

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Quarterly Period Ended March 31, 2016

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition Period from _____ to _____

Commission File Number 000-28275

PFSweb, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

505 Millennium Drive, Allen, Texas
(Address of principal executive offices)

75-2837058
(I.R.S. Employer I.D. No.)

75013
(Zip Code)

Registrant's telephone number, including area code: (972) 881-2900

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by checkmark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller Reporting Company

Indicate by a check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes No

At May 6, 2016 there were 18,679,354 shares of registrant's common stock outstanding.

PFSWEB, INC. AND SUBSIDIARIES

Form 10-Q
March 31, 2016

INDEX

PART I. FINANCIAL INFORMATION

**Page
Number**

Item 1.	Financial Statements:	
	Condensed Consolidated Balance Sheets as of March 31, 2016 (Unaudited) and December 31, 2015	3
	Unaudited Condensed Consolidated Statements of Operations for the Three Months Ended March 31, 2016 and 2015	4
	Unaudited Condensed Consolidated Statements of Cash Flows for the Three Months Ended March 31, 2016 and 2015	5
	Notes to Unaudited Condensed Consolidated Financial Statements	6
Item 2.	Management's Discussion and Analysis of Financial Condition and Results of Operations	19
Item 3.	Quantitative and Qualitative Disclosure about Market Risk	26
Item 4.	Controls and Procedures	26

PART II. OTHER INFORMATION

Item 1.	Legal Proceedings	27
Item 1A.	Risk Factors	27
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds	28
Item 3.	Defaults Upon Senior Securities	28
Item 4.	Mine Safety Disclosure	28
Item 5.	Other Information	28
Item 6.	Exhibits	29

SIGNATURES

30

PART I. FINANCIAL INFORMATION

ITEM 1. Financial Statements

PFSWEB, INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS
(In Thousands, Except Share Data)

	(Unaudited) March 31, 2016	December 31, 2015
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 15,636	\$ 21,781
Restricted cash	224	275
Accounts receivable, net of allowance for doubtful accounts of \$558 and \$600 at March 31, 2016 and December 31, 2015, respectively	59,971	70,700
Inventories, net of reserves of \$599 and \$739 at March 31, 2016 and December 31, 2015, respectively	8,433	9,262
Other receivables	6,615	8,704
Prepaid expenses and other current assets	5,997	5,662
Total current assets	96,876	116,384
PROPERTY AND EQUIPMENT, net	23,670	24,093
IDENTIFIABLE INTANGIBLES, net	7,962	8,810
GOODWILL	39,829	39,829
OTHER ASSETS	2,199	2,174
Total assets	<u>\$ 170,536</u>	<u>\$ 191,290</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current portion of long-term debt and capital lease obligations	\$ 6,267	\$ 3,153
Trade accounts payable	35,214	51,170
Deferred revenue	6,499	7,390
Performance-based contingent payments	11,440	11,679
Accrued expenses	26,174	30,563
Total current liabilities	85,594	103,955
LONG-TERM DEBT AND CAPITAL LEASE OBLIGATIONS, less current portion	30,683	32,238
DEFERRED REVENUE	4,496	4,499
DEFERRED RENT	4,343	4,362
OTHER LIABILITIES	1,570	2,478
Total liabilities	<u>126,686</u>	<u>147,532</u>
COMMITMENTS AND CONTINGENCIES		
SHAREHOLDERS' EQUITY:		
Preferred stock, \$1.00 par value; 1,000,000 shares authorized; none issued or outstanding	—	—
Common stock, \$0.001 par value; 35,000,000 shares authorized; 18,345,243 and 18,136,218 shares issued at March 31, 2016 and December 31, 2015, respectively; and 18,311,776 and 18,102,751 outstanding at March 31, 2016 and December 31, 2015, respectively	18	18
Additional paid-in capital	142,149	141,948
Accumulated deficit	(98,539)	(97,787)
Accumulated other comprehensive income (loss)	347	(296)
Treasury stock at cost, 33,467 shares	(125)	(125)
Total shareholders' equity	43,850	43,758
Total liabilities and shareholders' equity	<u>\$ 170,536</u>	<u>\$ 191,290</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

PFSWEB, INC. AND SUBSIDIARIES
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In Thousands, Except Per Share Data)

	Three Months Ended March 31,	
	2016	2015
REVENUES:		
Service fee revenue	\$ 49,318	\$ 36,708
Product revenue, net	13,607	16,654
Pass-through revenue	12,155	10,484
Total revenues	75,080	63,846
COSTS OF REVENUES:		
Cost of service fee revenue	32,274	25,155
Cost of product revenue	12,903	15,708
Cost of pass-through revenue	12,155	10,484
Total costs of revenues	57,332	51,347
Gross profit	17,748	12,499
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES, including stock based compensation expense of \$766 and \$804 in the three months ended March 31, 2016 and 2015, respectively		
	17,550	13,614
Income (loss) from operations	198	(1,115)
INTEREST EXPENSE, net		
	484	318
Loss from operations before income taxes	(286)	(1,433)
INCOME TAX EXPENSE		
	466	260
NET LOSS	\$ (752)	\$ (1,693)
NET LOSS PER SHARE:		
Basic	\$ (0.04)	\$ (0.10)
Diluted	\$ (0.04)	\$ (0.10)
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING:		
Basic	18,325	17,144
Diluted	18,325	17,144
COMPREHENSIVE LOSS:		
Net loss	\$ (752)	\$ (1,693)
Foreign currency translation adjustment	643	(906)
TOTAL COMPREHENSIVE LOSS	\$ (109)	\$ (2,599)

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

PFSWEB, INC. AND SUBSIDIARIES

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)

	Three Months Ended March 31,	
	2016	2015
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (752)	\$ (1,693)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	3,603	3,255
Amortization of debt issuance costs	36	—
Gain on sale of fixed assets	—	20
Provision for doubtful accounts	(32)	11
Provision for excess and obsolete inventory	24	1
Deferred income taxes	34	50
Stock-based compensation expense	766	804
Non-cash compensation expense	—	44
Change in performance-based contingent payments	(1,036)	—
Changes in operating assets and liabilities:		
Restricted cash	—	1
Accounts receivable	11,499	7,101
Inventories	834	568
Prepaid expenses, other receivables and other assets	1,748	1,640
Deferred rent	(135)	(148)
Accounts payable, deferred revenue, accrued expenses and other liabilities	(24,965)	(16,070)
Net cash used in operating activities	<u>(8,376)</u>	<u>(4,416)</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(1,367)	(1,270)
Net cash used in investing activities	<u>(1,367)</u>	<u>(1,270)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net proceeds from issuance of common stock	742	517
Decrease in restricted cash	51	227
Payments on performance-based contingent payments	(88)	—
Payments on capital lease obligations	(731)	(581)
Proceeds from debt, net	1,200	3,273
Borrowings on revolver	15,838	—
Payments on revolver	(14,147)	—
Net cash provided by financing activities	2,865	3,436
EFFECT OF EXCHANGE RATES ON CASH AND CASH EQUIVALENTS	<u>733</u>	<u>(1,108)</u>
NET DECREASE IN CASH AND CASH EQUIVALENTS	<u>(6,145)</u>	<u>(3,358)</u>
CASH AND CASH EQUIVALENTS, beginning of period	<u>21,781</u>	<u>18,128</u>
CASH AND CASH EQUIVALENTS, end of period	<u>\$ 15,636</u>	<u>\$ 14,770</u>
SUPPLEMENTAL CASH FLOW INFORMATION		
Non-cash investing and financing activities:		
Property and equipment acquired under long-term debt and capital leases	<u>\$ 821</u>	<u>\$ 515</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

Notes to Unaudited Condensed Consolidated Financial Statements

1. OVERVIEW AND BASIS OF PRESENTATION

PFSweb, Inc. and its direct and indirect subsidiaries are collectively referred to as the “Company”; “Supplies Distributors” refers to Supplies Distributors, Inc. and its subsidiaries; “Retail Connect” refers to PFSweb Retail Connect, Inc.; “REV” collectively refers to REV Solutions, Inc. and REVTECH Solutions India Private Limited; “LAL” refers to LiveAreaLabs, Inc.; “Moda” refers to Moda Superbe Limited; “CrossView” refers to CrossView, Inc.; and “PFSweb” refers to PFSweb, Inc. and its subsidiaries, excluding Supplies Distributors and Retail Connect.

PFSweb Overview

PFSweb is a global provider of omni-channel commerce solutions, including a broad range of technology, infrastructure and professional services, to major brand name companies and others seeking to optimize their supply chain and to enhance their online and traditional business channels and initiatives in the United States, Canada, and Europe. PFSweb’s service offerings include website design, creation and integration, digital agency and marketing, eCommerce technologies, order management, customer care, logistics and fulfillment, financial management and professional consulting.

Supplies Distributors Overview

Supplies Distributors and PFSweb operate under distributor agreements with Ricoh Company Limited and Ricoh USA, Inc., a strategic business unit within the Ricoh Family Group of Companies, (collectively hereafter referred to as “RicoH”), under which Supplies Distributors acts as a distributor of various Ricoh products. The majority of Supplies Distributors’ revenue is generated by its sale of product purchased from Ricoh.

Supplies Distributors has obtained financing to fund certain working capital requirements for the sale of primarily Ricoh products. Pursuant to the transaction management services agreements between PFSweb and Supplies Distributors, PFSweb provides to Supplies Distributors transaction management and fulfillment services, such as managed web hosting and maintenance, procurement support, web-enabled customer contact center services, customer relationship management, financial services including billing and collection services, information management, and international distribution services. Supplies Distributors does not have its own sales force and relies upon Ricoh’s sales force and product demand generation activities for its sale of Ricoh products. Supplies Distributors sells its products in the United States, Canada and Europe.

Supplies Distributors also maintains agreements with certain additional clients where it operates as an agent for the resale of product between the client and the customer, and records product revenue net of cost of product revenue as a component of service fee revenue. PFSweb also provides various transaction management services to Supplies Distributors under these arrangements.

All of the agreements between PFSweb and Supplies Distributors were made in the context of an affiliate relationship and were negotiated in the overall context of PFSweb’s and Supplies Distributors’ arrangement with the client or vendor. Although management believes the terms of these agreements are generally consistent with fair market values, there can be no assurance that the prices charged to or by each company under these arrangements are not higher or lower than the prices that may be charged by, or to, unaffiliated third parties for similar services. All of these transactions are eliminated upon consolidation.

Basis of Presentation

The interim condensed consolidated financial statements as of March 31, 2016, and for the three months ended March 31, 2016 and 2015, have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) and are unaudited. Certain information and disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) have been condensed or omitted pursuant to the rules and regulations promulgated by the SEC. In the opinion of management and subject to the foregoing, the unaudited interim condensed consolidated financial statements of the Company include all adjustments necessary for a fair presentation of the Company’s financial position as of March 31, 2016, its results of operations for the three months ended March 31, 2016 and 2015 and its cash flows for the three months ended March 31, 2016 and 2015. Results of the Company’s operations for interim periods may not be indicative of results for the full fiscal year.

Notes to Unaudited Condensed Consolidated Financial Statements

2. SIGNIFICANT ACCOUNTING POLICIES***Principles of Consolidation***

All intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates

The preparation of condensed consolidated financial statements and related disclosures in conformity with U.S. GAAP requires management to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses and disclosure of contingent assets and liabilities. The recognition and allocation of certain revenues and selling, general and administrative expenses in these condensed consolidated financial statements also require management estimates and assumptions.

Estimates and assumptions about future events and their effects cannot be determined with certainty. The Company bases its estimates on historical experience and on various other assumptions believed to be applicable and reasonable under the circumstances. These estimates may change as new events occur, as additional information is obtained and as the operating environment changes. These changes have been included in the condensed consolidated financial statements as soon as they became known. In addition, management is periodically faced with uncertainties, the outcomes of which are not within its control and will not be known for prolonged periods of time. These uncertainties are discussed in this report and in the Company's Annual Report on Form 10-K for the year ended December 31, 2015 in the section entitled "Risk Factors." Based on a critical assessment of accounting policies and the underlying judgments and uncertainties affecting the application of those policies, management believes the Company's condensed consolidated financial statements are fairly stated in accordance with U.S. GAAP, and provide a fair presentation of the Company's financial position and results of operations.

Revenue and Cost Recognition

The Company derives revenue primarily from services provided under contractual arrangements with its clients or from the sale of products under its distributor agreements. The following revenue recognition policies define the manner in which the Company accounts for sales transactions.

The Company recognizes revenue when persuasive evidence of a sales arrangement exists, product shipment or delivery has occurred or services are rendered, the sales price or fee is fixed or determinable, and collectability is reasonably assured.

In instances where revenue is derived from sales of third-party vendor services, the Company records revenue on a gross basis when the Company is a principal to the transaction and net of costs when the Company is acting as an agent between the customer or client and the vendor. The Company considers several factors to determine whether it is a principal or an agent, most notably whether the Company is the primary obligor to the vendor or customer, has established its own pricing and has inventory and credit risks, if applicable.

Service Fee Revenue Activity

The Company's service fee revenue primarily relates to its distribution services, order management/customer care services, professional digital agency and technology services. The Company typically charges its service fee revenue on either a cost-plus basis, a percent of shipped revenue basis, on a time and materials, project or retainer basis for professional services, or a per transaction basis, such as a per item basis for fulfillment services or a per labor hour basis for web-enabled customer contact center services. Additional fees are billed for other services.

The Company evaluates its contractual arrangements to determine whether or not they include multiple service elements. Revenue recognition is determined for the separate service elements of the contract in accordance with the requirements of Accounting Standards Codification ("ASC") 605, "Revenue Recognition." A deliverable constitutes a separate unit of accounting when it has standalone value and there are no return rights or other contingencies present for the delivered elements. The Company allocates revenue to each element based on estimated selling price. Each of the Company's client contracts, and the related services, is unique, with individual needs and criteria customized for each client. Each client engagement is scoped and priced separately and as such the Company is not able to establish vendor specific objective evidence of fair value for its services, nor is third-party evidence available to establish stand-alone selling prices. Accordingly the Company uses management's best estimate of selling price for the deliverables. The Company establishes its estimates considering internal factors such as margin objectives, pricing practices and controls as well as market conditions such as competitor pricing strategies.

Notes to Unaudited Condensed Consolidated Financial Statements

Distribution services relate primarily to inventory management, product receiving, warehousing and fulfillment (i.e., picking, packing and shipping) and facilities and operations management. Service fee revenue for these activities is recognized as earned, which is either (i) on a per transaction basis or (ii) at the time of product fulfillment, which occurs at the completion of the distribution services.

Order management/customer care services relate primarily to taking customer orders for the Company's clients' products. These services also entail addressing customer questions related to orders, as well as cross-selling/up-selling activities. Service fee revenue for this activity is recognized as the services are rendered. Fees charged to the client are on a per transaction basis based on either (i) a pre-determined fee per order or fee per telephone minutes incurred, (ii) a per dedicated agent fee, or (iii) are included in the product fulfillment service fees that are recognized on product shipment.

Professional consulting and technology service revenues primarily relate to design, implementation, service and support of eCommerce platforms, website design and solutions and quality control for the Company's clients. Additionally, the Company provides digital agency services that enable client marketing programs to attract new customers, convert buyers and increase website value. These fees are typically charged on either a per labor hour basis, or transaction basis, a dedicated resource model, a fixed price arrangement, or a percent of merchandise shipped basis. Service fee revenue for this activity is generally recognized as the services are rendered.

