for any reason, the Executive shall immediately resign from all boards of directors of the Company Entities (including, without limitation, the Board if applicable), and any other entities for which the Executive serves as a representative of the Company and any committees thereof, provided that, prior to Executive's termination of employment, the Executive may petition the Board in writing for the Board to waive the Executive's required resignation from the Board (if applicable) following Executive's termination. The Board will take formal action on such petition within 10 Business Days of its receipt thereof.

(iii) Except to the extent prohibited by California Labor Code Sections 221 and 224, the Executive agrees that the Executive will be subject to any compensation clawback, recoupment and anti-hedging policies that may be applicable to the Executive as an executive of the Company, as in effect from time to time and as approved by the Board or a duly authorized committee thereof.

(g) Benefits of Agreement; Assignment. All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, executors, administrators, legal representatives, successors and assigns of the Parties hereto, except that the duties and responsibilities of the Executive under this Agreement are of a personal nature and shall not be assignable or delegable in whole or in part by the Executive. The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation, reorganization or otherwise) to all or substantially all of the business or assets of the Company, within fifteen (15) days of such succession, expressly to assume and agree to perform this Agreement in the same manner and to the same extent as the Company would be required to perform if no such succession had taken place and the Executive acknowledges that in such event the obligations of the Executive hereunder, including but not limited to those under Sections 14 or 15, will continue to apply in favor of the successor. Without limitation, the Company may move the Executive's employment from the Company to Shift, or another Company Entity at which other officers of the Company are employed.

(h) Waiver of Breach. No delay or omission by a party in exercising any right, remedy or power under this Agreement or existing at law or in equity shall be construed as a waiver thereof, and any such right, remedy or power may be exercised by such party from time to time and as often as may be deemed expedient or necessary by such party in its sole discretion.

(i) Severability. In the event that any provision of this Agreement is determined to be partially or wholly invalid, illegal or unenforceable in any jurisdiction, then such provision shall, as to such jurisdiction, be modified or restricted to the extent necessary to make such provision valid, binding and enforceable, or if such provision cannot be modified or restricted, then such provision shall, as to such jurisdiction, be deemed to be excised from this Agreement; provided, however, that the binding effect and enforceability of the remaining provisions of this Agreement, to the extent the economic benefits conferred upon the Parties by virtue of this Agreement remain substantially unimpaired, shall not be affected or impaired in any manner, and any such invalidity, illegality or unenforceability with respect to such provisions shall not invalidate or render unenforceable such provision in any other jurisdiction.

(j) Remedies. All remedies hereunder are cumulative, are in addition to any other remedies provided for by law and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. The Executive acknowledges that in the event of a breach of any of the Executive's covenants contained in Sections 14 or 15, the Company shall be entitled to immediate relief enjoining such violations in any court or before any judicial body having jurisdiction over such a claim.

(k) Survival. The respective rights and obligations of the Parties hereunder shall survive the termination of this Agreement to the extent necessary to the intended preservation of such rights and obligations.

(l) Jurisdiction. Each of the Parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any California state court or federal court of the United States of America sitting in the state of California, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any related agreement or for recognition or enforcement of any judgment. Each of the Parties hereto hereby irrevocably and unconditionally agrees that jurisdiction and venue in such courts would be proper, and hereby waive any objection that such courts are an improper or inconvenient forum. Each of the Parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the Parties hereto irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any related agreement in any California state or federal court. Each of the Parties hereto irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(m) Withholding. All payments under this Agreement shall be made subject to applicable tax withholding, and the Company shall withhold from any payments under this Agreement all federal, state and local taxes as the Company is required to withhold pursuant to any law or governmental rule or regulation. The Executive shall bear all expense of, and be solely responsible for, all federal, state and local taxes due with respect to any payment received under this Agreement.

(n) Compliance with Section 409A of the Code.

(i) This Agreement is intended to comply with Section 409A of the Code and its corresponding regulations, to the extent applicable. Severance benefits under the Agreement are intended to be exempt from Section 409A of the Code under the “short term deferral” exemption, to the maximum extent applicable, and then under the “separation pay” exemption, to the maximum extent applicable. Notwithstanding anything in this Agreement to the contrary, payments may only be made under this Agreement upon an event and in a manner permitted by Section 409A of the Code, to the extent applicable. As used in the Agreement, the term “termination of employment” shall mean the Executive’s separation from service with the Company within the meaning of Section 409A of the Code and the regulations promulgated thereunder. In no event may the Executive, directly or indirectly, designate the calendar year of a payment. For purposes of Section 409A of the Code, each payment hereunder shall be treated as a separate payment and the right to a series of payments shall be treated as the right to a series of separate payments. All reimbursements and in-kind benefits provided under the Agreement shall be made or provided in accordance with the requirements of Section 409A of the Code. Notwithstanding any provision of this Agreement to the contrary, in no event shall the timing of the Executive’s execution of the Release, directly or indirectly, result in the Executive designating the calendar year of payment, and if a payment that is subject to execution of the Release could be made in more than one taxable year, payment shall be made in the later taxable year.

(ii) Notwithstanding anything herein to the contrary, if, at the time of the Executive’s termination of employment with the Company, the Company has securities which are publicly traded on an established securities market and the Executive is a “specified employee” (as such term is defined in Section 409A of the Code) and it is necessary to postpone the commencement of any payments or benefits otherwise payable under this Agreement as a result of such termination of employment to prevent any accelerated or additional tax under Section 409A of the Code, then the Company will postpone the commencement of the payment of any such payments or benefits hereunder (without any reduction in such payments or benefits ultimately paid or provided to the Executive) that are not otherwise paid within the ‘short-term deferral exception’ under Treas. Reg. §1.409A-1(b)(4), and the ‘separation pay exception’ under Treas. Reg. §1.409A-1(b)(9)(iii), until the first payroll date that occurs after the date that is six months following the Executive’s “separation of service” (as such term is defined under Section 409A of the Code) with the Company. If any payments are postponed due to such requirements, such postponed amounts will be paid in a lump sum to the Executive on the first payroll date that occurs after the date that is six months following the Executive’s separation of service with the Company. If the Executive dies during the postponement period prior to the payment of postponed amount, the amounts withheld on account of Section 409A of the Code shall be paid to the personal representative of the Executive’s estate within sixty (60) days after the date of the Executive’s death.

(o) Attorneys’ Fees. The Company shall reimburse the Executive for the Executive’s reasonable legal fees incurred in connection with review of and revisions to this Agreement, in an amount not to exceed Fifteen Thousand dollars (\$15,000).

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date and year first above written.

SHIFT PLATFORM, INC.

By: /s/ George Arison
Name: George Arison
Title: Co-CEO

EXECUTIVE

By: /s/ Jeff Clementz
Name: Jeff Clementz

Exhibit A

2021 Annual Bonus Program

The following terms and conditions shall govern the Annual Bonus of the Executive for the performance year of 2021, which Annual Bonus will be paid (if earned) in accordance with Section 3(a) of the Employment Agreement in 2022 (including, for avoidance of doubt, subject to the proration requirements provided therein).

Subject to the Executive's continued employment with the Company through the date the 2021 Annual Bonus is paid, the Executive shall be eligible for an Annual Bonus of:

- 150% of the Executive's 2021 Annual Salary if the Company (on a consolidated basis) meets the performance goals for 2021 as established by the Compensation Committee for senior executives of the Company, based on the Company's 2021 budget as approved by the Board.
- An additional 100% of the Executive's 2021 Annual Salary if the Company (on a consolidated basis) meets the performance goals for 2021 as established by the Compensation Committee, based on stretch goals when compared to the Company's 2021 annual budget as approved by the Board.

Exhibit B

**Form of Award pursuant to the
Company's 2020 Omnibus Equity Compensation Plan**

[Attached]

SHIFT TECHNOLOGIES, INC.
2020 OMNIBUS EQUITY COMPENSATION PLAN

RSU AGREEMENT

THIS AGREEMENT (this “**Agreement**”), dated _____ (the “**Date of Grant**”), between Shift Technologies, Inc., a Delaware corporation (the “**Company**”), and Jeff Clementz (the “**Grantee**”), is made pursuant and subject to the provisions of the Company’s 2020 Omnibus Equity Compensation Plan (the “**Plan**”), a copy of which has been made available to the Grantee. All capitalized terms used herein that are not otherwise defined in this Agreement have the same meaning given to them in the Plan.