The Company performs front-end set-up and integration services to support client eCommerce platforms and websites. When the Company determines these front-end set-up and integration services do not meet the criteria for recognition as a separate unit of accounting, the Company defers the start-up fees received and the related costs, and recognizes them over the expected performance period. When the Company determines these front-end set-up and integration services do meet the criteria for recognition as a separate unit of accounting, for time and material arrangements, the Company recognizes revenue as services are rendered and costs as they are incurred. For fixed-price arrangements, the Company uses the completed contract method to recognize revenues and costs if reasonable and reliable cost estimates for a project cannot be made. If reasonable and reliable costs estimates for a project can be made, the Company recognizes revenue over the expected performance period on a proportional performance basis, as determined by the relationship of actual costs incurred compared to the estimated total contract costs. At the time a loss in a contract is expected, the entire amount of the estimated loss is accrued.

The Company's billings for reimbursement of out-of-pocket expenses, including travel and certain third-party vendor expenses such as shipping and handling costs and telecommunication charges, are included in pass-through revenue. The related reimbursable costs are reflected as cost of pass-through revenue.

The Company's cost of service fee revenue, representing the cost to provide the services described above, is recognized as incurred. Cost of service fee revenue also includes certain costs associated with technology collaboration and ongoing technology support that include maintenance, web hosting and other ongoing programming activities. These activities are primarily performed to support the distribution and order management/customer care services and are recognized as incurred.

Product Revenue Activity

Depending on the terms of the customer arrangement, Supplies Distributors recognizes product revenue and product cost either upon the shipment of product to customers or when the customer receives the product. Supplies Distributors permits its customers to return product for credit against other purchases, which include returns for defective products (that Supplies Distributors then returns to the manufacturer) and incorrect shipments. Supplies Distributors provides a reserve for estimated returns and allowances and offers terms to its customers that it believes are standard for its industry.

Freight costs billed to customers are reflected as components of product revenue. Freight costs incurred are recorded as a component of cost of goods sold.

Under its distributor agreements, Supplies Distributors bills Ricoh for reimbursements of certain expenses, including: pass-through customer marketing programs, including rebates and co-op funds; certain freight costs; direct costs incurred in passing on any price decreases offered by Ricoh to Supplies Distributors or its customers to cover price protection and certain special bids; the cost of products provided to replace defective product returned by customers; and certain other expenses as defined. Supplies Distributors records these reimbursable amounts as they are incurred as other receivables in the condensed consolidated balance sheet with a corresponding reduction in either inventory or cost of product revenue. Supplies Distributors also records pass-through customer marketing programs as a reduction of both product revenue and cost of product revenue.

Notes to Unaudited Condensed Consolidated Financial Statements

Accounts Receivable

The Company recognizes revenue and records trade accounts receivable, pursuant to the methods described above, when collectability is reasonably assured. Collectability is evaluated in the aggregate and on an individual customer or client basis taking into consideration payment due date, historical payment trends, current financial position, results of independent credit evaluations and payment terms. Related reserves are determined by either using percentages applied to certain aged receivable categories based on historical results, reevaluated and adjusted as additional information is received, or a specific identification method. After all attempts to collect a receivable have failed, the receivable is written off against the allowance for doubtful accounts.

Deferred Revenues and Deferred Costs

The Company primarily performs its services under multiple-year contracts, certain of which include early termination provisions, and clients are obligated to pay for services performed. In conjunction with these long-term contracts, the Company sometimes receives start-up fees to cover its implementation costs, including certain technology infrastructure and development costs. When the Company determines that these start-up and integration activities do not meet the criteria for recognition as a separate unit of accounting, the Company defers the start-up fees received, and the related costs, and recognizes them over the expected performance period. The amortization of deferred revenue is included as a component of service fee revenue. The amortization of deferred implementation costs is included as a cost of service fee revenue. To the extent implementation costs for non-technology infrastructure and development exceed the corresponding fees received, the excess costs are expensed as incurred.

Investment in Affiliates

Priority Fulfillment Services, Inc. ("PFS") a wholly-owned subsidiary of PFSweb, Inc. has made advances to Supplies Distributors that are evidenced by a Subordinated Demand Note (the "Subordinated Note"). Under the terms of certain of Supplies Distributors' debt facilities, the outstanding balance of the Subordinated Note cannot be decreased to less than \$2.5 million without prior approval of certain of Supplies Distributors' lenders. As of March 31, 2016 and December 31, 2015, the outstanding balance of the Subordinated Note was \$2.5 million. The Subordinated Note is eliminated in the Company's condensed consolidated financial statements.

Concentration of Business and Credit Risk

No service fee client relationship represented more than 10% of the Company's consolidated total revenues during the three months ended March 31, 2016. No customer or service fee client exceeded 10% of consolidated accounts receivable as of March 31, 2016.

A summary of the nonaffiliated customer and client concentrations as a percentage of product revenue and service fee revenue, respectively, is as follows:

	Three Months Ended	
	March 31,	
	2016	2015
Product Revenue (as a percentage of total Product Revenue):		
Customer 1	15%	13%
Customer 2	14%	14%
Service Fee Revenue (as a percentage of total Service Fee Revenue):		
Client 1	10%	15%
Accounts Receivable (as a percentage of consolidated Accounts Receivable):		
Client 1	4%	13%

The Company currently anticipates that its product revenue from the customers identified above will decline during the next twelve months.

The Company has provided certain collateralized guarantees of its subsidiaries' financings and credit arrangements. These subsidiaries' ability to obtain financing on similar terms would be significantly impacted without these guarantees.

The Company has multiple arrangements with International Business Machines Corporation ("IBM") and Ricoh. These arrangements include Supplies Distributors' distributor agreements and certain of Supplies Distributors' working capital financing

Notes to Unaudited Condensed Consolidated Financial Statements

agreements. The majority of Supplies Distributors' revenue is generated by its sale of product purchased from Ricoh. Supplies Distributors also relies upon Ricoh's sales force and product demand generation activities and the discontinuance of such services would have a material impact upon Supplies Distributors' business. In addition, Supplies Distributors has product sales to IBM and Ricoh business affiliates.

As a result of certain operational restructuring of its business, Ricoh has implemented, and will continue to implement, certain changes in the sale and distribution of Ricoh products. The changes have resulted, and are expected to continue to result, in reduced revenues and profitability for Supplies Distributors.

Inventories

Inventories (all of which are finished goods) are stated at the lower of weighted average cost or market. The Company establishes inventory reserves based upon estimates of declines in values due to inventories that are slow moving or obsolete, excess levels of inventory or values assessed at lower than cost.

Supplies Distributors assumes responsibility for slow-moving inventory under its Ricoh distributor agreements, subject to certain termination rights, but has the right to return product rendered obsolete by engineering changes, as defined. In the event PFS, Supplies Distributors and Ricoh terminate the distributor agreements, the agreements provide for the parties to mutually agree on a plan of disposition of Supplies Distributors' then existing inventory.

Operating Leases

The Company leases certain real estate for its warehouse, call center, sales, professional services and corporate operations, as well as certain equipment, under non-cancelable operating leases that expire at various dates through 2024. Management expects that, in the normal course of business, leases that expire will be renewed or replaced by other similar leases. The Company recognizes escalating lease payments on a straight-line basis over the term of each respective lease with the difference between cash payments and rent expense recognized being recorded as deferred rent in the accompanying condensed consolidated balance sheets.

Property and Equipment

The Company's property held under capital leases totaled approximately \$5.5 million at both March 31, 2016 and December 31, 2015, net of accumulated amortization of approximately \$5.4 million and \$4.6 million, at March 31, 2016 and December 31, 2015, respectively. Depreciation and amortization expense related to capital leases during the three months ended March 31, 2016 and 2015 was \$0.7 million and \$0.5 million, respectively.

Income Taxes

The Company records a tax provision primarily associated with state income taxes and its foreign operations. The Company has recorded a valuation allowance for the majority of its domestic net deferred tax assets, which are primarily related to its net operating loss carryforwards and for certain foreign deferred tax assets.

Cash Paid for Interest and Taxes

The Company made payments for interest of approximately \$0.4 million and \$0.2 million in the three months ended March 31, 2016 and 2015, respectively. Income taxes of approximately \$0.1 million and \$0.3 million were paid by the Company in the three months ended March 31, 2016 and 2015, respectively.

Impact of Recently Issued Accounting Standards

In May 2014, the Financial Accounting Standards Board (the "FASB") issued ASU 2014-09, Revenue from Contracts with Customers (Topic 606) ("ASU 2014-09"), to supersede nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. ASU 2014-09 defines a five step process to achieve this core principle and, in doing so, it is possible more judgment and estimates may be required within the revenue recognition process than required under existing U.S. GAAP, including identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. ASU 2014-09 is effective for the fiscal year beginning January 1, 2018, with early adoption permitted for fiscal years

Notes to Unaudited Condensed Consolidated Financial Statements

beginning January 1, 2017. In March 2016, the FASB issued ASU 2016-08, Revenue Recognition - Principal versus Agent (“ASU 2016-08”) (reporting revenue gross versus net). ASU 2016-08 provides additional guidance on topics addressed in ASU 2014-09. The Company is currently evaluating the impact of the new guidance on the consolidated financial statements and related disclosures.

In August 2015, the FASB issued Accounting Standards Update No. 2015-15, “*Interest—Imputation of Interest: Presentation and Subsequent Measurement of Debt Issuance Costs Associated with Line-of-Credit Arrangements*,” or ASU 2015-15. ASU 2015-15 adds clarity from the SEC’s perspective on the presentation and subsequent measurement of debt issuance costs associated with line-of-credit arrangements. The Company’s adoption of ASU 2015-15 did not have a material impact on the unaudited condensed consolidated financial statements.

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, “Leases”. The new standard establishes a right-of-use (ROU) model that requires a lessee to record a ROU asset and a lease liability on the balance sheet for all leases with terms longer than 12 months. Leases will be classified as either finance or operating, with classification affecting the pattern of expense recognition in the income statement. The new standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. A modified retrospective transition approach is required for lessees for capital and operating leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements, with certain practical expedients available. The Company is currently evaluating the impact of the pending adoption of the new standard on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09, “*Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*.” The amendment in this ASU affects all organizations that issue share-based payment awards to employees and is intended to simplify several aspects of the accounting for these awards, including income tax consequences, classification of awards as either equity or liabilities, classification on the statement of cash flows, and allowing an accounting policy election to account for forfeitures as they occur. This standard will be effective for the first interim period within annual reporting periods beginning after December 15, 2016. Early adoption is permitted, however an entity must adopt all of the amendments in the same period. If an entity early adopts the amendments in an interim period, any adjustments should be reflected as of the beginning of the fiscal year that includes the interim period. Transition guidance is dependent on the individual amendment within the update. The Company is currently evaluating the impact of the pending adoption of the new standard on its consolidated financial statements.

3. ACQUISITIONS

Acquisition of Moda

On June 11, 2015, PFSweb, Inc. acquired the outstanding capital stock of Moda, an eCommerce system integrator and consultancy that provides unique digital experiences for fashion brands and retailers. Moda maintains primary operations in London. Consideration paid for the shares included an initial £650,000 (approximately \$1.0 million) cash payment and 16,116 unregistered shares of Company stock (approximately \$0.2 million in value as of the acquisition date). The purchase agreement provides for future earn-out payments (“Moda Earn-out Payments”) payable in 2016 and 2017 based on Moda’s achievement of certain 2015 and 2016 financial targets, with no guaranteed minimum and an aggregate maximum each year of £500,000 (approximately \$0.8 million), in each case, subject to possible offsets for indemnification and other claims arising under the purchase agreement. Based on Moda’s 2015 financial performance, no payments were due and payable for the 2015 Earn-out Payments. As of March 31, 2016, the Company has recorded a liability of \$0.1 million applicable to the estimated 2016 Earn-out Payments, which is included in other liabilities in the condensed consolidated balance sheets. The estimated performance-based contingent liability for the Moda 2016 Earn-out payments was reduced from \$0.3 million as of December 31, 2015 to \$0.1 million as of March 31, 2016 as a result of updated Moda financial projections for 2016. At the Company’s election, up to 25% of the 2016 Moda Earn-out Payments are payable in restricted shares of common stock of the Company.

The transaction was accounted for using the purchase method of accounting for business combinations and, accordingly, the assets acquired and liabilities assumed, including a preliminary allocation of purchase price, and the results of operations of Moda have been included in the Company’s condensed consolidated financial statements since the date of acquisition which, for the three months ended March 31, 2016, includes \$0.4 million of service fee revenue and \$0.2 million of net loss. The Company determined fair value using a combination of the discounted cash flow, market multiple and market capitalization valuation methods.

Notes to Unaudited Condensed Consolidated Financial Statements

The following table summarizes the preliminary estimated fair value of the tangible and intangible assets acquired and liabilities assumed (in thousands):

Cash and cash equivalents	\$	126
Accounts receivable		335
Property and equipment		27
Identifiable intangibles		340
Other assets		23
Total assets acquired		851
Total liabilities assumed		658
Net assets acquired		193
Goodwill		1,287
Total purchase price	\$	<u>1,480</u>

Purchase price for Moda is as follows (in thousands, except share data and stock price):

Number of shares of common stock issued		16,116
Multiplied by PFSweb Inc.'s stock price	\$	14.60
Share consideration	\$	235
Aggregate cash payments		1,005
Performance-based contingent payments (based on estimated fair value at acquisition date)		240
Total purchase price	\$	<u>1,480</u>

The excess of the purchase price over the fair value of the net identifiable assets acquired and liabilities assumed was allocated to goodwill. Total goodwill of \$1.3 million, none of which is deductible for tax purposes, is not being amortized but is subject to an annual impairment test using a fair-value-based approach.

The Company is amortizing the identifiable intangible assets acquired using a pattern in which the economic benefit of the assets are expected to be realized by the Company over their estimated remaining useful lives. There are no residual values for any of the intangible assets subject to amortization acquired during the Moda acquisition.

Definite lived intangible assets acquired in the Moda acquisition consist of (in thousands):

	Fair Value at Acquisition	March 31, 2016		December 31, 2015		Estimated Useful Life from Acquisition
		Accumulated Amortization	Net Carrying Value	Accumulated Amortization	Net Carrying Value	
Customer relationships	\$ 309	\$ (172)	\$ 137	\$ (141)	\$ 168	1.6 years
Non-compete agreements	31	(16)	15	(12)	19	2.5 years
Total definite lived intangible assets	<u>\$ 340</u>	<u>\$ (188)</u>	<u>\$ 152</u>	<u>\$ (153)</u>	<u>\$ 187</u>	

Acquisition of CrossView

On August 5, 2015, PFSweb, Inc. acquired substantially all of the assets, and assumed substantially all of the liabilities, in each case, other than certain specified assets and liabilities of CrossView, Inc., ("CrossView") an ecommerce systems integrator and provider of a wide range of ecommerce services in the U.S. and Canada.

Consideration paid by the Company included an initial cash payment of \$30.7 million and 553,223 unregistered shares of Company common stock (approximately \$6.3 million in value as of the acquisition date). The initial cash payment was subject to adjustment based upon a post-closing balance sheet reconciliation. In addition, the purchase agreement provides for future earn-out payments ("CrossView Earn-out Payments") payable in 2016, 2017 and 2018 based on the achievement of certain 2015, 2016 and 2017 financial targets. The CrossView Earn-out Payments have no guaranteed minimum and an aggregate maximum of \$18.0 million and are subject to possible offsets for indemnification and other claims. In April and May of 2016, the Company paid an aggregate of \$7.9 million in payment of the 2015 CrossView Earn-out Payments, of which, \$1.6 million was paid in Company stock. The Company will pay 15% of both the 2016 and 2017 earn-outs in restricted shares of Company common stock, based on its then current market value at the time of issuance. As of March 31, 2016 and December 31, 2015, the Company had a receivable of \$0.4 million

Notes to Unaudited Condensed Consolidated Financial Statements

and \$1.4 million, respectively, applicable to the post-closing balance sheet reconciliation adjustment. As of March 31, 2016, the Company has recorded a total liability of \$9.4 million applicable to the projected CrossView Earn-out Payments, which is included in performance-based contingent payments and other liabilities in the condensed consolidated balance sheets. This estimated performance-based liability was reduced from \$10.2 million as of December 31, 2015 to \$9.4 million as of March 31, 2016 as a result of updated CrossView financial projections for the 2016 and 2017 Earn-out periods.