1. **Award.** Subject to the terms and conditions of the Plan and subject further to the terms and conditions herein set forth, the Company hereby grants the Grantee 781,784 Restricted Stock Units (“**RSUs**”), subject to the vesting terms set forth in Section 2 below. Subject to the provisions of this Agreement and the Plan, each vested RSU represents the right to receive one (1) share of Stock. The RSUs shall apply only with respect to a whole number of shares of Stock.

2. **Vesting.** Certain of the RSUs shall vest based on the passage of time (“**Time RSUs**”) and certain of the RSUs shall vest upon the achievement of specified performance metrics (“**Performance RSUs**” or “**PSUs**”). For purposes of clarity, references to “RSUs” include both Time RSUs and PSUs. 586,338 RSUs subject to this award are Time RSUs and 195,446 RSUs subject to this award are Performance RSUs. The Time RSUs and Performance RSUs shall vest in accordance with the vesting schedules below. The “Vesting Commencement Date” shall be the Grantee’s commencement of employment with the Company.

(a) **Time RSUs.**

(i) The Time RSUs shall vest, subject to the Grantee’s continuous employment with the Company (or an Affiliate of the Company) through the applicable vesting date, as follows:

a. 1/4th of the Time RSUs shall vest on the first (1st) anniversary of the Vesting Commencement Date (the “Initial Tranche”);
and

b. 3/4th of the Time RSUs shall vest quarterly over the three (3) year period following the first (1st) anniversary of the Vesting Commencement Date, such that 1/12th of such amount shall vest on the last day of the three (3) month period following the first (1st) anniversary of the Vesting Commencement Date and 1/12th of such amount will vest on the last day of each of the eleven (11) successive three (3) month periods thereafter.

(ii) Time RSUs will vest in whole numbers; any fractional amounts will be rounded down and will be available to vest (in whole numbers) in the next vesting period.

(iii) From and after the Vesting Commencement Date through the date on which the Time RSUs become fully vested pursuant to subparagraph (i) above, the unvested portion of the grant of Time RSUs remains subject to forfeiture in accordance with the terms of Section 3 hereof.

(b) Performance RSUs.

(i) The RSUs designated as PSUs shall vest, subject to the Grantee’s continuous employment with the Company (or an Affiliate of the Company), on a quarterly basis, provided that the applicable Performance Hurdle for the applicable Performance Year has been met (as such terms are provided in the table below), and the following rules shall apply to such vesting:

a. If a Performance Hurdle has not been met by the end of a quarterly vesting period, the PSUs available to vest during such quarter shall be available to vest in the next quarterly vesting period within that Performance Year and shall vest, if applicable, on the last day of the quarterly vesting period in which the Performance Hurdle is met.

b. If the Performance Hurdle for the 3rd Performance Year is not met, the PSUs available to vest in such 3rd Performance Year remain eligible to vest in any applicable quarter of the 4th Performance Year if the 4th Performance Year’s Performance Hurdle is met during that year, such vesting to occur on the last day of such quarterly vesting period. Subject to the preceding sentence, if a Performance Hurdle for a Performance Year is not met, the PSUs eligible to vest with respect to that Performance Year shall immediately terminate and become null and void.

c. PSUs will vest in whole numbers; any fractional amounts will be rounded down and will be available to vest (in whole numbers) in the next vesting period.

Performance Year	Percentage of PSUs available to vest in a Quarterly Vesting Period	Performance Hurdle
The one year period commencing on the second anniversary of the Vesting Commencement Date (the “3 rd Performance Year”)	12.5% on the last day of each of the first, second, third and fourth quarters of the 3 rd Performance Year	The Company’s stock price closes at \$23 or greater for 30 Trading Days out of any 45 consecutive Trading Days during the 3 rd Performance Year The term “Trading Day” means any full day the Nasdaq Stock Market is open for trading
The one year period commencing on the third anniversary of the Vesting Commencement Date (the “4 th Performance Year”)	12.5% at the end of each of the first, second, third and fourth quarters of the 4 th Performance Year	The Company’s stock price closes at \$28 or greater for 30 Trading Days out of any 45 consecutive Trading Days during the 4 th Performance Year

(ii) From and after the Vesting Commencement Date through the date on which the PSUs become fully vested pursuant to subparagraph (i) above, the unvested portion of the grant of PSUs remains subject to forfeiture in accordance with the terms of Section 3 hereof.

3. Termination of Service.

(a) **General rule.** When a Grantee’s employment with the Company (or an Affiliate of the Company) terminates, any outstanding and unvested Time RSUs and PSUs shall immediately terminate and become null and void.

(b) **Good Leaver.** Notwithstanding the foregoing, subject to the Release Requirement, when a Grantee’s employment with the Company (or an Affiliate of the Company) terminates as a Good Leaver during either the 3rd or 4th Performance Year, any outstanding and unvested PSUs with respect to which the applicable Performance Hurdle for the Performance Year in which termination occurred has not been met as of the termination shall be eligible to vest if the applicable Performance Hurdle is met by the end of such Performance Year. For the avoidance of doubt, with respect to PSUs referenced in the preceding sentence, (i) if the Performance Hurdle is met for the Performance Year of termination, the PSUs eligible to vest in that year shall vest on a prorated basis by multiplying the eligible PSUs by a ratio equal to the number of days the Grantee was employed by the Company (or an Affiliate) during the Performance Year divided by 365, (ii) no PSUs shall be eligible for rollover to the next Performance Year, and (iii) such PSUs shall be deemed vested when, if ever, the applicable Performance Hurdle is met.

(c) Termination without Cause or Resignation due to an Adverse Employment Action prior to First (1st) Anniversary of Employment.

Notwithstanding the foregoing, subject to (i) the Grantee's employment being in good standing through his termination date and (ii) the Release Requirement, upon the Company's termination of the Grantee's employment without Cause (other than due to Disability) or the Grantee's resignation due to an Adverse Employment Action prior to the Grantee's first (1st) anniversary of employment, certain of the Time RSUs that are outstanding and unvested as of the date of termination shall become vested as follows:

- a. If the Grantee's employment terminates prior to the Grantee's six-month anniversary of employment, 50% of the Initial Tranche of the Time RSUs shall become vested;
- b. If the Grantee's employment terminates after the six-month anniversary of employment but prior to the nine-month anniversary of employment, 75% of the Initial Tranche of the Time RSUs shall become vested; or
- c. If the Grantee's employment terminates after the nine-month anniversary of employment but prior to the first (1st) anniversary of employment, 100% of the Initial Tranche of the Time RSUs shall become vested.

(d) Termination following a Change of Control. With respect to a termination of the Grantee's employment by the Company without Cause (other than due to Disability) or due to the Grantee's resignation with Good Reason (but only to the extent the Grantee has an employment agreement with the Company or an Affiliate of the Company that defines Good Reason) within one (1) year following a Change of Control, subject to the Release Requirement, any Time RSUs and PSUs that are outstanding and unvested as of the date of termination shall become vested when the General Release is in full force and effect (and no longer subject to revocation).

(e) Definitions.

(i) "Cause" has the meaning set forth in the Grantee's employment agreement, if any, and otherwise means the Grantee's action, or failure to act, during the Grantee's employment with the Company that is determined to constitute any of the following: (i) performance of any act or failure to perform any act in bad faith and to the detriment of any Company Entities; (ii) dishonesty, intentional misconduct or material breach of any agreement with any Company Entity; or (iii) commission of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person. Prior to any termination for Cause pursuant to each such event listed in (i) or (ii) above, to the extent such event(s) is capable of being cured by the Grantee, the Company shall give the Grantee written notice thereof describing in reasonable detail the circumstances constituting Cause and the Grantee shall have the opportunity to remedy same within thirty (30) days after receiving written notice.

(ii) "Disability" has the meaning set forth in the Grantee's employment agreement, if any, and otherwise shall mean the Grantee has been unable to perform the essential functions of the Grantee's position with the Company, either with or without a reasonable accommodation, by reason of physical or mental incapacity for a period of six consecutive months, subject to any obligations or limitations imposed by federal, state or local laws, including any duty to accommodate the Grantee under the federal Americans with Disabilities Act or applicable state law.

(iii) "Adverse Employment Action" has the meaning set forth in the Grantee's employment agreement.