The transaction was accounted for using the purchase method of accounting for business combinations and, accordingly, the assets acquired and liabilities assumed, including an allocation of purchase price, and the results of operations of CrossView have been included in the Company's condensed consolidated financial statements since the date of acquisition which, for the three months ended March 31, 2016, includes \$7.1 million of service fee revenue and \$0.4 million of net loss. The Company determined fair value using a combination of the discounted cash flow, market multiple and market capitalization valuation methods.

The following table summarizes the preliminary estimated fair value of the tangible and intangible assets acquired and liabilities assumed (in thousands):

Accounts receivable	\$	7,595
Property and equipment		441
Other assets		149
Identifiable intangibles		9,050
Total assets acquired		17,235
Total liabilities assumed		2,556
Net assets acquired		14,679
Goodwill		30,176
Total purchase price	\$	44,855

Purchase price for CrossView is as follows (in thousands, except share data and stock price):

Number of shares of common stock issued	553,223
Multiplied by PFSweb Inc.'s stock price	\$ 11.40
Share consideration	\$ 6,307
Aggregate cash payments	30,740
Performance-based contingent payments (based on estimated fair value at acquisition date)	9,195
Post-closing balance sheet reconciliation adjustment	(1,387)
Total purchase price	\$ 44,855

The excess of the purchase price over the fair value of the net identifiable assets acquired and liabilities assumed was allocated to goodwill. Total goodwill of \$30.2 million, which, given the structure of the acquisition, is expected to be deductible for tax purposes over 15 years.

The Company is amortizing the identifiable intangible assets acquired using a pattern in which the economic benefit of the assets are expected to be realized by the Company over their estimated remaining useful lives. There are no residual values for any of the intangible assets subject to amortization acquired during the CrossView acquisition.

Estimated definite lived assets acquired in the CrossView acquisition consist of (in thousands):

	Fair Value at Acquisition	March 31, 2016		December 31, 2015		Estimated Useful Life from Acquisition
		Accumulated Amortization	Net Carrying Value	Accumulated Amortization	Net Carrying Value	
Trade names	\$ 1,100	\$ (275)	\$ 825	\$ (183)	\$ 917	2.5 years
Non-compete agreements	300	(71)	229	(42)	258	3 years
Customer relationships	6,800	(1,825)	4,975	(1,394)	5,406	9 years
Developed technology	850	(263)	587	(140)	710	2.5-3 years
Total definite lived intangible assets	\$ 9,050	\$ (2,434)	\$ 6,616	\$ (1,759)	\$ 7,291	

Notes to Unaudited Condensed Consolidated Financial Statements

Definite Lived Assets (in thousands)

	Fair Value at Acquisition	March 31, 2016		December 31, 2015		Estimated Useful Life from Acquisition
		Accumulated Amortization	Net Carrying Value	Accumulated Amortization	Net Carrying Value	
Trade names	\$ 1,250	\$ (375)	\$ 875	\$ (266)	\$ 984	2.25 - 2.5 years
Non-compete agreements	575	(207)	368	(159)	416	1- 3.5 years
Leasehold	45	(29)	16	(24)	21	2.5 years
Customer relationships	8,979	(2,926)	6,053	(2,378)	6,601	1.6 - 9 years
Developed technology	850	(263)	587	(140)	710	2.5-3 years
Other intangibles	468	(405)	63	(390)	78	9 years
Total definite lived intangible assets	<u>\$ 12,167</u>	<u>\$ (4,205)</u>	<u>\$ 7,962</u>	<u>\$ (3,357)</u>	<u>\$ 8,810</u>	

Definite Lived Intangible Asset Amortization

The Company recognized \$0.8 million and \$0.2 million of amortization expense related to acquired definite lived intangible assets in selling, general and administrative expenses in the three months ended March 31, 2016 and 2015, respectively. The estimated amortization expense for each of the next five years is as follows (in thousands):

Remaining 2016	\$ 2,548
2017	2,404
2018	1,132
2019	713
2020	502
2021 and thereafter	663

Pro Forma Information

The following table presents selected pro forma information, for comparative purposes, assuming the acquisition of CrossView had occurred on January 1, 2015 (in thousands, except per share amounts):

	Three Months Ended March 31, 2015
Total revenues	\$ 73,041
Net loss	(3,570)
Basic and diluted net loss per share	(0.20)

The unaudited pro forma total revenues and pro forma net loss are not necessarily indicative of the consolidated results of operations for future periods or the results of operations that would have been realized had the Company consolidated CrossView during the periods noted. Moda did not meet the significant test requirements and thus is not included in the pro forma presentation above.

Acquisition Related Expenses

The acquisitions are expected to enhance the Company's overall product and service offering to its existing clients and customers as well as support anticipated growth opportunities. The Company recorded \$0.1 million and \$0.5 million in the three months ended March 31, 2016 and 2015, respectively, of acquisition related costs in selling, general and administrative expenses in the condensed consolidated statement of operations.

Notes to Unaudited Condensed Consolidated Financial Statements

4. NET LOSS PER COMMON SHARE

Basic and diluted net loss per common share are computed by dividing net loss by the weighted-average number of common shares outstanding for the reporting period. The following equity awards have been excluded from the calculation of diluted net loss per share as their effect would be anti-dilutive: 1.2 million and 1.5 million stock options for the three months ended March 31, 2016 and 2015, respectively; 0.6 million and 0.3 million performance shares and restricted stock units for the three months ended March 31, 2016 and 2015, respectively; and 82,000 and 49,000 deferred stock units for the three months ended March 31, 2016 and 2015, respectively.

5. STOCK AND STOCK OPTIONS

On March 23, 2015, pursuant to the Company's Employee Stock and Incentive Plan, as amended and restated ("the Plan"), the Company issued approximately 12,000 Other Stock-Based Awards and approximately 38,000 Restricted Stock Unit Awards (as such terms are defined in the Plan) to certain of the Company's executive officers and senior management. The Restricted Stock Unit Awards are subject to three year vesting beginning in 2015 based on continued employment. The Company also issued additional Restricted Stock Units and Performance-Based Share Awards (as such terms are defined in the Plan) to the Company's executives and senior management. Under the terms of these additional 2015 awards, the determination of the number of Restricted Stock Units and Performance Shares that each such individual received was subject to, and calculated by reference to, the achievement by the Company of a performance goal measured by a range of targeted financial performance, as defined, for 2015, as well as, for certain of the Restricted Stock Units, individual performance goals, as defined. Based on the Company's 2015 results, the Company issued an aggregate of approximately 283,000 Performance Shares and 84,000 Restricted Stock Units for 2015. The Performance Shares are subject to annual vesting based upon continued employment and either the achievement of a defined annual financial target or for certain of the Performance Shares, the comparative performance (on an annual and cumulative basis) of the Company's common stock on NASDAQ compared to the Russell Micro Cap Index.

Total stock-based compensation expense was \$0.8 million in both the three months ended March 31, 2016 and 2015 and was included as a component of selling, general and administrative expenses in the condensed consolidated statements of operations.

On March 31, 2016, the Company issued additional Restricted Stock Units and Performance-Based Share Awards (as such terms are defined in the Plan) to certain of the Company's executives and senior management. Under the terms of these 2016 awards, the number of restricted stock units and performance shares that each such individual may receive is subject to, and calculated by reference to, the achievement by the Company of a performance goal measured by a range of targeted financial performance, as defined, for 2016, as well as, for certain of the restricted stock units, individual performance goals, as defined. Assuming achievement of the highest financial and individual performance goal, the aggregate maximum number of restricted stock units is approximately 91,000 and the aggregate maximum number of performance shares is approximately 282,000, which performance shares are subject to annual vesting based upon continued employment and for certain of the performance shares, the achievement of a defined annual financial target or the comparative performance (on an annual and cumulative basis) of the Company's common stock on NASDAQ compared to the Russell Micro Cap Index.

6. VENDOR FINANCING

Supplies Distributors has a short-term credit facility with IBM Credit LLC to finance its distribution of Ricoh products in the United States, providing financing for eligible Ricoh inventory and certain receivables up to \$13.0 million. The agreement has no stated maturity date and provides either party the ability to exit the facility following a 90-day notice. Given the structure of this facility and as outstanding balances, which represent inventory purchases, are repaid within twelve months, the Company has classified the outstanding amounts under this facility, which were \$9.6 million and \$8.2 million as of March 31, 2016 and December 31, 2015, respectively, as accounts payable in the condensed consolidated balance sheets. As of March 31, 2016, Supplies Distributors had \$0.1 million of available credit under this facility. The credit facility contains cross default provisions, various restrictions upon the ability of Supplies Distributors to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans and payments to related parties (including entities directly or indirectly owned by PFSweb, Inc.), provide guarantees, make investments and loans, pledge assets, make changes to capital stock ownership structure and pay dividends. The credit facility also contains financial covenants, such as annualized revenue to working capital, net profit after tax to revenue, and total liabilities to tangible net worth, as defined, and is secured by certain of the assets of Supplies Distributors, as well as a collateralized guaranty of PFSweb. Additionally, PFS is required to maintain a minimum Subordinated Note receivable balance from Supplies Distributors of \$2.5 million. Borrowings under the credit facility accrue interest, after a defined free financing period, at prime rate plus 0.5% (4.00% as of March 31, 2016). The facility also includes a monthly service fee. As of March 31, 2016, the Company was in compliance with all financial covenants.

Notes to Unaudited Condensed Consolidated Financial Statements

7. DEBT AND CAPITAL LEASE OBLIGATIONS:

Outstanding debt and capital lease obligations consist of the following (in thousands):

	March 31, 2016	December 31, 2015
U.S. Credit Agreement		
Revolver	\$ 20,973	\$ 19,283
Term loan	10,000	10,000
Debt issuance costs	(634)	(671)
Master lease agreements	6,509	6,644
Other	102	135
Total	<u>36,950</u>	<u>35,391</u>
Less current portion of long-term debt	6,267	3,153
Long-term debt, less current portion	<u>\$ 30,683</u>	<u>\$ 32,238</u>

U.S. Credit Agreement

In August 2015, PFSweb, Inc. and its U.S. subsidiaries entered into a credit agreement (“Credit Agreement”) with Regions Bank, as agent for itself and one or more future lenders including Bank of America N.A. and HSBC Bank USA, National Association (“the Lenders”). Under the Credit Agreement, and subject to the terms set forth therein, the Lenders have agreed to provide PFS with a revolving loan facility for up to \$32.5 million and a term loan facility for up to \$30 million through August 5, 2020. Subject to the terms of the Credit Agreement, PFS has the ability to increase the total loan facilities to \$75 million. Availability under the revolving loan facility may not exceed a borrowing base of eligible accounts receivable (as defined). As of March 31, 2016, the Company had \$11.5 million and \$20.0 million of available credit under the revolving loan facility and term loan facility, respectively. Advances under the revolving loan portion of the Credit Agreement are due and payable on August 5, 2020. Term loan advances amortize during the five year term of the Credit Agreement based upon scheduled percentage payments with the then remaining outstanding balance (potentially up to 65% of the amount borrowed) due on August 5, 2020. Borrowings under the Credit Agreement accrue interest at a variable rate based on prime rate or Libor, plus an applicable margin. As of March 31, 2016, the interest rate was 4.5% on \$3.0 million of outstanding borrowings, 2.63% on \$8.0 million of outstanding borrowings and 2.69% on \$10.0 million of outstanding borrowings under the revolving loan facility. As of March 31, 2016, the interest rate on borrowing under the term loan facility was 2.69%. In connection with the Credit Agreement, the Company paid \$0.6 million of fees, which are being amortized through the life of the Credit Agreement and are reflected as a net reduction in debt. The Credit Agreement is secured by a lien on substantially all of the assets of Company and its U.S. subsidiaries and a pledge of 65% of the shares of certain of the Company’s foreign subsidiaries. The Credit Agreement contains cross default provisions, various restrictions upon the Company’s ability to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans and payments to subsidiaries, affiliates and related parties, make capital expenditures, make investments and loans, pledge assets, make changes to capital stock ownership structure, as well as financial covenants, as defined, of a minimum consolidated fixed charge ratio and a maximum consolidated leverage ratio.

Debt Covenants

To the extent the Company or any of its subsidiaries fail to comply with its covenants applicable to its debt or vendor financing obligations, including the periodic financial covenant requirements, such as profitability and cash flow, and required level of shareholders’ equity or net worth, (as defined), the Company would be required to obtain a waiver from the lender or the lender would be entitled to accelerate the repayment of any outstanding credit facility obligations, and exercise all other rights and remedies, including sale of collateral and enforcement of payment under the Company parent guarantee. Any acceleration of the repayment of the credit facilities may have a material adverse impact on the Company’s financial condition and results of operations and no assurance can be given that the Company would have the financial ability to repay all of such obligations. As of and for the three months ended March 31, 2016, the Company was in compliance with all debt covenants.

Master Lease Agreements

The Company has various agreements that provide for leasing or financing transactions of equipment and other assets and will continue to enter into such arrangements as needed to finance the purchasing or leasing of certain equipment or other assets. Borrowings under these agreements, which generally have terms of three to five years, are generally secured by the related equipment, and in certain cases, by a Company parent guarantee.

Notes to Unaudited Condensed Consolidated Financial Statements

8. SEGMENT INFORMATION

The Company is currently organized into two primary operating segments, which generally align with its corporate organization structure. In the first segment, PFSweb is a global provider of various infrastructure, technology, and digital agency solutions and operates as a service fee business. In the second operating segment (“Business and Retail Connect”), subsidiaries of the Company purchase inventory from clients and resell the inventory to client customers. In this segment, the Company generally recognizes product revenue. Goodwill acquired through acquisitions is recognized as part of the PFSweb segment.

	Three Months Ended	
	March 31,	
	2016	2015
Revenues (in thousands):		
PFSweb	\$ 60,988	\$ 46,709
Business and Retail Connect	17,944	20,834
Eliminations	(3,852)	(3,697)
	<u>\$ 75,080</u>	<u>\$ 63,846</u>
Income (loss) from operations (in thousands):		
PFSweb	\$ (297)	\$ (1,662)
Business and Retail Connect	495	547
	<u>\$ 198</u>	<u>\$ (1,115)</u>
Depreciation and amortization (in thousands):		
PFSweb	\$ 3,597	\$ 3,231
Business and Retail Connect	6	24
	<u>\$ 3,603</u>	<u>\$ 3,255</u>
Capital expenditures (in thousands):		
PFSweb	\$ 1,367	\$ 1,270
Business and Retail Connect	—	—
	<u>\$ 1,367</u>	<u>\$ 1,270</u>
	March 31,	December 31,
	2016	2015
Assets (in thousands):		
PFSweb	\$ 141,767	\$ 151,064
Business and Retail Connect	40,427	50,682
Eliminations	(11,658)	(10,456)
	<u>\$ 170,536</u>	<u>\$ 191,290</u>

9. RELATED PARTY TRANSACTIONS

In September 2014, the Company purchased all of the stock of REV Solutions, Inc. and REV Tech Solutions India Private Limited from Mr. Steven Stephan, currently a Senior Vice President of the Company, and other shareholders in a transaction which, in addition to a closing payment, provided for earn-out payments based on the achievement of certain metrics for each of calendar years 2014 and 2015. Since January 1, 2015, the Company has paid Mr. Stephan an aggregate of \$2.4 million and has issued 38,574 shares of common stock as the final purchase price earn-out payments associated with such transaction.

10. COMMITMENTS AND CONTINGENCIES

The Company received municipal tax abatements in certain locations. In prior years, the Company received notice from a municipality that it did not satisfy certain criteria necessary to maintain the abatements and that the municipal authority planned to make an adjustment to the Company’s tax abatement. The Company disputed the adjustment and such dispute has been settled with the municipality. However, the amount of additional property taxes to be assessed against the Company and the timing of the related payments has not been finalized. As of March 31, 2016, the Company believes it has adequately accrued for the expected assessment.

Notes to Unaudited Condensed Consolidated Financial Statements

In connection with a client project, the Company has provided a \$1.3 million performance bond which may be drawn upon in the event of a default by the Company of its obligations under the project, or, in the absence of a default, upon successful completion of the project, the bond will be returned.

The Company is subject to claims in the ordinary course of business, including claims of alleged infringement by the Company or its subsidiaries of the patents, trademarks and other intellectual property rights of third parties. PFS is generally required to indemnify its service fee clients against any third party claims asserted against such clients alleging infringement by PFS of the patents, trademarks and other intellectual property rights of third parties.

ITEM 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our results of operations and financial condition should be read in conjunction with the unaudited interim condensed consolidated financial statements and related notes appearing elsewhere in this Form 10-Q.

Forward-Looking Information

We have made forward-looking statements in this Report on Form 10-Q. These statements are subject to risks and uncertainties, and there can be no guarantee that these statements will prove to be correct. Forward-looking statements include assumptions as to how we may perform in the future. When we use words like "seek," "strive," "believe," "expect," "anticipate," "predict," "potential," "continue," "will," "may," "could," "intend," "plan," "target" and "estimate" or similar expressions, we are making forward-looking statements. You should understand that the following important factors, in addition to those set forth above or elsewhere in this Report on Form 10-Q and our Form 10-K for the year ended December 31, 2015, could cause our results to differ materially from those expressed in our forward-looking statements. These factors include:

- our ability to retain and expand relationships with existing clients and attract and implement new clients;
- our reliance on the fees generated by the transaction volume, product sales and technology and agency projects and support of our clients;
- our reliance on our clients' projections or transaction volume or product sales;
- our dependence upon our agreements with International Business Machines Corporation ("IBM") and Ricoh Company Limited and Ricoh USA, Inc., a strategic business unit within the Ricoh Family Group of Companies, (collectively hereafter referred to as "Ricoh");
- our dependence upon our agreements with our major clients;
- our client mix, their business volumes and the seasonality of their business;
- our ability to finalize pending client and customer contracts;
- the impact of strategic alliances and acquisitions;
- trends in e-commerce, outsourcing, government regulation, both foreign and domestic, and the market for our services;
- whether we can continue to manage growth;
- increased competition;
- our ability to generate more revenue and achieve sustainable profitability;
- effects of changes in profit margins;
- the customer and supplier concentration of our business;
- our reliance on third-party providers and other subcontracted services;
- the unknown effects of possible system failures and rapid changes in technology;
- foreign currency risks and other risks of operating in foreign countries;
- potential litigation;
- our dependency upon key personnel;
- our ability to retain seasonal and temporary workers;
- the impact of new accounting standards and changes in existing accounting rules or the interpretations of those rules;
- our ability to raise additional capital or obtain additional financing;
- our ability, and the ability of our subsidiaries, to borrow under current financing arrangements and maintain compliance with debt covenants;
- our relationship with, and our guarantees of, certain of the liabilities and indebtedness of our subsidiaries; and
- taxation on the sale of our products and provision of our services.

We have based these statements on our current expectations about future events. Although we believe that the expectations reflected in our forward-looking statements are reasonable, we cannot guarantee these expectations will actually be achieved. In addition, some forward-looking statements are based upon assumptions as to future events that may not prove to be accurate. Therefore, actual outcomes and results may differ materially from what is expected or forecasted in such forward-looking statements. We undertake no obligation to update publicly any forward-looking statement for any reason, even if new information becomes available or other events occur in the future.

Key Transactions and Events

During 2015, we were impacted by the following key transactions and events that also affect comparability of our results to prior periods and are discussed further in our Form 10-K for the year ended December 31, 2015:

- Acquired the outstanding capital stock of Moda Superbe Limited (“Moda”) on June 11, 2015. The results of operations of Moda have been included in our condensed consolidated financial statements since the acquisition date.
- Completed an asset purchase agreement with CrossView, Inc. (“CrossView”) and its shareholders on August 5, 2015. The results of operations of CrossView have been included in our condensed consolidated financial statements since the acquisition date.

Overview

We are a global provider of omni-channel commerce solutions. Comprised of a broad range of technology, critical infrastructure and professional services, we provide our clients with best-of-breed capabilities offered as a complete end-to-end solution or on an à la carte basis. We provide these solutions and services to major brand name companies and others seeking to optimize their supply chain and to enhance their online and traditional business channels and initiatives. We derive our revenues from providing a broad range of services using three different seller services financial models: 1) the Service Fee model, 2) the Agent (or Flash) model and 3) the Retail model.

We refer to the standard PFSweb seller services financial model as the Service Fee model. In this model, our clients own the inventory and are the merchants of record and engage us to provide various infrastructure, technology and digital agency services in support of their business operations. We derive our service fee revenues from a broad range of service offerings that include digital agency and marketing, eCommerce technologies, system integration, order management, customer care, logistics and fulfillment, financial management and professional consulting. We offer our services as an integrated solution, which enables our clients to outsource their complete ecommerce needs to a single source and to focus on their core competencies though clients are also able to select individual or groupings of our various service offerings on an à la carte basis. We currently provide services to clients that operate in a range of vertical markets, including technology manufacturing, computer products, cosmetics, fragile goods, coins and collectibles, apparel, telecommunications, consumer electronics and consumer packaged goods, among others.

In the Service Fee model, we typically charge for our services on a cost-plus basis, a percent of shipped revenue basis, a time and materials, project or retainer basis for our professional services, or a per-transaction basis, such as a per-labor hour basis for web-enabled customer contact center services and a per-item basis for fulfillment services. Additional fees are billed for other services. We price our services based on a variety of factors, including the depth and complexity of the services provided, the amount of capital expenditures or systems customization required, the length of contract and other factors.

Many of our service fee contracts involve third-party vendors who provide additional services, such as package delivery. The costs we are charged by these third-party vendors for these services are often passed on to our clients. Our billings for reimbursements of these costs and other ‘out-of-pocket’ expenses include travel, shipping and handling costs and telecommunication charges and are included in pass-through revenue.

As an additional service, we offer the Agent, or Flash, financial model, in which our clients maintain ownership of the product inventory stored at our locations as in the Service Fee model. When a customer orders the product from our clients, a “flash” sale transaction passes product ownership to us for each order and we in turn immediately re-sell the product to the customer. The “flash” ownership exchange establishes us as the merchant of record, which enables us to use our existing merchant infrastructure to process sales to end customers, removing the need for the clients to establish these business processes internally, but permitting them to control the sales process to end customers. In this model, based on the terms of our current client arrangements, we record product revenue net of cost of product revenue as a component of service fee revenue in our consolidated statement of operations.

Finally, our Retail model allows us to purchase inventory from the client. In this model, we place the initial and replenishment purchase orders with the client and take ownership of the product upon delivery to our facility. In this model, depending on the terms of our client arrangements, we may own the inventory and the accounts receivable arising from our product sales. Under the Retail

model, depending upon the product category and sales characteristics, we may require the client to provide product price protection as well as product purchase payment terms, right of return, and obsolescence protection appropriate to the product sales profile. Depending on the terms of our client arrangements in the Retail model, we record in our consolidated statement of operations either: 1) product revenue as a component of product revenue, or 2) product revenue net of cost of product revenue as a component of service fee revenue. In general, we seek to structure client relationships in our Retail model under the net revenue approach to more closely align with our service fee revenue financial presentation and mitigate inventory ownership, although we have one client still utilizing the gross revenue approach. Freight costs billed to customers are reflected as components of product revenue. This business model generally requires significant working capital, for which we have credit available either through credit terms provided by our clients or under senior credit facilities.

In general, we provide the Service Fee model through our all of our subsidiaries, the Agent (or Flash) model through our PFS and Supplies Distributors subsidiaries and the Retail model through our Supplies Distributors subsidiary.

Growth is a key element to achieving our future goals, including achieving and maintaining sustainable profitability. Growth in our Service Fee and Agent models is driven by two main elements: new client relationships and organic growth from existing clients. We focus our sales efforts on larger contracts with brand-name companies within four primary target markets, health and beauty, home goods and collectibles, fashion and consumer packaged goods, which, by nature, require a longer duration to close but also have the potential to be higher quality and longer duration engagements. The acquisition of Moda in June 2015 and CrossView in August 2015 expanded our service offering capabilities and added new client relationships, which we currently expect to enhance our growth opportunities.

Currently, we are targeting any growth within our Retail model to be through relationships with clients under which we can record service fee revenue (product revenue net of product cost of revenue) in our consolidated statement of operations as opposed to product revenue as generated in the Agent or Flash model above. These relationships are often driven by the sales and marketing efforts of the manufacturers and third party sales partners. In addition, as a result of certain operational restructuring of its business, our primary client relationship operating in the Retail model, Ricoh, has implemented, and will continue to implement, certain changes in the sale and distribution of Ricoh products. These changes have resulted, and are expected to continue to result, in reduced product revenues and profitability under our Retail model.

We continue to monitor and control our costs to focus on profitability. While we are targeting our new service fee contracts to yield incremental gross profit, we also expect to incur incremental investments in technology development, operational and support management and sales and marketing expenses to help generate growth.

Our expenses comprise primarily four categories: 1) cost of product revenue, 2) cost of service fee revenue, 3) cost of pass-through revenue and 4) selling, general and administrative expenses.

Cost of product revenue - consists of the purchase price of product sold and freight costs, which are reduced by certain reimbursable expenses. These reimbursable expenses include pass-through customer marketing programs, direct costs incurred in passing on any price decreases offered by vendors to cover price protection and certain special bids, the cost of products provided to replace defective product returned by customers and certain other expenses as defined under the distributor agreements.

Cost of service fee revenue - consists primarily of compensation and related expenses for our web-enabled customer contact center services, international fulfillment and distribution services and professional, digital agency and technology services, and other fixed and variable expenses directly related to providing services under the terms of fee based contracts, including certain occupancy and information technology costs and depreciation and amortization expenses.

Cost of pass-through revenue - the related reimbursable costs for pass-through expenditures are reflected as cost of pass-through revenue.

Selling, General and Administrative expenses - consist of expenses such as compensation and related expenses for sales and marketing staff, distribution costs (excluding freight) applicable to the Supplies Distributors business and the Retail model, executive, management and administrative personnel and other overhead costs, including certain occupancy and information technology costs and depreciation and amortization expenses.

Results of Operations For the Interim Periods Ended March 31, 2016 and 2015

The following table discloses certain financial information for the periods presented, expressed in terms of dollars, dollar change, percentage change and as a percentage of total revenue (in millions):

	Three Months Ended March 31,			% of Net Revenues	
	2016	2015	Change	2016	2015
Revenues					
Service fee revenue	\$ 49.3	\$ 36.7	\$ 12.6	65.7%	57.5%
Product revenue, net	13.6	16.7	(3.1)	18.1%	26.1%
Pass-through revenue	12.2	10.5	1.7	16.2%	16.4%
Total net revenues	75.1	63.9	11.2	100.0%	100.0%
Cost of Revenues					
Cost of service fee revenue (1)	32.3	25.2	7.1	65.4%	68.5%
Cost of product revenue (2)	12.9	15.7	(2.8)	94.8%	94.3%
Pass-through cost of revenue (3)	12.2	10.5	1.7	100.0%	100.0%
Total cost of revenues	57.4	51.4	6.0	76.4%	80.4%
Service fee gross profit	17.0	11.5	5.5	34.6%	31.5%
Product revenue gross profit	0.7	1.0	(0.3)	5.2%	5.7%
Pass-through gross profit	—	—	—	—	—
Total gross profit	17.7	12.5	5.2	23.6%	19.6%
Selling General and Administrative expense	17.6	13.6	4.0	23.4%	21.3%
Loss from operations	0.1	(1.1)	1.2	0.3%	(1.7)%
Interest expense, net	0.4	0.3	0.1	0.6%	0.5%
Loss before income taxes	(0.3)	(1.4)	1.1	(0.4)%	(2.2)%
Income tax expense (benefit), net	0.5	0.3	0.2	0.6%	0.4%
Net loss	\$ (0.8)	\$ (1.7)	\$ 0.9	(1.0)%	(2.7)%

- (1) % of net revenues represents the percent of Service fee revenue.
(2) % of net revenues represents the percent of Product revenue, net.
(3) % of net revenues represents the percent of Pass-through revenue.

Service Fee Revenue. The increase in service fee revenue for the three months ended March 31, 2016, as compared to the same period of the prior year, was primarily due to the impact of expanded and new client relationships, including service fee revenues generated by our acquired subsidiaries Moda in June 2015 and CrossView in August 2015, partially offset by the conclusion or reduction of operations of several client programs that were in effect during the three months ended March 31, 2015.

The change in service fee revenue, excluding pass-through revenue, is shown below (millions):

	Three Months
Period ended March 31, 2015	\$ 36.7
New service contract relationships	12.7
Change in existing client service fees	2.1
Terminated client relationships not included in 2016 revenue	(2.2)
Period ended March 31, 2016	\$ 49.3

When considering client relationships, we define an existing client to be a client from whom we earned revenue in both the current and prior year; we define a new client to be a client from whom we only earned revenue in the current year; and we define a terminated client as a client from whom we only earned revenue in the prior year. The new service contract relationships include approximately \$7.5 million of revenue earned by Moda and Crossview in the three months ended March 31, 2016, subsequent to their acquisition dates. Service fee revenue for the three month ended March 31, 2016 includes approximately \$0.5 million of service fee revenues from clients who concluded their relationship with us during 2016. Based on current client projections, we expect the reduction in revenue from terminated client programs to be more than offset by service fee revenue generated in 2016 by new or expanded client opportunities and revenues generated by our newly acquired subsidiaries. For calendar year 2016, we are currently targeting an increase in service fee revenues of approximately 20-25% as compared to calendar year 2015, including the impact of a full year of operations for our CrossView and Moda subsidiaries versus a partial year in 2015.

Product Revenue, net. Product revenue was \$13.6 million for the three months ended March 31, 2016, which represents a decrease of \$3.1 million, or 18.3% as compared to the same quarter of the prior year. This reduction in revenue is primarily due to the operational restructuring by Ricoh of its business, including discontinuance of certain product lines, which has resulted, and is expected to continue to result, in lower product revenue from the sale of Ricoh products. We currently expect product revenue to continue to decline and be approximately \$45 million to \$50 million for calendar year 2016.