(iv) “General Release” means a general release of claims, including without limitation all employment and termination claims, if any, in favor of the Company and its affiliates in the form and substance provided by the Company, provided that, if the Grantee has an employment agreement with the Company that specifies a form of general release, then such general release will be used (as conformed to include the benefits hereunder, if any) as the General Release.

(v) “Good Leaver” means the Grantee’s employment was terminated by the Company without Cause (including if due to disability), the Grantee died or the Grantee resigned with Good Reason (but only to the extent the Grantee has an employment agreement with the Company or an Affiliate of the Company that defines Good Reason).

(vi) “Good Reason” has the meaning set forth in Grantee’s employment agreement, if any.

(vii) “Release Requirement” the Grantee shall not be entitled to receive any benefit described in Section 3(b), 3(c) or 3(d) unless, in each case, the Grantee (or the Grantee’s legal representative) has executed and delivered to the Company a General Release, which General Release shall be in full force and effect (and no longer subject to revocation) within sixty (60) calendar days after the Grantee’s termination of employment. To the extent that any benefit subject to the Release Requirement is deferred compensation under Section 409A that is not otherwise exempt from the application of Section 409A, and if the sixty (60) calendar day period referenced in the preceding sentence spans two calendar years, then, solely to the extent necessary to avoid the incurrence of adverse personal tax consequences under Section 409A, the payment of such amount will not occur until the second calendar year.

4. **Settlement.** During the first open trading window of the Company following the end of each calendar quarter (i.e., March 31, June 30, September 30, December 31), the Company shall deliver to the Grantee one (1) share of Stock in settlement of each RSU that became vested during such calendar quarter, except that, any RSUs that vest on or before December 31, 2021, shall be settled during the first open trading window of the Company following December 31, 2021, provided that, in no event (i) will an RSU be settled later than March 15 of the year following the year in which such RSU vested, nor (ii) will the Grantee be permitted, directly or indirectly, to specify the taxable year of delivery of any RSU subject to this Agreement.

5. **Delivery of Stock.** Certificates or evidence of book-entry shares representing the Stock issued upon settlement of RSUs pursuant to Section 4 of this Agreement will be delivered to or otherwise made available to the Grantee (or, at the discretion of the Grantee, joint in the names of the Grantee and the Grantee’s spouse) or to the Grantee’s nominee at such person’s request. Delivery of shares of Stock under this Agreement will comply with all applicable laws (including, the requirements of the Exchange Act), and the applicable requirements of any securities exchange or similar entity.

6. **Shareholder Rights.** An RSU is not a share of Stock, and thus, the Grantee will have no rights as a stockholder with respect to the RSUs. Dividend Equivalents shall accrue on shares underlying the RSUs awarded hereunder and such dividends will be paid to Grantee upon the vesting of such RSUs.

7. **Transferability.** The RSUs subject to this Award may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered before they vest in accordance with Section 2. After such RSUs vest and are settled in accordance with Sections 2 and 4, no sale or disposition of such shares shall be made in the absence of an effective registration statement under the Exchange Act with respect to such shares unless an opinion of counsel satisfactory to the Company that such sale or disposition will not constitute a violation of the Exchange Act or any other applicable securities laws is first obtained.

8. **Change in Capital Structure.** The terms of this Agreement, including the number of shares of Stock subject to this RSU shall be adjusted as the Administrator determines is equitably required in the event the Company effects one or more stock dividends, spinoffs, recapitalizations, stock splits, combinations, exchanges or consolidations of shares or other similar changes in capitalization.

9. **Withholding.**

(a) The Grantee understands that when the RSUs are settled in accordance with Section 4, the Grantee will be obligated to recognize income, for Federal, state and local income tax purposes, as applicable, in an amount equal to the Fair Market Value of the share of Stock as of such date, and the Grantee is responsible for all tax obligations that arise in connection with the RSUs.

(b) Whenever shares of Stock are to be issued upon settlement of the RSUs, the Grantee shall assume sole responsibility for discharging all tax and other obligations associated therewith. The Company has no duty or obligation to minimize the tax consequences to the Grantee and will not be liable to the Grantee for any adverse tax consequences arising in connection with this Award. The Grantee agrees to indemnify the Company against any non-U.S., U.S. federal, state and local withholding taxes for which the Company may be liable in connection with the Grantee's acquisition, ownership or disposition of any shares of Stock.

(c) In its sole discretion, the Administrator of the Plan may permit the Grantee to satisfy the Company's tax withholding obligation with respect to RSUs settled in Stock by having shares withheld in accordance with Section 16(b) of the Plan. The elections described in this subsection (c) must be in a form and manner prescribed by the Administrator and may be subject to the prior approval of the Administrator.

10. **Compliance with Section 409A of the Code.** It is the intention of the Company that the Award and Plan are intended either to provide compensation that is exempt from Section 409A of the Code and the rules, regulations and other authorities promulgated thereunder (including the transition rules thereof) (collectively, "Section 409A"), (by reason of being a short-term deferral) or that is nonqualified deferred compensation that is compliant in all regards with the requirements of Section 409A, and all provisions of this Agreement will be construed and interpreted in a manner consistent with this intent. If the Grantee is a "Specified Employee" (within the meaning set forth in Section 409A(a)(2)(B)(i) of the Code) as of the date of the Grantee's "separation from service" (within the meaning of Treasury Regulation Section 1.409A-1(h) and without regard to any alternative definition thereunder), then the issuance of any shares of Stock that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the earlier of: (i) the fifth business day following the Grantee's death, or (ii) the date that is six (6) months and one day after the date of the separation from service, with the balance of the shares of Stock issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares of Stock is necessary to avoid the imposition of adverse taxation on the Grantee in respect of the shares of Stock under Section 409A. Each installment of shares of Stock that vests is intended to constitute a "separate payment" for purposes of Treasury Regulation Section 1.409A-2(b)(2). In no event shall the Company be liable for any additional tax, interest, income inclusion or other penalty that may be imposed on the Grantee by Section 409A or for damages for failing to comply with Section 409A.

12. **Conflicts.** In the event of any conflict between the provisions of the Plan as in effect on the Date of Grant and the provisions of this Agreement, the provisions of the Plan shall govern. All references herein to the Plan mean the Plan as in effect on the date hereof.

13. **Grantee Bound by Plan.** The Grantee hereby acknowledges that a copy of the Plan has been made available to him or her and agrees to be bound by all the terms and provisions thereof.

14. **Binding Effect.** Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon and inure to the benefit of the successors of the Grantee and any transferee of the Grantee in accordance with Section 7 and the successors of the Company.

15. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware.

16. **Counterparts.** This Agreement may be executed in counterparts, which shall be deemed originals with the same effect as if both parties had signed the same document. Any counterpart shall be construed together with any other counterpart and both shall constitute one Agreement. For the purposes of this Agreement, a facsimile or PDF copy of a signature shall be construed to be an original.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Company has caused its duly authorized officer to execute this Agreement, and the Grantee has placed his or her signature hereon, effective as of the Date of Grant.

SHIFT TECHNOLOGIES, INC.

By: _____
Signature

Name: _____

Title: _____

Date: _____

I hereby accept this Grant and I agree to be bound by the terms of the Plan and this Grant. I further agree that all of the decisions and interpretations of the Company with respect thereto shall be final and binding.

GRANTEE:

By: _____
Signature

Name: _____
Print Name

IF GRANTEE'S SPOUSE
MUST SIGN: *

By: _____
Signature

Name: _____
Print Name

* If the Grantee is married and holds RSUs jointly with the Grantee's spouse or resides in a community property state, both the Grantee and Grantee's spouse must sign this RSU Agreement. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Exhibit C

**Form of Award pursuant to the
Company's 2020 Omnibus Equity Compensation Plan**

[Attached]

SHIFT TECHNOLOGIES, INC.
2020 OMNIBUS EQUITY COMPENSATION PLAN

RSU AGREEMENT

THIS AGREEMENT (this “Agreement”), dated _____ (the “Date of Grant”), between Shift Technologies, Inc., a Delaware corporation (the “Company”), and Jeff Clementz (the “Grantee”), is made pursuant and subject to the provisions of the Company’s 2020 Omnibus Equity Compensation Plan (the “Plan”), a copy of which has been made available to the Grantee. All capitalized terms used herein that are not otherwise defined in this Agreement have the same meaning given to them in the Plan.

1. **Award.** Subject to the terms and conditions of the Plan and subject further to the terms and conditions herein set forth, the Company hereby grants the Grantee 195,446 Restricted Stock Units (“RSUs”), subject to the vesting terms set forth in Section 2 below. Subject to the provisions of this Agreement and the Plan, each vested RSU represents the right to receive one (1) share of Stock. The RSUs shall apply only with respect to a whole number of shares of Stock.

2. **Vesting.** The RSUs shall vest in full on the third (3rd) anniversary of the Grantee’s commencement of employment with the Company (the “Vesting Date”), subject to (i) the Grantee’s continuous employment with the Company (or an Affiliate of the Company) through the Vesting Date, (ii) the Grantee’s employment being in good standing through the Vesting Date, and (iii) the Grantee’s achievement throughout such period of performance acceptable to the board of directors of the Company (the “Board”) (or the Leadership Development, Compensation and Governance Committee of the Board) in its sole discretion (in consultation with the CEOs of the Company). Until the Vesting Date, the RSUs shall remain subject to forfeiture in accordance with the terms of Section 3 hereof.

3. **Termination of Service.** When a grantee’s employment with the Company (or an Affiliate of the Company) terminates (or if the conditions to vesting of the RSUs contained in Section 2 are not met as of the Vesting Date), any outstanding and unvested RSUs shall immediately terminate and become null and void.

4. **Settlement.** During the first open trading window of the Company following the end of the calendar quarter (i.e., March 31, June 30, September 30, December 31) in which the Vesting Date occurs, the Company shall deliver to the Grantee one (1) share of Stock in settlement of each RSU that became vested during such calendar quarter, except that any RSUs that vest on or before December 31, 2021 shall be settled during the first open trading window of the Company following December 31, 2021, provided that, in no event (i) will an RSU be settled later than March 15 of the year following the year in which such RSU vested, nor (ii) will the Grantee be permitted, directly or indirectly, to specify the taxable year of delivery of any RSU subject to this Agreement.

5. **Delivery of Stock.** Certificates or evidence of book-entry shares representing the Stock issued upon settlement of RSUs pursuant to Section 4 of this Agreement will be delivered to or otherwise made available to the Grantee (or, at the discretion of the Grantee, joint in the names of the Grantee and the Grantee's spouse) or to the Grantee's nominee at such person's request. Delivery of shares of Stock under this Agreement will comply with all applicable laws (including, the requirements of the Exchange Act), and the applicable requirements of any securities exchange or similar entity.

6. **Shareholder Rights.** An RSU is not a share of Stock, and thus, the Grantee will have no rights as a stockholder with respect to the RSUs. Dividend Equivalents shall accrue on shares underlying the RSUs awarded hereunder and such dividends will be paid to Grantee upon the vesting of such RSUs.

7. **Transferability.** The RSUs subject to this Award may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered before they vest in accordance with Section 2. After such RSUs vest and are settled in accordance with Sections 2 and 4, no sale or disposition of such shares shall be made in the absence of an effective registration statement under the Exchange Act with respect to such shares unless an opinion of counsel satisfactory to the Company that such sale or disposition will not constitute a violation of the Exchange Act or any other applicable securities laws is first obtained.

8. **Change in Capital Structure.** The terms of this Agreement, including the number of shares of Stock subject to this RSU shall be adjusted as the Administrator determines is equitably required in the event the Company effects one or more stock dividends, spinoffs, recapitalizations, stock splits, combinations, exchanges or consolidations of shares or other similar changes in capitalization.

9. **Withholding.**

(a) The Grantee understands that when the RSUs are settled in accordance with Section 4, the Grantee will be obligated to recognize income, for Federal, state and local income tax purposes, as applicable, in an amount equal to the Fair Market Value of the share of Stock as of such date, and the Grantee is responsible for all tax obligations that arise in connection with the RSUs.

(b) Whenever shares of Stock are to be issued upon settlement of the RSUs, the Grantee shall assume sole responsibility for discharging all tax and other obligations associated therewith. The Company has no duty or obligation to minimize the tax consequences to the Grantee and will not be liable to the Grantee for any adverse tax consequences arising in connection with this Award. The Grantee agrees to indemnify the Company against any non-U.S., U.S. federal, state and local withholding taxes for which the Company may be liable in connection with the Grantee's acquisition, ownership or disposition of any shares of Stock.

(c) In its sole discretion, the Administrator of the Plan may permit the Grantee to satisfy the Company's tax withholding obligation with respect to RSUs settled in Stock by having shares withheld in accordance with Section 16(b) of the Plan. The elections described in this subsection (c) must be in a form and manner prescribed by the Administrator and may be subject to the prior approval of the Administrator.

10. **Compliance with Section 409A of the Code.** It is the intention of the Company that the Award and Plan are intended either to provide compensation that is exempt from Section 409A of the Code and the rules, regulations and other authorities promulgated thereunder (including the transition rules thereof) (collectively, “Section 409A”), (by reason of being a short-term deferral) or that is nonqualified deferred compensation that is compliant in all regards with the requirements of Section 409A, and all provisions of this Agreement will be construed and interpreted in a manner consistent with this intent. If the Grantee is a “Specified Employee” (within the meaning set forth in Section 409A(a)(2)(B)(i) of the Code) as of the date of the Grantee’s “separation from service” (within the meaning of Treasury Regulation Section 1.409A-1(h) and without regard to any alternative definition thereunder), then the issuance of any shares of Stock that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the earlier of: (i) the fifth business day following the Grantee’s death, or (ii) the date that is six (6) months and one day after the date of the separation from service, with the balance of the shares of Stock issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares of Stock is necessary to avoid the imposition of adverse taxation on the Grantee in respect of the shares of Stock under Section 409A. Each installment of shares of Stock that vests is intended to constitute a “separate payment” for purposes of Treasury Regulation Section 1.409A-2(b)(2). In no event shall the Company be liable for any additional tax, interest, income inclusion or other penalty that may be imposed on the Grantee by Section 409A or for damages for failing to comply with Section 409A.

12. **Conflicts.** In the event of any conflict between the provisions of the Plan as in effect on the Date of Grant and the provisions of this Agreement, the provisions of the Plan shall govern. All references herein to the Plan mean the Plan as in effect on the date hereof.

13. **Grantee Bound by Plan.** The Grantee hereby acknowledges that a copy of the Plan has been made available to him or her and agrees to be bound by all the terms and provisions thereof.

14. **Binding Effect.** Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon and inure to the benefit of the successors of the Grantee and any transferee of the Grantee in accordance with Section 7 and the successors of the Company.

15. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware.

16. **Counterparts.** This Agreement may be executed in counterparts, which shall be deemed originals with the same effect as if both parties had signed the same document. Any counterpart shall be construed together with any other counterpart and both shall constitute one Agreement. For the purposes of this Agreement, a facsimile or PDF copy of a signature shall be construed to be an original.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Company has caused its duly authorized officer to execute this Agreement, and the Grantee has placed his or her signature hereon, effective as of the Date of Grant.

SHIFT TECHNOLOGIES, INC.

By: _____
Signature

Name: _____

Title: _____

Date: _____

I hereby accept this Grant and I agree to be bound by the terms of the Plan and this Grant. I further agree that all of the decisions and interpretations of the Company with respect thereto shall be final and binding.

GRANTEE:

By: _____
Signature

Name: _____
Print Name

**IF GRANTEE'S SPOUSE
MUST SIGN:***

By: _____
Signature

Name: _____
Print Name

* If the Grantee is married and holds RSUs jointly with the Grantee's spouse or resides in a community property state, both the Grantee and Grantee's spouse must sign this RSU Agreement. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Exhibit D

**Form of Award pursuant to the
Company's 2020 Omnibus Equity Compensation Plan**

[Attached]

SHIFT TECHNOLOGIES, INC.
2020 OMNIBUS EQUITY COMPENSATION PLAN

RSU AGREEMENT

THIS AGREEMENT (this “Agreement”), dated _____ (the “Date of Grant”), between Shift Technologies, Inc., a Delaware corporation (the “Company”), and Jeff Clementz (the “Grantee”), is made pursuant and subject to the provisions of the Company’s 2020 Omnibus Equity Compensation Plan (the “Plan”), a copy of which has been made available to the Grantee. All capitalized terms used herein that are not otherwise defined in this Agreement have the same meaning given to them in the Plan.