Cost of Service Fee Revenue. Gross profit as a percentage of service fees increased to 34.6% in three month period ended March 31, 2016 from 31.5% in the same period of 2015. The improved gross margin is primarily due to an increased percentage of our service fees being generated from our higher margin professional services activity, including our agency and technology services, which were further bolstered by our acquisitions of Moda and CrossView in mid-2015. The gross profit percentage in each period included the benefit of higher margin project activity.

We target to earn an overall average gross profit on our service fee activity of 27-32% on existing and new service fee contracts, but we have accepted, and may continue to accept, lower gross margin percentages on certain contracts depending on contract scope and other factors, including projected volumes. We are focused on continuing to increase our level of higher margin service fee activity, including our professional and technology services, to help offset other lower margin activities. Based on our currently projected continued growth in the professional services area of our business, including the benefit of our acquisitions, we are projecting to be at the higher end of the targeted range for calendar year 2016. Our service fee gross profit will continue to be impacted by the relative-proportion of our infrastructure related services versus our professional services activity, as well as project work.

Cost of Product Revenue. Cost of product revenue decreased by \$2.8 million, or 17.9%, to \$12.9 million in the three months ended March 31, 2016. The resulting gross profit margin was \$0.7 million, or 5.2% of product revenue, for the three months ended March 31, 2016 and \$1.0 million, or 5.7% of product revenue, for the comparable 2015 period. We currently expect our product revenue gross profit margin to be approximately 5% for calendar year 2016.

Selling, General and Administrative (“SG&A”)Expenses. SG&A expenses for the three months ended March 31, 2016 and 2015 were \$17.6 million and \$13.6 million, respectively. As a percentage of total net revenue, SG&A expenses were 23.4% in the three months ended March 31, 2016 and 21.3% in the corresponding prior year period. The three months ended March 31, 2016 include \$3.5 million (including \$0.6 million of amortization of acquisition related intangible assets) applicable to our new Moda and CrossView subsidiaries which were not yet acquired as of the March 31, 2015 period. This increase was partially offset by a \$0.6 million reduction in acquisition and restructuring related costs in the three months ended March 31, 2016 as compared to the prior year. In addition, the three months ended March 31, 2016 includes a \$1.0 million offset resulting from revised estimates of certain performance-based contingent payments based on our current 2016 and 2017 projected financial results for Moda and CrossView. Excluding the acquisition and restructuring related costs, performance-based contingent payment adjustments and amortization of acquired identifiable intangible assets in the three months ended March 31, 2016 and 2015, SG&A expenses were 23.4% and 19.7% of total revenues in the three months ended March 31, 2016 and 2015, respectively. The remaining increase in percentage is primarily due to the increase in personnel related expenses as well as sales and marketing activities to support our growth. We currently expect our SG&A expenses will continue to increase in 2016, as compared to 2015, as we include a full year of expenses for Moda and CrossView, incur additional expenditures related to our sales and marketing activities and incur a full year of amortization for identifiable intangible assets acquired in our Moda and Crossview acquisitions. In addition, SG&A expense during calendar year 2016 may include further performance-based contingent payment adjustments arising from changes in our 2016 and 2017 financial projections for Moda and CrossView.

Income Taxes. We recorded a tax provision associated primarily with state income taxes and the majority of our international operations. A valuation allowance has been provided for the majority of our U.S. domestic net deferred tax assets, which are primarily related to our net operating loss carryforwards, and for certain foreign deferred tax assets.

Liquidity and Capital Resources

During the three months ended March 31, 2016, we used \$8.4 million of cash for operating activities, primarily due to a:

- \$25.0 million net decrease in accounts payable, deferred revenue, accrued expenses and other liabilities primarily due to reduced service fee business liabilities as a result of reduced business volumes following the seasonally higher fourth quarter of 2015 and reduced inventory purchases as a result of a reduction in product revenue.

The use of cash during the three months ended March 31, 2016 was partially offset by a:

- \$11.5 million decrease in accounts receivable primarily applicable to reduced service fee revenue activity as compared to the seasonally higher fourth quarter of 2015;
- \$2.6 million of cash income from operations before working capital changes; and
- \$1.7 million decrease in prepaid expenses, other receivables and other assets primarily due to the timing of certain payments.

During the three months ended March 31, 2015, we used \$4.4 million of cash for operating activities, primarily due to a:

- \$16.1 million decrease in accounts payable, deferred revenue, accrued expenses and other liabilities in part due to reduced inventory purchases as a result of a reduction in product revenue and reduced service fee business liabilities due to reduced business volumes following the seasonally higher fourth quarter of 2014;

The use of cash during the three months ended March 31, 2015 was partially offset by a:

- \$7.1 million decrease in accounts receivable primarily applicable to reduced service fee revenue activity as compared to our seasonally higher fourth quarter of 2014;
- \$2.5 million of cash income from operations before working capital changes;
- \$1.6 million decrease in prepaid expenses, other receivables and other assets primarily due to the timing of certain payments; and
- \$0.6 million decrease in inventories primarily applicable to our Ricoh related product revenue business.

Cash proceeds from debt, net of any debt and capital lease payments was \$2.2 million during the three months ended March 31, 2016 and \$2.7 million during the same period of 2015.

Net proceeds from the issuance of common stock were \$0.7 million and \$0.5 million during the three months ended March 31, 2016 and 2015, respectively.

We incurred capital expenditures of \$1.4 million and \$1.3 million in the three month periods ended March 31, 2016 and 2015, respectively, exclusive of \$0.8 million and \$0.5 million in each period, respectively, of property and equipment acquired under debt and capital lease financing, which consisted primarily of capitalized software costs and equipment purchases.

Capital expenditures have historically consisted of additions to upgrade our management information systems, development of customized technology solutions to support and integrate with our service fee clients and general expansion and upgrades to our facilities, both domestic and foreign. We expect to incur capital expenditures to support new contracts and anticipated future growth opportunities. Based on our current client business activity and our targeted growth plans, we anticipate our total investment in upgrades and additions to facilities and information technology solutions and services for the upcoming twelve months, including costs to implement new clients, will be approximately \$14 million to \$17 million, although additional capital expenditures may be necessary to support the infrastructure requirements of new clients. To maintain our current operating cash position, a portion of these expenditures may be financed through client reimbursements, debt, operating or capital leases or additional equity. We may elect to modify or defer a portion of such anticipated investments in the event we do not obtain the financial results necessary to support such investments.

During the three months ended March 31, 2016, our working capital decreased to \$11.3 million from \$12.4 million at December 31, 2015 due to utilization in the March 31, 2016 period of short-term financing under the Company's senior bank facility to support a portion of its financing needs, including purchases of property and equipment, partially offset by proceeds from the issuance of common stock.

The 2014 purchase prices for REV and LAL included performance-based contingent payments for future earn-out payments payable in 2016 based on REV's and LAL's 2015 financial targets, which were paid in April 2016. The purchase price for Moda includes performance-based contingent payments for future earn-out payments payable in 2017 based on Moda's 2016 financial targets, with no guaranteed minimum and a £500,000 maximum contractual earn-out. The purchase price for CrossView includes performance-based contingent payments for future earn-out payments payable in 2016, 2017 and 2018 based on CrossView's achievement of certain 2015, 2016 and 2017 financial targets, of which \$18.0 million is the aggregate maximum contractual earn-out. As of March 31, 2016, we have accrued \$13.0 million for future performance-based contingent payments applicable to all of these acquisitions (as compared to the aggregate maximum remaining contingent earn-out payment of \$23.3 million), which is included in performance-based contingent payments and other liabilities in the condensed consolidated balance sheets, and of which an aggregate of \$11.4 million was paid in April and May 2016, consisting of \$9.3 million paid in cash and \$2.1 million paid in PFSweb common stock.

To obtain additional financing in the future, in addition to our current cash position, we plan to evaluate various financing alternatives including the sale of equity, utilizing capital or operating leases, borrowing under our credit facilities, expanding our current credit facilities or entering into new debt agreements. No assurances can be given we will be successful in obtaining any additional financing or the terms thereof. We currently believe our cash position, financing available under our credit facilities and funds generated from operations will satisfy our presently known operating cash needs, our working capital and capital expenditure requirements, our current debt and lease obligations, and additional loans to our subsidiaries, if necessary, for at least the next twelve months.

As of March 31, 2016, we have secured term and revolving loan facilities described below which contain both financial and non-financial covenants. To the extent we fail to comply with our debt covenants, including the financial covenant requirements and we are not able to obtain a waiver, the lenders would be entitled to accelerate the repayment of any outstanding credit facility obligations, and exercise all other rights and remedies, including sale of collateral. An acceleration of the repayment of our credit facility obligations will have a material adverse impact on our financial condition and results of operations. We can provide no assurance we will have the financial ability to repay all such obligations. As of March 31, 2016, we were in compliance with all debt covenants. Further, non-renewal of any of our credit facilities may have a material adverse impact on our business and financial condition. Other than performance-based contingent payments applicable to our acquisitions, and our capital and operating lease commitments, we do not have any other material financial commitments, although future client contracts may require capital expenditures and lease commitments to support the services provided to such clients.

We receive municipal tax abatements in certain locations. In prior years, we received notice from a municipality that we did not satisfy certain criteria necessary to maintain the abatements and that the municipal authority planned to make an adjustment to our tax abatement. We disputed the adjustment and such dispute has been settled with the municipality. However, the amount of additional property taxes to be assessed against us and the timing of the related payments has not been finalized. As of March 31, 2016, we believe we have adequately accrued for the expected assessment.

Supplies Distributors Financing

To finance its distribution of Ricoh products in the U.S., Supplies Distributors has a short-term credit facility with IBM Credit LLC (“IBM Credit”) that provides financing for eligible inventory and certain receivables up to \$13.0 million. We have provided a collateralized guarantee to secure the repayment of this credit facility. The IBM Credit facility does not have a stated maturity and both parties have the ability to exit the facility following a 90-day notice. The Company has direct vendor credit terms with Ricoh to finance Supplies Distributors European subsidiary’s inventory purchases.

This credit facility contains various restrictions upon the ability of Supplies Distributors and its subsidiaries to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans, investments and payments to related parties (including entities directly or indirectly owned by PFSweb, Inc.), provide guarantees, make investments and loans, pledge assets, make changes to capital stock ownership structure and pay dividends, as well as financial covenants, such as annualized revenue to working capital, net profit after tax to revenue and total liabilities to tangible net worth, as defined, and are secured by all of the assets of Supplies Distributors, as well as a collateralized guaranty of PFSweb. Additionally, we are required to maintain a subordinated loan to Supplies Distributors of no less than \$2.5 million, not maintain restricted cash of more than \$5.0 million, are restricted with regard to transactions with related parties, indebtedness and changes to capital stock ownership. Furthermore, we are obligated to repay any over-advance made to Supplies Distributors or its subsidiaries under these facilities if they are unable to do so. We have also provided a guarantee of substantially all of the obligations of Supplies Distributors and its subsidiaries to IBM and Ricoh.

PFS Financing

We have a credit agreement (“Credit Agreement”) with Regions Bank, as agent for itself, Bank of America N.A., HSBC Bank USA, National Association and one or more future lenders (the “Lenders”). Under this Credit Agreement, and subject to the terms set forth therein, the Lenders have agreed to provide a revolving loan facility for up to \$32.5 million and a term loan facility for up to \$30 million. Subject to the terms of the Credit Agreement, we have the ability to increase the total loan facilities to \$75 million. Availability under the revolving loan facility may not exceed a borrowing base of eligible accounts receivable (as defined). Advances under the Credit Agreement accrue interest at a variable rate, plus an applicable margin, and have a five year maturity, with scheduled amortization payments for term loan advances. The Credit Agreement is secured by a lien on substantially all of the assets of the Company and its U.S. subsidiaries and a pledge of 65% of the shares of certain of the Company’s foreign subsidiaries. The Credit Agreement contains cross default provisions, various restrictions upon our ability to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans and payments to subsidiaries, affiliates and related parties, make capital expenditures, make investments and loans, pledge assets, make changes to capital stock ownership structure, as well as financial covenants, as defined, of a minimum fixed charge ratio and a maximum leverage ratio.

Seasonality

The seasonality of our service fee business is dependent upon the seasonality of our clients' business and sales of their products. Accordingly, we must rely upon the projections of our clients in assessing quarterly variability. We believe that with our current client mix and their current business volumes, our run rate service fee business activity will generally be highest in the quarter ended December 31. We believe our historical revenue pattern makes it difficult to predict the effect of seasonality on our future revenues and results of operations.

We believe results of operations for a quarterly period may not be indicative of the results for any other quarter or for the full year.

Inflation

Management believes that inflation has not had a material effect on our operations.

Critical Accounting Policies

A description of our critical accounting policies is included in Note 2 of the condensed consolidated financial statements in our December 31, 2015 Annual Report on Form 10-K and Note 2 of this report.

ITEM 3. Quantitative and Qualitative Disclosure about Market Risk

Not applicable.

ITEM 4. Controls and Procedures

Disclosure Controls and Procedures

We maintain a comprehensive set of disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 ("Exchange Act"). As of March 31, 2016, an evaluation of the effectiveness of our disclosure controls and procedures was carried out under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of the end of the period covered by this report, these disclosure controls and procedures were effective.

Changes in Internal Control over Financial Reporting

During the period that ended on March 31, 2016, there was no change in internal control over financial reporting (as defined in Rule 13a-15(f) or Rule 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. Legal Proceedings

None

ITEM 1A. Risk Factors

In addition to the risk factors set forth in Part I, Item 1A of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015 filed with the Securities and Exchange Commission, our business, financial condition and operating results could be adversely affected by any or all of the following factors.

Risks Related to Our Business

We operate with significant levels of indebtedness and are required to comply with certain financial and non-financial covenants; we are required to maintain a minimum level of subordinated loans to our subsidiary Supplies Distributors; and we have guaranteed certain indebtedness and obligations of our subsidiaries.

As of March 31, 2016, our total credit facilities outstanding, including debt, capital lease obligations and our vendor accounts payable related to financing of Ricoh product inventory, was approximately \$47 million. We cannot provide assurance that our credit facilities will be renewed by the lending parties. Additionally, these credit facilities include both financial and non-financial covenants, many of which also include cross default provisions applicable to other agreements. These covenants also restrict our ability to transfer funds among our various subsidiaries, which may adversely affect the ability of our subsidiaries to operate their businesses or comply with their respective loan covenants. We cannot provide assurance that we will be able to maintain compliance with these covenants. A non-renewal, default under or acceleration of any of our credit facilities may have a material adverse impact upon our business and financial condition. We have guaranteed most of the indebtedness of Supplies Distributors. Furthermore, we are obligated to repay any over-advance made to Supplies Distributors by its lenders to the extent Supplies Distributors is unable to do so.

Our business is subject to the risk of customer and supplier concentration.

For the three months ended March 31, 2016, one client represented more than 10% of our service fee revenue and we currently expect this client to represent approximately 10% of our service fee revenue for calendar year 2016. Most of our client agreements state a contract expiration date, but many also include an early termination clause permitting the client to terminate the contract for convenience prior to its stated expiration date or to reduce the scope of services or delay the commencement of services to be provided under the contract. Termination, reduction, or delay of our services under a contract could result from factors unrelated to our work product or the progress of the project, such as factors related to business or financial conditions of the client, changes in client strategies or the domestic or global economy generally. The early termination, reduction or substantial delay of services with any significant client, or nonrenewal of any significant client contract, or the nonpayment of a material amount of our service fees by a significant client, could have a material adverse effect upon our business, results of operation and financial condition.