1. **Award.** Subject to the terms and conditions of the Plan and subject further to the terms and conditions herein set forth, the Company hereby grants the Grantee 117,268 Restricted Stock Units (“RSUs”), subject to the vesting terms set forth in Section 2 below. Subject to the provisions of this Agreement and the Plan, each vested RSU represents the right to receive one (1) share of Stock. The RSUs shall apply only with respect to a whole number of shares of Stock.

2. **Vesting.** The RSUs shall vest in full on the fourth (4th) anniversary of the Grantee’s commencement of employment with the Company (the “Vesting Date”), provided that (i) the Performance Hurdle for the Performance Year has been met (as such terms are provided in the table below), (ii) the Grantee’s achievement through the Vesting Date of performance acceptable to the board of directors of the Company (the “Board”) (or the Leadership Development, Compensation and Governance Committee of the Board) in its sole discretion (in consultation with the CEOs of the Company), and (iii) the Grantee has remained continuously employed with the Company (or an Affiliate of the Company) through the Vesting Date. Until the Vesting Date, the RSUs shall remain subject to forfeiture in accordance with the terms of Section 3 hereof.

Performance Year	Performance Hurdle
The one year period commencing on the third anniversary of the Grantee’s commencement of employment with the Company (the “ <u>4th Performance Year</u> ”)	The Company’s stock price closes at \$28 or greater for 30 Trading Days out of any 45 consecutive Trading Days during the 4 th Performance Year The term “Trading Day” means any full day the Nasdaq Stock Market is open for trading

3. **Termination of Service.** When a grantee’s employment with the Company (or an Affiliate of the Company) terminates (or if the conditions to vesting of the RSUs contained in Section 2 are not met as of the Vesting Date), any outstanding and unvested RSUs shall immediately terminate and become null and void.

4. **Settlement.** During the first open trading window of the Company following the end of the calendar quarter (i.e., March 31, June 30, September 30, December 31) in which the Vesting Date occurs, the Company shall deliver to the Grantee one (1) share of Stock in settlement of each RSU that became vested during such calendar quarter, except that any RSUs that vest on or before December 31, 2021 shall be settled during the first open trading window of the Company following December 31, 2021, provided that, in no event (i) will an RSU be settled later than March 15 of the year following the year in which such RSU vested, nor (ii) will the Grantee be permitted, directly or indirectly, to specify the taxable year of delivery of any RSU subject to this Agreement.

5. **Delivery of Stock.** Certificates or evidence of book-entry shares representing the Stock issued upon settlement of RSUs pursuant to Section 4 of this Agreement will be delivered to or otherwise made available to the Grantee (or, at the discretion of the Grantee, joint in the names of the Grantee and the Grantee's spouse) or to the Grantee's nominee at such person's request. Delivery of shares of Stock under this Agreement will comply with all applicable laws (including, the requirements of the Exchange Act), and the applicable requirements of any securities exchange or similar entity.

6. **Shareholder Rights.** An RSU is not a share of Stock, and thus, the Grantee will have no rights as a stockholder with respect to the RSUs. Dividend Equivalents shall accrue on shares underlying the RSUs awarded hereunder and such dividends will be paid to Grantee upon the vesting of such RSUs.

7. **Transferability.** The RSUs subject to this Award may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered before they vest in accordance with Section 2. After such RSUs vest and are settled in accordance with Sections 2 and 4, no sale or disposition of such shares shall be made in the absence of an effective registration statement under the Exchange Act with respect to such shares unless an opinion of counsel satisfactory to the Company that such sale or disposition will not constitute a violation of the Exchange Act or any other applicable securities laws is first obtained.

8. **Change in Capital Structure.** The terms of this Agreement, including the number of shares of Stock subject to this RSU shall be adjusted as the Administrator determines is equitably required in the event the Company effects one or more stock dividends, spinoffs, recapitalizations, stock splits, combinations, exchanges or consolidations of shares or other similar changes in capitalization.

9. **Withholding.**

(a) The Grantee understands that when the RSUs are settled in accordance with Section 4, the Grantee will be obligated to recognize income, for Federal, state and local income tax purposes, as applicable, in an amount equal to the Fair Market Value of the share of Stock as of such date, and the Grantee is responsible for all tax obligations that arise in connection with the RSUs.

(b) Whenever shares of Stock are to be issued upon settlement of the RSUs, the Grantee shall assume sole responsibility for discharging all tax and other obligations associated therewith. The Company has no duty or obligation to minimize the tax consequences to the Grantee and will not be liable to the Grantee for any adverse tax consequences arising in connection with this Award. The Grantee agrees to indemnify the Company against any non-U.S., U.S. federal, state and local withholding taxes for which the Company may be liable in connection with the Grantee's acquisition, ownership or disposition of any shares of Stock.

(c) In its sole discretion, the Administrator of the Plan may permit the Grantee to satisfy the Company's tax withholding obligation with respect to RSUs settled in Stock by having shares withheld in accordance with Section 16(b) of the Plan. The elections described in this subsection (c) must be in a form and manner prescribed by the Administrator and may be subject to the prior approval of the Administrator.

10. **Compliance with Section 409A of the Code.** It is the intention of the Company that the Award and Plan are intended either to provide compensation that is exempt from Section 409A of the Code and the rules, regulations and other authorities promulgated thereunder (including the transition rules thereof) (collectively, "**Section 409A**"), (by reason of being a short-term deferral) or that is nonqualified deferred compensation that is compliant in all regards with the requirements of Section 409A, and all provisions of this Agreement will be construed and interpreted in a manner consistent with this intent. If the Grantee is a "Specified Employee" (within the meaning set forth in Section 409A(a)(2)(B)(i) of the Code) as of the date of the Grantee's "separation from service" (within the meaning of Treasury Regulation Section 1.409A-1(h) and without regard to any alternative definition thereunder), then the issuance of any shares of Stock that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the earlier of: (i) the fifth business day following the Grantee's death, or (ii) the date that is six (6) months and one day after the date of the separation from service, with the balance of the shares of Stock issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares of Stock is necessary to avoid the imposition of adverse taxation on the Grantee in respect of the shares of Stock under Section 409A. Each installment of shares of Stock that vests is intended to constitute a "separate payment" for purposes of Treasury Regulation Section 1.409A-2(b)(2). In no event shall the Company be liable for any additional tax, interest, income inclusion or other penalty that may be imposed on the Grantee by Section 409A or for damages for failing to comply with Section 409A.

12. **Conflicts.** In the event of any conflict between the provisions of the Plan as in effect on the Date of Grant and the provisions of this Agreement, the provisions of the Plan shall govern. All references herein to the Plan mean the Plan as in effect on the date hereof.

13. **Grantee Bound by Plan.** The Grantee hereby acknowledges that a copy of the Plan has been made available to him or her and agrees to be bound by all the terms and provisions thereof.

14. **Binding Effect.** Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon and inure to the benefit of the successors of the Grantee and any transferee of the Grantee in accordance with Section 7 and the successors of the Company.

15. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware.

16. **Counterparts.** This Agreement may be executed in counterparts, which shall be deemed originals with the same effect as if both parties had signed the same document. Any counterpart shall be construed together with any other counterpart and both shall constitute one Agreement. For the purposes of this Agreement, a facsimile or PDF copy of a signature shall be construed to be an original.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Company has caused its duly authorized officer to execute this Agreement, and the Grantee has placed his or her signature hereon, effective as of the Date of Grant.

SHIFT TECHNOLOGIES, INC.

By: _____
Signature

Name: _____

Title: _____

Date: _____

I hereby accept this Grant and I agree to be bound by the terms of the Plan and this Grant. I further agree that all of the decisions and interpretations of the Company with respect thereto shall be final and binding.

GRANTEE:

By: _____
Signature

Name: _____
Print Name

**IF GRANTEE'S SPOUSE
MUST SIGN:***

By: _____
Signature

Name: _____
Print Name

* If the Grantee is married and holds RSUs jointly with the Grantee's spouse or resides in a community property state, both the Grantee and Grantee's spouse must sign this RSU Agreement. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Exhibit E

**Form of Award pursuant to the
Company's 2020 Omnibus Equity Compensation Plan**

[Attached[]]

SHIFT TECHNOLOGIES, INC.
2020 OMNIBUS EQUITY COMPENSATION PLAN

RSU AGREEMENT

THIS AGREEMENT (this “Agreement”), dated _____ (the “Date of Grant”), between Shift Technologies, Inc., a Delaware corporation (the “Company”), and Jeff Clementz (the “Grantee”), is made pursuant and subject to the provisions of the Company’s 2020 Omnibus Equity Compensation Plan (the “Plan”), a copy of which has been made available to the Grantee. All capitalized terms used herein that are not otherwise defined in this Agreement have the same meaning given to them in the Plan.