The majority of our Supplies Distributors product revenue is generated by sales of product purchased under distributor agreements with Ricoh. These agreements are terminable at will and no assurance can be given that Ricoh will continue the distributor agreements with Supplies Distributors. Supplies Distributors does not have its own sales force and relies upon Ricoh's sales force and product demand generation activities for its sale of Ricoh product. As a result of certain operational restructuring of its business and its discontinuance of certain product lines, Ricoh has implemented, and will continue to implement, certain changes in the sale and distribution of Ricoh products. The changes have resulted, and are expected to continue to result, in reduced revenues and profitability for Supplies Distributors. Further reduction in the Ricoh business may have a material adverse effect on Supplies Distributors' business and may adversely affect our overall financial condition.

Sales by Supplies Distributors to two customers in the aggregate accounted for approximately 29% of Supplies Distributors' total product revenue for the three months ended March 31, 2016 and 5% of consolidated net revenue. The loss of one or both of such customers, or non-payment of any material amount by these or any other customer, would have a material adverse effect upon Supplies Distributors' business, results of operations and financial condition.

Risks Related to Our Stock

Our stock price could decline if a significant number of shares become available for sale.

As of March 31, 2016, we have issued an aggregate of (i) 1.2 million stock options outstanding to employees, directors and others with a weighted average exercise price of \$7.21 per share (ii) 509,000 performance shares of common stock, of which 177,000

are vested and the remainder of which may vest, subject to satisfaction of vesting conditions, over the next one to three years, (iii) 105,000 restricted stock units, of which 72,000 are vested and the remainder of which may vest subject to satisfaction of vesting conditions, over the next two years, and (iv) 82,000 deferred stock units to the non-employee members of our Board of Directors under which the underlying shares will be issued upon the termination of service of the holder. The current and future issuance and/or vesting of shares of our common stock under the foregoing stock awards, performance shares and deferred stock units, sales of substantial amounts of common stock in the public market following the issuance and/or vesting of such shares, and/or the perception that future sales of these shares could occur, could reduce the market price of our common stock and make it more difficult to sell equity securities in the future.

ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds

None

ITEM 3. Defaults Upon Senior Securities

None

ITEM 4. Mine Safety Disclosure

Not applicable

ITEM 5. Other Information

None

ITEM 6. Exhibits

a) Exhibits:

<u>Exhibit No.</u>	<u>Description of Exhibits</u>
3.1(1)	Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.1.1(2)	Certificate of Amendment to Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.1.2(4)	Certificate of Amendment to Certificate of Incorporation of PFSweb, Inc.
3.1.3(5)	Certificate of Amendment to Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.1.4(7)	Certificate of Amendment to Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.2(1)	Amended and Restated By-Laws
3.2.1(3)	Amendment to the Amended and Restated By-Laws of PFSweb, Inc.
3.2.2(6)	Amendment to the Amended and Restated By-Laws of PFSweb, Inc.
3.2.3(7)	Amendment to the Amended and Restated By-Laws of PFSweb, Inc.
4.1 (8)	Amendment No. 5 to Rights Agreement, dated as of June 18, 2015 between the Company and Computershare Inc., successor in interest to Computershare Shareowner Services LLC (formerly known as Mellon Investor Services LLC,) as successor to ChaseMellon Shareholder Services, LLC., as rights agent.
4.1 (9)	Amendment No. 6 to Rights Agreement, dated as of July 30, 2015 between the Company and Computershare Inc., successor in interest to Computershare Shareowner Services LLC (formerly known as Mellon Investor Services LLC,) as successor to ChaseMellon Shareholder Services, LLC., as rights agent.
10.1*	Lease agreement dated March 17, 2016 by and between Stateline J, LLC and Priority Fulfillment Services, Inc.
10.2*	Guaranty dated March 21, 2016 by PFSweb, Inc., in favor of Stateline J, LLC.
10.3*	Deed of Sub-Lease dated December 31, 2015 by and between Milestone Buildcon Private Limited and PFSweb Global Services Private Limited.
31.1*	Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certifications of Chief Executive Officer and Chief Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	XBRL Instance Document.
101.SCH*	XBRL Taxonomy Extension Schema.
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase.
101.DEF*	XBRL Taxonomy Extension Definition Linkbase.
101.LAB*	XBRL Taxonomy Extension Label Linkbase.
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase.
(1)	Incorporated by reference from PFSweb, Inc. Registration Statement on Form S-1 (Commission File No. 333-87657).
(2)	Incorporated by reference from PFSweb, Inc. Form 10-K for the fiscal year ended December, 31, 2005 filed on March 31, 2006.
(3)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on November 13, 2007.
(4)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on June 2, 2008.
(5)	Incorporated by reference from PFSweb, Inc. Form 10-Q filed on August 14, 2009.
(6)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on July 2, 2010.
(7)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on July 18, 2013.
(8)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on June 19, 2015.
(9)	Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on July 30, 2015.
*	Filed Herewith

SIGNATURES

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

Date: May 10, 2016

PFSweb, Inc.

By: /s/ Thomas J. Madden
Thomas J. Madden
Chief Financial Officer
Chief Accounting Officer
Executive Vice President

INDUSTRIAL LEASE AGREEMENT

THIS LEASE AGREEMENT (the "**Lease**") is made as of the "**Lease Date**" (as defined in Section 37 herein) by and between STATELINE J, LLC, a Delaware limited liability company ("**Landlord**"), and PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**") (the words "Landlord" and "Tenant" to include their respective legal representatives, successors and permitted assigns where the context requires or permits).

WITNESSETH:

1. Basic Lease Provisions. The following constitute the basic provisions of this Lease:

- (a) Demised Premises Address: 1620 Stateline Road
Suite 101
Southaven, Mississippi 38671
- (b) Demised Premises Square Footage:

Time Period:	Square Footage
Lease Commencement Date through the Pre-Expansion Date (defined in <u>Special Stipulation Number 3 of Exhibit C</u>):	approx. 145,800 sq. ft., as the same may be expanded due to Early Expansions in accordance with Special Stipulation Number 3 of <u>Exhibit C</u> attached hereto (the " Expansion Stip ")
Expansion Date through the Expiration Date:	approx. 275,400 sq. ft. (the entire building (the " Building "))

- (c) Building Square Footage: approximately 275,400 sq. ft.
- (d) Annual Base Rent (as may be adjusted pursuant to the Expansion Stip):

	\$479,682.00 (plus the prorated amount for any Fractional Month per Section 3 hereof, if applicable)(annualized, where applicable)
Lease Year 1	
Lease Year 2	\$922,845.00
Lease Year 3	\$941,301.96
Lease Year 4	\$960,127.92
Lease Year 5	\$979,330.44
Lease Year 6	\$998,917.08
Lease Year 7	\$1,018,895.40
Lease Year 8	\$1,039,273.32
Lease Year 9	\$1,060,058.88
Lease Year 10	\$1,081,260.00

- (e) Monthly Base Rent Installments (as may be adjusted pursuant to the Expansion Stip):

Lease Year 1	\$0.00 (months 1-3)
	\$39,973.50 (months 4-12) (plus the prorated amount for any Fractional Month per Section 3 hereof, if applicable)
Lease Year 2	\$76,903.75
Lease Year 3	\$78,441.83
Lease Year 4	\$80,010.66
Lease Year 5	\$81,610.87
Lease Year 6	\$83,243.09
Lease Year 7	\$84,907.95
Lease Year 8	\$86,606.11
Lease Year 9	\$88,338.24
Lease Year 10	\$90,105.00

- (f) Lease Commencement Date: The date Landlord Substantially Completes the Phase I Improvements (as such terms are defined in Sections 17(f) and 8(a) hereof)
- (g) Base Rent Commencement Date: Three (3) months after the Lease Commencement Date
- (h) Expiration Date: The last day of the one hundred twentieth (120th) full calendar month after the Lease Commencement Date.
- (i) Primary Term: One Hundred Twenty (120) months after the Lease Commencement Date plus, in the event the Lease Commencement Date does not occur on the first (1st) day of a calendar month, the period from and including the Base Rent Commencement Date to and including the last day of the calendar month in which the Base Rent Commencement Date occurs (if applicable, the “**Fractional Month**”)
- (j) Tenant's Operating Expense Percentage:

Lease Commencement Date – Pre- Expansion Date	52.94% (as may be adjusted pursuant to the Expansion Stip)
Expansion Date – Expiration Date	100%

- (k) Security Deposit: \$50,000.00, subject to the terms of Section 5 hereof
- (l) Permitted Use: Storage and distribution of durable and non-durable consumer and business goods and products, and office and administrative uses reasonably ancillary thereto (collectively, the “**Initial Use**”), or, subject to the limitations hereinafter specified, for any other lawful distribution center and/or warehousing use; provided, however, that Tenant shall obtain Landlord’s prior written consent to a use which is different from the Initial Use and which involves the distribution, warehousing or other handling or use of either (1) Hazardous Substances (as defined in Section 16) not used by Tenant in its Initial Use and which would materially increase the risk of Contamination (as defined in Section 16) or materially adversely affect the value or marketability of the Demised Premises if a Contamination involving such Hazardous Substances were to occur, or (2) noxious substances not used by Tenant in its Initial Use and which would likely cause or create a nuisance or trespass for, or otherwise disturb the quiet enjoyment of, any other tenant and occupant of the Building (as hereinafter defined), and provided further, however, that Tenant's use of the Demised Premises (i) shall never include any use prohibited by any provision contained in this Lease (including, without limitation, Section 16 hereof), (ii) shall never extend to or allow the use or storage of radioactive or biohazardous materials at the Demised Premises, or any use wherein a Hazardous Substance (as defined in Section 16) constitutes the principal or primary product of the business to be conducted at the Demised Premises, (iii) shall never include any heavy manufacturing, and (iv) must not result in a material increase in the wear and tear on the Demised Premises, as compared to the Initial Use.
- (m) Address for notice:

Landlord: Stateline J, LLC
 c/o IDI Gazeley
 1100 Peachtree Street, Suite 1000
 Atlanta, Georgia 30309
 Attn: Director - Lease Administration

Tenant: Priority Fulfillment Services, Inc.
 505 Millennium Dr.
 Allen, TX 75013
 Attn: Chief Financial Officer

- (n) Address for rental payments:

Stateline J, LLC
 c/o IDI Gazeley
 1100 Peachtree Street, Suite 1000
 Atlanta, Georgia 30309
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- (o) Broker(s): Jones Lang LaSalle (Tenant's Broker)
CBRE, Inc. (Landlord's Broker)
- (p) Guarantor(s): PFSweb, Inc.

2. **Demised Premises.** For and in consideration of the rent hereinafter reserved and the mutual covenants hereinafter contained, Landlord does hereby lease and demise unto Tenant, and Tenant does hereby hire, lease and accept, from Landlord all upon the terms and conditions hereinafter set forth the following premises, referred to as the "Demised Premises", as outlined on Exhibit A attached hereto and incorporated herein: an agreed upon approximately 145,800 square feet of space labeled as "Phase I" on Exhibit A (and being referred to as such herein); as the same may be increased pursuant to the Expansion Stip, and as the same will in any event be increased automatically to also include the entirety of the Expansion Space (the remainder of the Building, approximately 275,400 square feet of space in all) effective as of the Expansion Date pursuant to the Expansion Stip. The Building is commonly referred to as Building J of Stateline Business Park (the "**Project**") in DeSoto County, Mississippi. The parties acknowledge that the number of square feet recited above has been conclusively determined and is not subject to contest by either party.

3. **Term.** To have and to hold the Demised Premises for a preliminary term (the "**Preliminary Term**") commencing on the Lease Date and ending on the day immediately preceding the Lease Commencement Date as set forth in Section 1(f), and a primary term (the "**Primary Term**") commencing on the Lease Commencement Date and terminating on the Expiration Date as set forth in Section 1(h), as the Lease Commencement Date and the Expiration Date may be revised pursuant to Section 17 (the Preliminary Term, the Primary Term, and any and all extensions thereof, herein referred to as the "**Term**"). The term "**Lease Year**", as used in this Lease, shall mean the 12-month period commencing on the Lease Commencement Date, and each 12-month period thereafter during the Term; *provided, however*, that if the Lease Commencement Date is a day other than the first day of a calendar month, the first Lease Year shall include the resulting Fractional Month and shall extend through the end of the twelfth (12th) full calendar month following the Lease Commencement Date.

4. **Base Rent.** Tenant shall pay to Landlord at the address set forth in Section 1(n), as base rent for the Demised Premises, commencing on the Base Rent Commencement Date and continuing throughout the Term in lawful money of the United States, the annual amount set forth in Section 1(d) payable in equal monthly installments as set forth in Section 1(e) (the "**Base Rent**"), payable in advance, without demand and without abatement, reduction, set-off or deduction, on the first day of each calendar month during the Term. If the Base Rent Commencement Date shall fall on a day other than the first day of a calendar month, the Base Rent shall be apportioned pro rata on a per diem basis for the resulting Fractional Month (which pro rata payment shall be due and payable on the Base Rent Commencement Date). No payment by Tenant or receipt by Landlord of rent hereunder shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of rent shall be deemed an accord and satisfaction, and Landlord may accept such check as payment without prejudice to Landlord's right to recover the balance of such installment or payment of rent or pursue any other remedies available to Landlord.

5. **Security Deposit.** On or before the date which is six (6) months prior to the Expiration Date (or earlier termination date), Tenant will pay to Landlord the sum set forth in Section 1(k) (the "**Security Deposit**") as security for the full and faithful performance by Tenant of each and every term, covenant and condition of this Lease. In the event that Tenant is in default under this Lease, Landlord may retain or draw on the Security Deposit for the payment of any sum due Landlord or which Landlord may expend or be required to expend by reason of Tenant's default or failure to perform; provided, however, that any such retention by Landlord shall not be or be deemed to be an election of remedies by Landlord or viewed as liquidated damages, it being expressly understood and agreed that Landlord shall have the right to pursue any and all other remedies available to it under the terms of this Lease or otherwise. In the event all or any portion of the Security Deposit is so retained by Landlord, Tenant shall, within five (5) days of demand therefor from Landlord, replenish the Security Deposit to the full amount set forth in Section 1(k) (and Tenant's failure to do so shall constitute an immediate Event of Default, without any further notice or demand from Landlord). In the event that Tenant shall comply with all of the terms, covenants and conditions of this Lease, the Security Deposit shall be returned to Tenant within thirty (30) days after the later of (a) the Expiration Date or (b) the date that Tenant delivers possession of the Demised Premises to Landlord. In the event of a sale of the Building, Landlord shall have the right to transfer the Security Deposit to the purchaser, and upon written confirmation of acceptance of the Security Deposit by such purchaser, Landlord shall be released from all liability for the return of the Security Deposit. Tenant shall not assign or encumber the money deposited as security, and neither Landlord nor its successors or assigns shall be bound by any such assignment or encumbrance.

6. Operating Expenses and Additional Rent.

(a) Tenant agrees to pay as Additional Rent (as defined in Section 6(b), below) its proportionate share of Operating Expenses (as hereinafter defined). "**Operating Expenses**" shall be defined as, without duplication, all reasonable expenses for operation, repair,

replacement and maintenance as necessary to keep the Building and the common areas, driveways, and parking areas associated therewith (collectively, the "**Building Common Area**") fully operational and in good order, condition and repair, including but not limited to, utilities for the Building Common Area, utility lines located between the street and the Building (that are not installed by a tenant specifically for its own use to the exclusion of other tenants in the Building), expenses associated with the driveways and parking areas (including sealing and restriping, and trash, snow and ice removal), roof (including seals between skylights), security systems, fire detection and prevention systems, lighting facilities, landscaped areas, walkways, painting and caulking, directional signage, curbs, drainage strips, sewer lines, all charges assessed against or attributed to the Building pursuant to any applicable easements, covenants, restrictions, agreements, declaration of protective covenants or development standards, property management fees (in an amount annually not to exceed three percent (3%) of the annual Rent), all real property taxes and special assessments imposed upon the Building, the Building Common Area and the land on which the Building and the Building Common Area are constructed, all costs of insurance paid by Landlord with respect to the Building and the Building Common Area (including, without limitation, commercially reasonable deductibles), and costs of improvements to the Building and the Building Common Area required by any law, ordinance or regulation enacted or promulgated after the Lease Commencement Date and applicable to the Building and the Building Common Area generally (and not because of the particular use of the Building or the Building Common Area by a particular tenant), which cost shall be amortized on a straight line basis over the useful life of such improvement, as reasonably determined by Landlord in accordance with generally accepted accounting principles consistently applied ("**GAAP**"). Operating Expenses shall not include expenses for the costs of any maintenance and repair required to be performed by Landlord at its own expense under Section (10)(b) or the Operating Expense Exclusions as defined in Special Stipulation Number 13 of Exhibit C attached hereto. Further, Operating Expenses shall not include the costs for capital improvements unless such costs are incurred for the purpose of causing a material decrease in the Operating Expenses of the Building or the Building Common Area or are incurred with respect to improvements made to comply with laws, ordinances or regulations as described above. Operating Expenses shall be accounted for in accordance with GAAP. The proportionate share of Operating Expenses to be paid by Tenant shall be a percentage of the Operating Expenses based upon the proportion that the square footage of the Demised Premises bears to the total square footage of the Building (such figure referred to as "**Tenant's Operating Expense Percentage**" and set forth in Section 1(j)); provided that, as to management fees, Tenant shall pay Landlord the management fees directly attributable to the Rent (as hereinafter defined) payable hereunder with respect to the Demised Premises, and not Tenant's Operating Expense Percentage of the management fees payable on the entire Building, and, for each Lease Year during the Primary Term (and in no event during any extended term), such management fees shall not exceed three percent (3%) of the total amount of Base Rent and Operating Expenses payable hereunder during each such Lease Year during the Primary Term. Prior to or promptly after the beginning of each calendar year during the Term, Landlord shall estimate the total amount of Operating Expenses to be paid by Tenant during each such calendar year and Tenant shall pay to Landlord one-twelfth (1/12) of such sum on the first day of each calendar month during each such calendar year, or part thereof, during the Term. Within a reasonable time after the end of each calendar year, Landlord shall submit to Tenant a statement of the actual amount of Operating Expenses for such calendar year, and the actual amount owed by Tenant, and within thirty (30) days after receipt of such statement, Tenant shall pay any deficiency between the actual amount owed and the estimates paid during such calendar year, or in the event of overpayment, Landlord shall credit the amount of such overpayment toward the next installment of Operating Expenses owed by Tenant or remit such overpayment to Tenant if the Term has expired or has been terminated and no Event of Default exists hereunder, subject, however, to Tenant's rights under Special Stipulation Number 7 of Exhibit C of this Lease. The obligations in the immediately preceding sentence shall survive the expiration or any earlier termination of this Lease. If the Lease Commencement Date shall fall on other than the first day of the calendar year, and/or if the Expiration Date shall fall on other than the last day of the calendar year, Tenant's proportionate share of the Operating Expenses for such calendar year shall be apportioned pro-rata.

(b) Any amounts required to be paid by Tenant hereunder (in addition to Base Rent) and any charges or expenses incurred by Landlord on behalf of Tenant under the terms of this Lease shall be considered "**Additional Rent**" payable in the same manner and upon the same terms and conditions as the Base Rent reserved hereunder except as set forth herein to the contrary (all such Base Rent and Additional Rent sometimes being referred to collectively herein as "**Rent**"). Any failure on the part of Tenant to pay such Additional Rent when and as the same shall become due shall entitle Landlord to the remedies available to it for non-payment of Base Rent. Tenant's obligations for payment of Additional Rent shall begin to accrue on the Lease Commencement Date regardless of the Base Rent Commencement Date.

(c) If applicable in the jurisdiction where the Demised Premises are located, Tenant shall pay and be liable for all rental, sales, use and inventory taxes or other similar taxes, if any, on the amounts payable by Tenant hereunder levied or imposed by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid Landlord by Tenant under the terms of this Lease. Such payment shall be made by Tenant directly to such governmental body if billed to Tenant, or if billed to Landlord, such payment shall be paid concurrently with the payment of the Base Rent, Additional Rent, or such other charge upon which the tax is based, all as set forth herein.

(d) Landlord currently reasonably estimates that Operating Expenses for the Building for calendar year 2016 (not including property taxes and property insurance) will be \$.38 per square foot of the Building.

7. Use of Demised Premises.

(a) The Demised Premises shall be used for the Permitted Use set forth in Section 1(l) and for no other purpose without Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Tenant will permit no liens to attach or exist against the Demised Premises (other than for ad valorem real property taxes for the current year), and shall not commit any waste.

(c) The Demised Premises shall not be used for any illegal purposes, and Tenant shall not allow, suffer, or permit any vibration, noise, odor, light or other effect to occur within or around the Demised Premises that constitutes a nuisance or trespass for Landlord or any occupant of the Building or an adjoining building, its customers, agents, or invitees. Upon notice by Landlord to Tenant that any of the aforesaid prohibited uses are occurring, Tenant agrees to promptly remove or control the same.

(d) Tenant shall not in any way violate any law, ordinance or restrictive covenant affecting the Demised Premises, and shall not in any manner use the Demised Premises so as to cause cancellation of, prevent the use of, or increase the rate of, the fire and extended coverage insurance policy required hereunder. Landlord makes no (and does hereby expressly disclaim any) covenant, representation or warranty as to the Permitted Use being allowed by or being in compliance with any applicable laws, rules, ordinances or restrictive covenants now or hereafter affecting the Demised Premises, and any zoning letters, copies of zoning ordinances or other information from any governmental agency or other third party provided to Tenant by Landlord or any of Landlord's agents or employees shall be for informational purposes only, Tenant hereby expressly acknowledging and agreeing that Tenant shall conduct and rely solely on its own due diligence and investigation with respect to the compliance of the Permitted Use with all such applicable laws, rules, ordinances and restrictive covenants and not on any such information provided by Landlord or any of its agents or employees.

(e) In the event insurance premiums pertaining to the Demised Premises, the Building, or the Building Common Area, whether paid by Landlord or Tenant, are increased over the least hazardous rate available due to the nature of the use of the Demised Premises by Tenant, Tenant shall pay such additional amount as Additional Rent. Landlord shall promptly notify Tenant of any such increase.

8. Insurance.

(a) From and after the Lease Commencement Date or any earlier date upon which Tenant enters or occupies the Demised Premises or any portion thereof, Tenant will carry and maintain, at its sole cost and expense, the following insurance coverages:

Policy	Minimum Coverage Limits	Terms
Commercial General Liability	<u>Primary</u> : \$1,000,000 per occurrence, \$1,000,000 aggregate. <u>"Following Form" Excess Liability</u> : \$10,000,000 per occurrence, \$10,000,000 aggregate, per policy year.	<ul style="list-style-type: none"> · Must be written on an occurrence (not claims made) basis. · Includes Broad Form Contractual Liability coverage or reasonable equivalent thereto. · Must cover Premises and related dock areas (including dock ramps) and Tenant's use thereof. · Extends to liability of Tenant arising out of indemnities by Tenant in <u>Section 11</u>.
Commercial Auto Liability	\$1,000,000 combined single limit	<ul style="list-style-type: none"> · Must cover operations of all owned, hired and non-owned vehicles.
Workers Compensation	As required by statute in state where Building is located.	
Employer's Liability	\$1,000,000 per accident, per employee and policy limit	<ul style="list-style-type: none"> · Must include a waiver of subrogation provision in favor of Landlord, any lender of Landlord, and any property manager designated by Landlord.
Special Form Property Insurance	<u>Improvements</u> : 100% of the actual replacement value of all tenant improvements (including, without limitation the Phase 1 Improvements and Phase 2 Improvements (collectively, the " <u>Improvements</u> ") (as reasonably determined by Landlord). <u>Trade Fixtures and Personal Property of Tenant</u> : 100% of the full replacement value from time to time during the Term.	<ul style="list-style-type: none"> · Must include for the perils of earthquake, regardless of quake zone. · Deductible shall not exceed \$150,000/occurrence. · Improvements coverage shall also name Landlord and any lender of Landlord as "loss payee". · All proceeds relating to Improvements coverage shall be used solely for repair, construction and restoration or replacement of Improvements, unless the Lease terminates pursuant to <u>Section 20</u>.

Landlord reserves the right to require Tenant to procure insurance in amounts and against such other risks as Landlord may reasonably require to cover such risks as may be customarily insured from time to time during the Term by prudent owners of similar properties.

(b) All policies of the insurance provided for in Section 8(a) shall:

(i) Be issued by insurance companies: (1) with a rating of not less than "A"; (2) having a financial size of not less than Class X in the most current available "Best's Insurance Reports"; and (3) licensed to do business in the state in which the Building is located.

(ii) Name Landlord, Landlord's property manager, Lender and any other party reasonably designated by Landlord, as an additional insured on a primary and non-contributory basis, with the exception of Worker's Compensation, Employer's Liability and Special Form Property Insurance described in Section 8(a).

(iii) Be delivered to Landlord through a certificate of insurance on an Acord form 25, 27, or 28, as applicable, evidencing the required lines of coverage, insurance limits and coverage endorsements set forth in this Lease prior to the Lease Commencement Date or any earlier entry into the Demised Premises by Tenant or Tenant's Affiliates and thereafter at least 30 days prior to the expiration of each such policy, and, as often as any such policy shall expire or terminate. Renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent.

(iv) Contain a provision that the insurer will give to the first named insured at least 30 days advance written notice of policy cancellation for reasons other than non-payment of premium and 10 days advance written notice of policy cancellation for non-payment of premium. Furthermore: (1) if Tenant intends to provide substitute coverage or change its insurance carrier, Tenant shall give to Landlord at least 30 days advance written notice of any such substitution or change; and (2) Tenant shall provide to Landlord, within 3 days after receipt, a copy of any notice of cancellation or change of coverage sent to Tenant by any carrier providing any of the insurance policies provided by Tenant pursuant to this Section 8.

(c) If Tenant shall fail to carry and maintain the insurance coverage required by this Section 8, Landlord may, upon seven (7) days advanced written notice to Tenant (unless such coverage will lapse, in which event no such notice shall be necessary), procure such policies of insurance and Tenant shall promptly reimburse Landlord therefor. If such coverage is procured by Landlord, Tenant shall pay to Landlord an administrative fee equal to 10% of the associated insurance premiums for the coordination of coverage.

(d) Notwithstanding anything to the contrary contained in this Lease, Landlord hereby releases Tenant, and Tenant hereby releases Landlord, Lender and their respective partners, principals, members, officers, shareholders, directors, agents, employees and affiliates from any and all liability for loss, damage or injury to the property of the other, whether located in or about the Demised Premises or elsewhere, which is caused by or results from a peril, event or happening which is covered by insurance actually carried and in force at the time of the loss (or which would have been covered but for a failure to maintain insurance coverage that was required to be maintained under this Lease) by the party sustaining such loss. Each of Landlord and Tenant hereby waives all rights of subrogation of its insurers and shall cause its insurance policies to be endorsed such that said waiver of subrogation shall not affect the right of the insured to recover thereunder.

9. Utilities. During the Term, Tenant shall promptly pay as billed to Tenant all rents and charges for water and sewer services and all costs and charges for gas, steam, electricity, fuel, light, power, telephone, heat and any other utility or service used or consumed in or servicing the Building and all other costs and expenses involved in the care, management and use thereof as charged by the applicable utility companies to Tenant. All such utilities shall be separately metered and billed to Tenant, and Tenant shall establish an account with the utility provider with respect to each such separately metered utility. Tenant's obligation for payment of all utilities for the entire Building (including, without limitation, the Expansion Space) shall commence on the earlier of the Lease Commencement Date or Tenant's actual occupancy of all or any portion of the Demised Premises, including any period of occupancy prior to the Lease Commencement Date, regardless of whether or not Tenant conducts business operations during such period of occupancy. If Tenant fails to pay any utility bills or charges, Landlord may, at its option and upon reasonable written notice to Tenant, pay the same and in such event, the amount of such payment, together with interest thereon at the Interest Rate as defined in Section 32 from the date of such payment by Landlord, will be added to Tenant's next payment due as Additional Rent.

10. Maintenance and Repairs.

(a) Tenant shall, at its own cost and expense, maintain in good condition and repair and replace as necessary the interior of the Demised Premises, including but not limited to the heating, air conditioning and ventilation systems, glass, windows and doors, sprinkler, all plumbing and sewage systems, fixtures, interior walls, floors (including floor slabs), dock areas, dock ramps,

ceilings, storefronts, plate glass, skylights, all electrical facilities and equipment including, without limitation, lighting fixtures, lamps, fans and any exhaust equipment and systems, electrical motors, and all other appliances and equipment (including, without limitation, dock levelers, dock shelters, dock seals and dock lighting) of every kind and nature located in, upon or about the Demised Premises, except as to such maintenance, repair and replacement as is the obligation of Landlord pursuant to Section 10(b). During the Term, Tenant shall maintain in full force and effect a service contract for the maintenance of the heating, ventilation and air conditioning systems with an entity reasonably acceptable to Landlord; provided, however, that during the one year period following the Lease Commencement Date, such service contract shall be maintained with the contractor that installed the heating, ventilation and air conditioning systems and shall provide for at least two preventive maintenance service calls during such one year period. Tenant shall deliver to Landlord (i) a copy of said service contract prior to the Lease Commencement Date, and (ii) thereafter, a copy of a renewal or substitute service contract within thirty (30) days prior to the expiration of the existing service contract. Tenant's obligation shall exclude any maintenance, repair and replacement required because of the act or negligence of Landlord, its employees, contractors or agents, which shall be the responsibility of Landlord.

(b) Landlord shall, at its own cost and expense, maintain in good condition and repair the foundation (beneath the floor slab), structural components of the Building (including, without limitation the structural aspects of the roof joists, columns, and footings and external walls) (exclusive of painting and caulking, the cost of which will be included in Operating Expenses in accordance with Section 6 hereof) and replace the roof if and when necessary). Landlord's obligation shall exclude the cost of any maintenance or repair required because of the act (exclusive of ordinary wear and tear resulting from the Permitted Use) or negligence of Tenant or any of Tenant's subsidiaries or affiliates, or any of Tenant's or such subsidiaries' or affiliates' agents, contractors, employees, licensees or invitees (collectively, "Tenant's Affiliates"), the cost of which shall be the responsibility of Tenant. Landlord will also, at its own cost and expense, cause any necessary repairs or replacements necessitated by the gross negligence or willful misconduct of Landlord. Landlord shall never have any obligation to repair, maintain or replace, pursuant to this subsection 10(b) or any other provision of this Lease, any Tenant's Change (as defined in Section 18 hereof).

(c) Unless the same is caused solely by the negligent action or inaction of Landlord, its employees or agents, and is not covered by the insurance required to be carried by Tenant pursuant to the terms of this Lease, Landlord shall not be liable to Tenant or to any other person for any damage occasioned by failure in any utility system or by the bursting or leaking of any vessel or pipe in or about the Demised Premises, or for any damage occasioned by water coming into the Demised Premises or arising from the acts or neglects of occupants of adjacent property or the public.