1. **Award.** Subject to the terms and conditions of the Plan and subject further to the terms and conditions herein set forth, the Company hereby grants the Grantee 58,634 Restricted Stock Units (“RSUs”), subject to the vesting terms set forth in Section 2 below. Subject to the provisions of this Agreement and the Plan, each vested RSU represents the right to receive one (1) share of Stock. The RSUs shall apply only with respect to a whole number of shares of Stock.

2. **Vesting.** The RSUs shall vest in full on the six-month anniversary of the Grantee’s commencement of employment with the Company (the “Vesting Date”), subject to (i) the Grantee’s continuous employment with the Company (or an Affiliate of the Company) through the Vesting Date and (ii) the Grantee’s employment being in good standing through the Vesting Date. Until the Vesting Date, the RSUs shall remain subject to forfeiture in accordance with the terms of Section 3 hereof.

3. Termination of Service.

(a) **General Rule.** When a grantee’s employment with the Company (or an Affiliate of the Company) terminates (or if the conditions to vesting of the RSUs contained in Section 2 are not met as of the Vesting Date), any outstanding and unvested RSUs shall immediately terminate and become null and void.

(b) **Termination without Cause or Resignation due to an Adverse Employment Action prior to the Vesting Date.** Notwithstanding the foregoing, subject to (i) the Grantee’s employment being in good standing through his termination date and (ii) the Release Requirement, upon the Company’s termination of the Grantee’s employment without Cause (other than due to Disability) or the Grantee’s resignation due to an Adverse Employment Action prior to the Vesting Date, all RSUs granted hereunder shall become fully vested.

(c) **Definitions.**

(i) “Cause” has the meaning set forth in the Grantee’s employment agreement, if any, and otherwise means the Grantee’s action, or failure to act, during the Grantee’s employment with the Company that is determined to constitute any of the following: (i) performance of any act or failure to perform any act in bad faith and to the detriment of any Company Entities; (ii) dishonesty, intentional misconduct or material breach of any agreement with any Company Entity; or (iii) commission of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person. Prior to any termination for Cause pursuant to each such event listed in (i) or (ii) above, to the extent such event(s) is capable of being cured by the Grantee, the Company shall give the Grantee written notice thereof describing in reasonable detail the circumstances constituting Cause and the Grantee shall have the opportunity to remedy same within thirty (30) days after receiving written notice.

(ii) “Disability” has the meaning set forth in the Grantee’s employment agreement, if any, and otherwise shall mean the Grantee has been unable to perform the essential functions of the Grantee’s position with the Company, either with or without a reasonable accommodation, by reason of physical or mental incapacity for a period of six consecutive months, subject to any obligations or limitations imposed by federal, state or local laws, including any duty to accommodate the Grantee under the federal Americans with Disabilities Act or applicable state law.

(iii) “Adverse Employment Action” has the meaning set forth in the Grantee’s employment agreement.

(iv) “General Release” means a general release of claims, including without limitation all employment and termination claims, if any, in favor of the Company and its affiliates in the form and substance provided by the Company, provided that, if the Grantee has an employment agreement with the Company that specifies a form of general release, then such general release will be used (as conformed to include the benefits hereunder, if any) as the General Release.

(v) “Release Requirement” the Grantee shall not be entitled to receive any benefit described in Section 3(b) unless the Grantee (or the Grantee’s legal representative) has executed and delivered to the Company a General Release, which General Release shall be in full force and effect (and no longer subject to revocation) within sixty (60) calendar days after the Grantee’s termination of employment. To the extent that any benefit subject to the Release Requirement is deferred compensation under Section 409A that is not otherwise exempt from the application of Section 409A, and if the sixty (60) calendar day period referenced in the preceding sentence spans two calendar years, then, solely to the extent necessary to avoid the incurrence of adverse personal tax consequences under Section 409A, the payment of such amount will not occur until the second calendar year.

4. Settlement. During the first open trading window of the Company following the end of the calendar quarter (i.e., March 31, June 30, September 30, December 31) in which the Vesting Date occurs, the Company shall deliver to the Grantee one (1) share of Stock in settlement of each RSU that became vested during such calendar quarter, except that any RSUs that vest on or before December 31, 2021 shall be settled during the first open trading window of the Company following December 31, 2021, provided that, in no event (i) will an RSU be settled later than March 15 of the year following the year in which such RSU vested, nor (ii) will the Grantee be permitted, directly or indirectly, to specify the taxable year of delivery of any RSU subject to this Agreement.

5. **Delivery of Stock.** Certificates or evidence of book-entry shares representing the Stock issued upon settlement of RSUs pursuant to Section 4 of this Agreement will be delivered to or otherwise made available to the Grantee (or, at the discretion of the Grantee, joint in the names of the Grantee and the Grantee's spouse) or to the Grantee's nominee at such person's request. Delivery of shares of Stock under this Agreement will comply with all applicable laws (including, the requirements of the Exchange Act), and the applicable requirements of any securities exchange or similar entity.

6. **Shareholder Rights.** An RSU is not a share of Stock, and thus, the Grantee will have no rights as a stockholder with respect to the RSUs. Dividend Equivalents shall accrue on shares underlying the RSUs awarded hereunder and such dividends will be paid to Grantee upon the vesting of such RSUs.

7. **Transferability.** The RSUs subject to this Award may not be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered before they vest in accordance with Section 2. After such RSUs vest and are settled in accordance with Sections 2 and 4, no sale or disposition of such shares shall be made in the absence of an effective registration statement under the Exchange Act with respect to such shares unless an opinion of counsel satisfactory to the Company that such sale or disposition will not constitute a violation of the Exchange Act or any other applicable securities laws is first obtained.

8. **Change in Capital Structure.** The terms of this Agreement, including the number of shares of Stock subject to this RSU shall be adjusted as the Administrator determines is equitably required in the event the Company effects one or more stock dividends, spinoffs, recapitalizations, stock splits, combinations, exchanges or consolidations of shares or other similar changes in capitalization.

9. **Withholding.**

(a) The Grantee understands that when the RSUs are settled in accordance with Section 4, the Grantee will be obligated to recognize income, for Federal, state and local income tax purposes, as applicable, in an amount equal to the Fair Market Value of the share of Stock as of such date, and the Grantee is responsible for all tax obligations that arise in connection with the RSUs.

(b) Whenever shares of Stock are to be issued upon settlement of the RSUs, the Grantee shall assume sole responsibility for discharging all tax and other obligations associated therewith. The Company has no duty or obligation to minimize the tax consequences to the Grantee and will not be liable to the Grantee for any adverse tax consequences arising in connection with this Award. The Grantee agrees to indemnify the Company against any non-U.S., U.S. federal, state and local withholding taxes for which the Company may be liable in connection with the Grantee's acquisition, ownership or disposition of any shares of Stock.

(c) In its sole discretion, the Administrator of the Plan may permit the Grantee to satisfy the Company's tax withholding obligation with respect to RSUs settled in Stock by having shares withheld in accordance with Section 16(b) of the Plan. The elections described in this subsection (c) must be in a form and manner prescribed by the Administrator and may be subject to the prior approval of the Administrator.

10. **Compliance with Section 409A of the Code.** It is the intention of the Company that the Award and Plan are intended either to provide compensation that is exempt from Section 409A of the Code and the rules, regulations and other authorities promulgated thereunder (including the transition rules thereof) (collectively, "Section 409A"), (by reason of being a short-term deferral) or that is nonqualified deferred compensation that is compliant in all regards with the requirements of Section 409A, and all provisions of this Agreement will be construed and interpreted in a manner consistent with this intent. If the Grantee is a "Specified Employee" (within the meaning set forth in Section 409A(a)(2)(B)(i) of the Code) as of the date of the Grantee's "separation from service" (within the meaning of Treasury Regulation Section 1.409A-1(h) and without regard to any alternative definition thereunder), then the issuance of any shares of Stock that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the earlier of: (i) the fifth business day following the Grantee's death, or (ii) the date that is six (6) months and one day after the date of the separation from service, with the balance of the shares of Stock issued thereafter in accordance with the original vesting and issuance schedule set forth above, but if and only if such delay in the issuance of the shares of Stock is necessary to avoid the imposition of adverse taxation on the Grantee in respect of the shares of Stock under Section 409A. Each installment of shares of Stock that vests is intended to constitute a "separate payment" for purposes of Treasury Regulation Section 1.409A-2(b)(2). In no event shall the Company be liable for any additional tax, interest, income inclusion or other penalty that may be imposed on the Grantee by Section 409A or for damages for failing to comply with Section 409A.

12. **Conflicts.** In the event of any conflict between the provisions of the Plan as in effect on the Date of Grant and the provisions of this Agreement, the provisions of the Plan shall govern. All references herein to the Plan mean the Plan as in effect on the date hereof.

13. **Grantee Bound by Plan.** The Grantee hereby acknowledges that a copy of the Plan has been made available to him or her and agrees to be bound by all the terms and provisions thereof.

14. **Binding Effect.** Subject to the limitations stated above and in the Plan, this Agreement shall be binding upon and inure to the benefit of the successors of the Grantee and any transferee of the Grantee in accordance with Section 7 and the successors of the Company.

15. **Governing Law.** This Agreement shall be governed by the laws of the State of Delaware.

16. **Counterparts.** This Agreement may be executed in counterparts, which shall be deemed originals with the same effect as if both parties had signed the same document. Any counterpart shall be construed together with any other counterpart and both shall constitute one Agreement. For the purposes of this Agreement, a facsimile or PDF copy of a signature shall be construed to be an original.

[Signatures appear on following page]

IN WITNESS WHEREOF, the Company has caused its duly authorized officer to execute this Agreement, and the Grantee has placed his or her signature hereon, effective as of the Date of Grant.

SHIFT TECHNOLOGIES, INC.

By: _____
Signature

Name: _____

Title: _____

Date: _____

I hereby accept this Grant and I agree to be bound by the terms of the Plan and this Grant. I further agree that all of the decisions and interpretations of the Company with respect thereto shall be final and binding.

GRANTEE:
By: _____
Signature

Name: _____
Print Name

IF GRANTEE'S SPOUSE
MUST SIGN: *
By: _____
Signature

Name: _____
Print Name

* If the Grantee is married and holds RSUs jointly with the Grantee's spouse or resides in a community property state, both the Grantee and Grantee's spouse must sign this RSU Agreement. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas and Washington.

Exhibit F

Form of Release

[Attached]

Release Agreement

This Release Agreement (the “Agreement”), by and between Shift Platform, Inc. (the “Company”) and Jeff Clementz (“You” or “Your”) (the Company and You collectively referred to as the “Parties”) is entered into and effective as of _____ (the “Effective Date”). You and the Company previously entered into that certain Employment Agreement, dated as of _____, as amended from time to time (the “Employment Agreement”).

1. Separation Date; Accrued Obligations. The Parties acknowledge and agree that Your employment with the Company terminated effective as of _____ (the “Separation Date”). The Company will pay You all Accrued Obligations (as defined in the Employment Agreement), as provided in Section 8(b) of the Employment Agreement.

2. Separation Payments. Provided that You satisfy the conditions of this Agreement, including the return of all Company property, and do not revoke this Agreement, the Company shall pay [DESCRIBE APPLICABLE BENEFITS] in accordance with Section [] of the Employment Agreement, which together with Sections [14(c), 15, and 16] of the Employment Agreement, are incorporated herein (the “Separation Payments”). Notwithstanding the foregoing, in the event of a material, uncured breach of this Agreement, You acknowledge and agree that the Company shall have the right, upon five (5) days’ notice to You, to file a lawsuit against You for damages.

3. Employee Benefits; Equity Awards. Because You are no longer employed, Your rights to any particular employee benefit shall be governed by applicable law and the terms and provisions of the Company’s various employee benefit plans and arrangements. You agree that the treatment of any equity-based compensation awards granted to You by Company under an equity agreement will be governed by the terms of such awards and such equity agreement as such awards and terms are described in Appendix A, attached hereto (the “Unreleased Equity Awards”). Notwithstanding anything to the contrary contained herein, this Release shall not apply to the enforcement of the Unreleased Equity Awards. Following the Separation Date, the Company will not grant You any equity-based compensation awards.

4. Release. In exchange for the Separation Payments, You release and discharge the Company^[1] from any and all claims, charges, or lawsuits of any kind or nature (and will not cause any action or claim to be commenced) based upon facts, transactions, or omissions that occurred on or before the date You sign this Agreement, arising out of Your employment or the cessation of Your employment, claims arising out of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001-1461, claims to stock options, claims to the vesting of stock options, claims arising out of or relating to equity or other ownership interest in the Company (other than the Unreleased Equity Awards), claims for breach of contract, claims for tort, negligent hiring, negligent retention, negligent supervision, negligent training, employment discrimination, retaliation, or harassment, as well as any other statutory or common law claims, at law or in equity, recognized under any federal, state, or local law. You also release any claims for unpaid back pay, sick pay, vacation pay, expenses, bonuses, claims to commissions, attorneys’ fees, or any other compensation. You agree that You are not entitled to any additional payment or benefits from the Company, except as set forth in this Agreement or under an Unreleased Equity Award. You further agree that You have suffered no harassment, retaliation, employment discrimination, or work-related injury or illness and that You do not believe that this Agreement is a subterfuge to avoid disclosure of sexual harassment or gender discrimination allegations or to waive such claims. You acknowledge and represent that You (i) have been fully paid (including, but not limited to, any overtime to which You are entitled, if any) for hours You worked for the Company, and (ii) do not claim that the Company violated or denied Your rights under the Fair Labor Standards Act. Notwithstanding the foregoing, the release of claims set forth in this Section does not waive (x) Your right to receive benefits under the Company’s 401(k) or other employee benefit plan, if any, that either (a) have accrued or vested prior to the Effective Date, or (b) are intended, under the terms of such plans, to survive Your separation from the Company, (y) Your rights to be indemnified under applicable law or Your indemnity agreement or any other indemnification arrangement or D&O insurance policy applicable to You or (z) Your rights to enforce this Agreement, workers’ compensation claims, claims for unemployment insurance benefits, or claims that, by law, cannot be waived.

¹ For purposes of Sections 4, 5 and 6 of this Agreement, the term “Company” includes the Company, the Company’s parents, subsidiaries, affiliates, and all related companies, as well as each of their respective current and former officers, directors, shareholders, members, managers, employees, agents, and any other representatives, any employee benefits plan of the Company, and any fiduciary of those plans, in each case, in their capacity as such.

5. **ADEA/OWBPA Waiver.** By agreeing to this provision, You release and waive any right or claim against the Company¹ arising out of Your employment or the termination of Your employment with the Company under the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621 et seq. (“ADEA”), and the Older Workers Benefit Protection Act, 29 U.S.C. § 621 et seq. (“OWBPA”) (such release and waiver referred to as the “Waiver”). You understand and agree that, (i) this Agreement is written in a manner that You understand; (ii) You do not release or waive rights or claims that may arise after You sign this Agreement; (iii) You waive rights and claims You may have had under the OWBPA and the ADEA, but only in exchange for payments and/or benefits in addition to anything of value to which You are already entitled; (iv) You are advised to consult with an attorney before signing this Agreement; (v) You have [twenty-one (21)]/[forty-five (45)] calendar days from receipt of this Agreement to consider whether to sign it (the “Offer Period”). The Parties agree that the Company may revoke this offer at any time. However, if You sign before the end of the Offer Period, You acknowledge that Your decision to do so was knowing, voluntary, and not induced by fraud, misrepresentation, or a threat to withdraw, alter, or provide different terms prior to the expiration of the Offer Period. You agree that changes or revisions to this Agreement, whether material or immaterial, do not restart the running of the Offer Period; (vi) You have seven (7) calendar days after signing this Agreement to revoke this Agreement (the “Revocation Period”). If You revoke, the Agreement shall not be effective or enforceable and You shall not be entitled to the consideration set forth in this Agreement. To be effective, the revocation must be in writing and received by [TBD], prior to expiration of the Revocation Period; and (vii) this Waiver shall not become effective or enforceable until the Revocation Period has expired.

6. **Unknown Claims and Section 1542 Waiver.** You expressly waive any and all rights that You may have under any state or local statute, executive order, regulation, common law and/or public policy related to unknown claims, including but not limited to California Civil Code Section 1542, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

7. No Admission of Liability. This Agreement is not an admission of liability by the Company. The Company denies any liability whatsoever. The Company enters into this Agreement to reach a mutual agreement concerning Your separation from the Company.

8. Restrictive Covenants and Dispute Resolution. You acknowledge and agree that You continue to be subject to the provisions of Sections 14(c), 15 and 16 of the Employment Agreement, the terms of which survive Your separation from the Company and are incorporated herein *mutatis mutandis*.

9. Return of Company Property. You shall immediately return to the Company all of the Company's property, including, but not limited to, computers, computer equipment, office equipment, mobile phone, keys, passcards, credit cards, confidential or proprietary lists (including, but not limited to, customer, supplier, licensor, and client lists), tapes, laptop computer, electronic storage device, software, computer files, marketing and sales materials, and any other property, record, document, or piece of equipment belonging to the Company. You shall not (a) retain any copies of the Company's property, including any copies existing in electronic form, which are in Your possession, custody, or control, or (b) destroy, delete, or alter any Company property, including, but not limited to, any files stored electronically, without the Company's prior written consent. The obligations contained in this Section shall also apply to any property which belongs to a third party, including, but not limited to, (i) any entity which is affiliated or related to the Company, or (ii) the Company's customers, licensors, or suppliers.

10. Prohibited Post-Employment Activities. You acknowledge and agree that, effective as of the Separation Date: (a) You removed any reference to the Company as Your current employer from any source You control, either directly or indirectly, including, but not limited to, any Social Media such as LinkedIn, Facebook, Google+, Twitter and/or Instagram, and (b) You are not permitted to represent Yourself as currently being employed by the Company to any person or entity, including, but not limited to, on any Social Media. For purposes of this Section, "Social Media" means any form of electronic communication (such as Web sites for social networking and micro blogging) through which users create online communities to share information, ideas, personal messages and other content, such as videos.

11. Entire Agreement. This Agreement, together with the provisions of the Employment Agreement incorporated herein, constitutes the entire agreement between the Parties. This Agreement supersedes any prior communications, agreements, or understandings, whether oral or written, between the Parties arising out of or relating to Your employment and the termination of that employment. Other than the terms of this Agreement, no other representation, promise, or agreement has been made with You to cause You to sign this Agreement.

12. Non-Interference. Notwithstanding anything to the contrary set forth in this Agreement or in any other agreement between You and the Company, nothing in this Agreement or in any other agreement shall limit Your ability, or otherwise interfere with Your rights, to (a) file a charge or complaint with the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission, or any other federal, state, or local governmental agency or commission (each a "Government Agency"), (b) communicate with any Government Agency or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company, (c) receive an award for information provided to any Government Agency, or (d) engage in activity specifically protected by Section 7 of the National Labor Relations Act, or any other federal or state statute or regulation.

13. **Voluntary Agreement.** You acknowledge the validity of this Agreement and represent that You have the legal capacity to enter into this Agreement. You acknowledge and agree You have carefully read the Agreement, know and understand the terms and conditions, including its final and binding effect, and sign it voluntarily.

14. **Execution.** This Agreement may be executed in one or more counterparts, including, but not limited to, facsimiles and scanned images, and it shall not be necessary that the signatures of all Parties hereto be contained on any one counterpart. Each counterpart shall for all purposes be deemed to be an original, and each counterpart shall constitute this Agreement.

14. **Governing Law.** THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REFERENCE TO PRINCIPLES OF CONFLICTS OF LAWS OF CALIFORNIA OR ANY OTHER JURISDICTION, AND, WHERE APPLICABLE, THE LAWS OF THE UNITED STATES.

If the terms set forth in this Agreement are acceptable, please initial each page, sign below and return the signed original to the [TBD], on or before the [21st][45th] day after You receive this Agreement. If the Company does not receive a signed original on or before the [21st][45th] day after You receive this Agreement, then this offer is revoked, and You shall not be entitled to the consideration set forth in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Effective Date.

Shift Platform, Inc.

Jeff Clementz

By: _____

Its: _____ **Date:** _____

Date: _____

Appendix A to Release Agreement

Exhibit G

Prior Materials

No Prior Materials

Prior Materials include: _____



Shift Appoints Experienced Ecommerce Leader Jeff Clementz as President

SAN FRANCISCO, Sep. 30, 2021 – Shift (Nasdaq: SFT), a leading end-to-end auto ecommerce platform transforming the used car industry with a technology-driven, hassle-free customer experience, announced today that Jeff Clementz, recent SVP, GM of Walmart US Marketplace and Partner Operations, will be appointed as Shift's President, effective Oct. 1, 2021.

"We are thrilled to welcome such a proven leader with a strong vision and aptitude for execution at this pivotal moment," said George Arison, Shift's Co-CEO and Co-Founder. "Jeff's experience scaling Walmart's massive ecommerce marketplace business and deep understanding of financial services will be instrumental in helping us drive sustainable growth for years to come."

"Jeff's breadth of knowledge and experience across ecommerce, product development, marketing, sales, and operations will help Shift build on our momentum," said Toby Russell, Shift's Co-CEO and Co-Founder. "He has a track record of leadership in operating efficiently, delivering unparalleled value to customers, and doing it with heart. For us, this addition is indicative of Shift's success, and we are excited to see Jeff's contribution to the team."

Clementz brings over twenty years of experience leading global hyper-growth payments and marketplace businesses. For the last six years, he held various leadership roles at Walmart, most recently overseeing its US ecommerce marketplace business as SVP, GM of Marketplace and Partner Operations. Under his leadership, the company became one of the largest digital marketplaces in the US. Prior to Walmart, Clementz spent over a decade at PayPal where he played an instrumental role in the company's global expansion while also reshaping it into a customer-focused organization.

"I am honored to serve as President of this incredible company dedicated to reimagining what the car buying and selling experience can and should look like, and to join an innovative, high growth team," said Jeff Clementz, incoming President at Shift. "Shift is truly a unique combination of technology, operations, and cost-conscious retail. I'm thrilled to leverage my experience to continue building on Shift's success."

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About Shift

Shift is a leading end-to-end auto ecommerce platform transforming the used car industry with a technology-driven, hassle-free customer experience. Shift's mission is to make car purchase and ownership simple — to make buying or selling a used car fun, fair, and accessible to everyone. Shift provides comprehensive, digital solutions throughout the car ownership lifecycle: finding the right car, having a test drive brought to you before buying the car, a seamless digitally-driven purchase transaction including financing and vehicle protection products, an efficient, digital trade-in/sale transaction, and a vision to provide high-value support services during car ownership. For more information please visit www.shift.com.

Forward-Looking Statements

This document includes “forward looking statements” within the meaning of the “safe harbor” provisions of the United States Private Securities Litigation Reform Act of 1995. Forward-looking statements may be identified by the use of words such as “forecast,” “intend,” “seek,” “target,” “anticipate,” “believe,” “expect,” “estimate,” “plan,” “outlook,” and “project” and other similar expressions that predict or indicate future events or trends or that are not statements of historical matters. Such forward looking statements include estimated financial information. Such forward looking statements with respect to revenues, earnings, performance, strategies, prospects and other aspects of Shift’s business are based on current expectations that are subject to risks and uncertainties. A number of factors could cause actual results or outcomes to differ materially from those indicated by such forward looking statements. These factors include, but are not limited to: (1) Shift’s ability to sustain its current rate of growth, which may be affected by, among other things, competition, Shift’s ability to grow and manage growth profitably, maintain relationships with customers and suppliers and retain its management and key employees; (2) changes in applicable laws or regulations; (3) the possibility that Shift may be adversely affected by other economic, business, and/or competitive factors; (4) the operational and financial outlook of Shift; (5) the ability for Shift to execute its growth strategy; (6) Shift’s ability to purchase sufficient quantities of vehicles at attractive prices; and (7) other risks and uncertainties indicated from time to time in other documents filed or to be filed with the SEC by Shift. You are cautioned not to place undue reliance upon any forward-looking statements, which speak only as of the date made. Shift undertakes no commitment to update or revise the forward-looking statements, whether as a result of new information, future events or otherwise, except as may be required by law.

Contacts

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