11. Tenant's Personal Property; Indemnity. All of Tenant's personal property in the Demised Premises shall be and remain at Tenant's sole risk. Landlord, its agents, employees and contractors, shall not be liable for, and Tenant hereby releases Landlord from, any and all liability for theft thereof or any damage thereto occasioned by any act of God or by any acts, omissions or negligence of any persons, except to the extent such damage is not covered by the insurance required to be carried by Tenant under this Lease AND caused by the negligence or willful misconduct of Landlord, its agents, employees or contractors. Landlord, its agents, employees and contractors, shall not be liable for any injury to the person or property of Tenant or other persons in or about the Demised Premises, Tenant expressly agreeing to indemnify and save Landlord, its agents, employees and contractors, harmless, in all such cases, except, in the case of personal injury only, to the extent not covered by the insurance required to be carried by Tenant under this Lease AND caused by the negligence or willful misconduct of Landlord, its agents, employees and contractors. Tenant further agrees to indemnify and reimburse Landlord for any costs or expenses, including, without limitation, reasonable attorneys' fees, that Landlord reasonably may incur in investigating, handling or litigating any such claim against Landlord by a third person, unless such claim arose is not covered by the insurance required to be carried by Tenant under this Lease AND arose from the negligence or willful misconduct of Landlord, its agents, employees or contractors. The provisions of this Section 11 shall survive the expiration or earlier termination of this Lease with respect to any damage, injury or death occurring before such expiration or termination.

12. Tenant's Fixtures. Tenant shall have the right to install in the Demised Premises trade fixtures required by Tenant or used by it in its business, and if installed by Tenant, to remove any or all such trade fixtures from time to time during and upon termination or expiration of this Lease, provided no Event of Default, as defined in Section 22, then exists; provided, however, that Tenant shall repair and restore any damage or injury to the Demised Premises (to the condition in which the Demised Premises existed prior to such installation, reasonable wear and tear that would have occurred without such installation, excepted) caused by the installation and/or removal of any such trade fixtures.

13. Signs. No sign, advertisement or notice shall be inscribed, painted, affixed, or displayed on the windows or exterior walls of the Demised Premises or on any public area of the Building, except in such places, numbers, sizes, colors and styles as are approved in advance in writing by Landlord (which will not be unreasonably withheld, conditioned or delayed), and which conform to all applicable laws, ordinances, or covenants affecting the Demised Premises. Notwithstanding the foregoing, Tenant shall have the right to affix one (1) identification sign to the exterior of the Demised Premises and to install one (1) monument identification sign in the Building Common Area, provided Tenant and such signs otherwise comply with the terms and conditions of this Section 13. Any

and all signs installed or constructed by or on behalf of Tenant pursuant hereto shall be installed, maintained and removed by Tenant at Tenant's sole cost and expense.

14. Reserved.

15. Governmental Regulations. Tenant shall promptly comply throughout the Term, at Tenant's sole cost and expense, with all present and future laws, ordinances, orders, rules, regulations or requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof (collectively, "Governmental Requirements") relating to (a) all or any part of the Demised Premises, and (b) the use or manner of use of the Demised Premises and the Building Common Area; provided, however, that Landlord shall be solely responsible for making all changes necessitated by violations of applicable Governmental Requirements that are in effect as of the Lease Commencement Date. Tenant shall also observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Demised Premises. Without limiting the foregoing, if as a result of one or more Governmental Requirements it is necessary, from time to time during the Term, to perform an alteration or modification of the Demised Premises, the Building, or the Building Common Area (a "**Code Modification**") which is made necessary as a result of the specific use being made by Tenant of the Demised Premises or a Tenant's Change, then such Code Modification shall be the sole and exclusive responsibility of Tenant in all respects; any such Code Modification shall be promptly performed by Tenant at its expense in accordance with the applicable Governmental Requirement and with Section 18 hereof. If as a result of one or more Governmental Requirements it is necessary from time to time during the Term to perform a Code Modification which (i) would be characterized as a capital expenditure under GAAP and (ii) is not made necessary as a result of the specific use being made by Tenant of the Demised Premises (as distinguished from an alteration or modification which would be required to be made by the owner of any warehouse-office building comparable to the Building irrespective of the use thereof by any particular occupant) or a Tenant's Change (Tenant will be solely responsible for 100% of any such costs), then (a) Landlord shall have the obligation to perform the Code Modification at its expense, (b) the cost of such Code Modification shall be amortized on a straight-line basis over the useful life of the item in question, in accordance with GAAP, and (c) , Tenant shall be obligated to pay (as Additional Rent, payable in the same manner and upon the same terms and conditions as the Base Rent reserved hereunder) for the proportion of such amortized costs attributable to the remainder of the Term, including any extensions thereof. Tenant shall promptly send to Landlord a copy of any written notice received by Tenant requiring a Code Modification.

16. Environmental Matters.

(a) For purposes of this Lease:

(i) "**Contamination**" as used herein means the presence of or release of Hazardous Substances (as hereinafter defined) into any environmental media from, upon, within, below, into or on any portion of the Demised Premises, the Building, the Building Common Area or the Project so as to require remediation, cleanup or investigation under any applicable Environmental Law (as hereinafter defined).

(ii) "**Environmental Laws**" as used herein means all federal, state, and local laws, regulations, orders, permits, ordinances or other requirements, which exist now or as may exist hereafter, concerning protection of human health, safety and the environment, all as may be amended from time to time including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. ("CERCLA") and the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. ("RCRA").

(iii) "**Hazardous Substances**" as used herein means any hazardous or toxic substance, material, chemical, pollutant, contaminant or waste as those terms are defined by any applicable Environmental Laws and any solid wastes, polychlorinated biphenyls, urea formaldehyde, asbestos, radioactive materials, radon, explosives, petroleum products and oil.

(b) Landlord represents that, except as disclosed to Tenant in writing by Landlord, to Landlord's actual knowledge, Hazardous Substances have not been treated, stored or disposed of in violation of applicable Governmental Requirements upon or within the Demised Premises or the Building Common Area.

(c) Tenant covenants that all its activities, and the activities of Tenant's Affiliates (as defined herein), on the Demised Premises, the Building, or the Project during the Term will be conducted in compliance with Environmental Laws. Tenant warrants that it is currently in compliance with all applicable Environmental Laws and that there are no pending or threatened notices of deficiency, notices of violation, orders, or judicial or administrative actions involving alleged violations by Tenant of any Environmental Laws. Tenant, at Tenant's sole cost and expense, shall be responsible for obtaining all permits or licenses or approvals under Environmental Laws necessary for Tenant's operation of its business on the Demised Premises and shall make all notifications and registrations required by any applicable Environmental Laws. Tenant, at Tenant's sole cost and expense, shall at all times comply with the terms and conditions of all such permits, licenses, approvals, notifications and registrations and with any other applicable

Environmental Laws. Tenant warrants that it has obtained, or will obtain prior to the date required by the applicable Governmental Requirements, all such permits, licenses or approvals and made, or will make prior to the date required by the applicable Governmental Requirements, all such notifications and registrations required by any applicable Environmental Laws necessary for Tenant's operation of its business on the Demised Premises.

(d) Tenant shall not cause or permit any Hazardous Substances to be brought upon, kept or used in or about the Demised Premises, the Building, or the Project in violation of any Environmental Law without the prior written consent of Landlord, which consent shall not be unreasonably withheld; provided, however, that the consent of Landlord shall not be required for the use at the Demised Premises of cleaning supplies, toner for photocopying machines and other similar materials, in containers and quantities reasonably necessary for and consistent with normal and ordinary use by Tenant in the routine operation or maintenance of Tenant's office equipment or in the routine janitorial service, cleaning and maintenance for the Demised Premises. For purposes of this Section 16, Landlord shall be deemed to have reasonably withheld consent if Landlord determines that the presence of such Hazardous Substance within the Demised Premises could result in a risk of harm to persons or property or otherwise negatively affect the value or marketability of the Building or the Project.

(e) Tenant shall not cause or permit the release of any Hazardous Substances by Tenant or Tenant's Affiliates into any environmental media such as air, water or land, or into or on the Demised Premises, the Building or the Project in any manner that violates any Environmental Laws. If such release shall occur, Tenant shall (i) take all steps reasonably necessary to contain and control such release and any associated Contamination, (ii) clean up or otherwise remedy such release and any associated Contamination to the extent required by, and take any and all other actions required under, applicable Environmental Laws and (iii) notify and keep Landlord reasonably informed of such release and response.

(f) Regardless of any consents granted by Landlord pursuant to Section 16(d) allowing Hazardous Substances upon the Demised Premises, Tenant shall under no circumstances whatsoever cause or permit (i) any activity on the Demised Premises which would cause the Demised Premises to become subject to regulation as a hazardous waste treatment, storage or disposal facility under RCRA or the regulations promulgated thereunder, (ii) the discharge of Hazardous Substances into the storm sewer system serving the Project or (iii) the installation of any underground storage tank or underground piping on or under the Demised Premises.

(g) Tenant shall and hereby does indemnify Landlord and hold Landlord harmless from and against any and all expense, loss, and liability suffered by Landlord (except to the extent that such expenses, losses, and liabilities arise out of Landlord's own negligence or willful act), by reason of the storage, generation, release, handling, treatment, transportation, disposal, or arrangement for transportation or disposal, of any Hazardous Substances (whether accidental, intentional, or negligent) by Tenant or Tenant's Affiliates or by reason of Tenant's breach of any of the provisions of this Section 16. Such expenses, losses and liabilities shall include, without limitation, (i) any and all reasonable expenses that Landlord may incur to comply with any Environmental Laws; (ii) any and all reasonable costs that Landlord may incur in studying or remedying any Contamination at or arising from the Demised Premises, the Building, or the Project; (iii) any and all reasonable costs that Landlord may incur in studying, removing, disposing or otherwise addressing any Hazardous Substances; (iv) any and all fines, penalties or other sanctions assessed upon Landlord; and (v) any and all reasonable legal and professional fees and costs incurred by Landlord in connection with the foregoing. The indemnity contained herein shall survive the expiration or earlier termination of this Lease.

17. Construction of Demised Premises.

(a) Within thirty (30) days after the Lease Date, Landlord shall prepare, at Landlord's sole cost and expense, and submit to Tenant, for Tenant's approval, a set of plans and specifications and/or construction drawings (collectively, the "**Plans and Specifications**") based on the preliminary plans and specifications and/or preliminary floor plans set forth on Exhibit B attached hereto and incorporated herein, covering all work to be performed by Landlord in constructing Improvements in the Demised Premises (all such Improvements to be so constructed by Landlord being referred to as the "**Landlord Improvements**"). The portion of the Landlord Improvements to be located in Phase 1, and described as "Phase I Improvements" on Exhibit B are referred to herein as the "**Phase I Improvements**". The portion of the Landlord Improvements to be located in the Expansion Space and referred to as "Phase II" on Exhibit B are referred to as the "**Expansion Improvements**". Tenant shall have no right to request any changes to the Plans and Specifications which would materially alter either the Demised Premises or the exterior appearance or basic nature of the Building, as the same are contemplated by the Preliminary Plans. If Tenant fails to approve or request changes to the Plans and Specifications by ten (10) days after its receipt thereof, then Tenant shall be deemed to have approved the Plans and Specifications and the same shall thereupon be final. If Tenant requests any changes to the Plans and Specifications, Landlord shall make those changes which are reasonably requested by Tenant and shall by ten (10) days of its receipt of such request submit the revised portion of the Plans and Specifications to Tenant. Tenant may not thereafter disapprove the revised portions of the Plans and Specifications unless Landlord has unreasonably failed to incorporate reasonable comments of Tenant and, subject to the foregoing, the Plans and Specifications, as modified by said revisions, shall be deemed to be final upon the submission of said revisions to Tenant. Landlord and Tenant shall at all times in their respective preparation or review of the Plans and Specifications, and of any revisions thereto, act

reasonably and in good faith. After Tenant has approved the Plans and Specifications or the Plans and Specifications have otherwise been finalized pursuant to the procedures set forth hereinabove, any subsequent changes to the Plans and Specifications requested by Tenant (herein referred to as a "**Change Order**") shall be at Tenant's sole cost and expense and subject to Landlord's written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In the event Landlord approves any such requested Change Order, Landlord shall give written notice thereof to Tenant, which notice will specify the Change Order approved by Landlord as well as the estimated incremental cost thereof. The cost to Tenant for Change Orders shall be Landlord's incremental cost plus ten percent (10%) of such amount as Landlord's overhead. Tenant acknowledges and agrees that Landlord shall be under no obligation to proceed with any work related to the approved Change Order unless and until Tenant delivers to Landlord an amount equal to the full estimated incremental cost of such approved Change Order as reasonably determined by Landlord and which shall be set forth in Landlord's notice. When the final incremental cost of any such Change Order has been determined and incurred, Landlord and Tenant each agree to pay or refund the amounts owed to the other with respect to such Change Order, based on the estimated payment made to Landlord. If after the Plans and Specifications have been finalized pursuant to the procedures set forth hereinabove Tenant requests a Change Order or any further changes to the Plans and Specifications and, as a result thereof, Substantial Completion (as hereinafter defined) of the Phase 1 Improvements is delayed, then for purposes of establishing the Lease Commencement Date and any other date tied to the date of Substantial Completion, Substantial Completion shall be deemed to mean the date when Substantial Completion would have been achieved but for such Tenant delay.

(b) Landlord shall use reasonable speed and diligence to Substantially Complete the Phase I Improvements by May 1, 2016, at Landlord's sole cost and expense, and have Phase I ready for occupancy as soon as reasonably practicable, Landlord will be required to ensure that the Expansion Improvements are Substantially Complete prior to the Expansion Date, subject only to Delay. Any delay caused by any of the following is referred to as "**Tenant Delay**": (i) Tenant's failure to approve or disapprove the Plans and Specifications as set forth in Section 17(a), (ii) Change Orders requested by Tenant after approval of the Plans and Specifications and/or (iv) any other act or omission of Tenant or Tenant's Affiliates. Except as specifically set forth in this Lease, no liability whatsoever shall arise or accrue against Landlord by reason of its failure to deliver or afford possession of the Demised Premises, and Tenant hereby releases and discharges Landlord from and of any claims for damage, loss, or injury of every kind whatsoever as if this Lease were never executed. Notwithstanding the foregoing, if Landlord fails to achieve Substantial Completion of the Phase I Improvements on or before the seventieth (70th) day following the date on which the Plans and Specifications are finalized pursuant to subsection 17(a) above and Landlord has received all permits and approvals required by applicable governmental authorities to construct the Landlord Improvements, as such date may be extended by Delay (as hereinafter defined) (the "**Outside Improvements Date**"), Tenant will have the right, as its sole and exclusive remedy (subject to the additional termination remedy set forth hereinbelow), to a credit against Rent equal to two (2) days of prorated monthly Rent for each day Substantial Completion of the Phase I Improvements was delayed beyond the Outside Improvements Date (excluding any days of Delay, as defined below) until said credit is fully realized by Tenant. For purposes of this Lease, "**Delay**" shall mean (i) Tenant Delays, and (ii) such additional time as is equal to the time lost by Landlord or Landlord's contractors or suppliers in connection with the construction of the Landlord Improvements due to strikes or other labor troubles (but in no event due to Landlord's failure to pay such contractors or suppliers as and when due), governmental restrictions and limitations, war or other national emergency, non-availability of materials or supplies, delay in transportation, accidents, floods, fire, damage or other casualties, weather or other conditions, and other matters not within the reasonable control of Landlord.

(c) Upon Substantial Completion of the Phase I Improvements, a representative of Landlord and a representative of Tenant together shall inspect the Phase I Improvements and generate a punchlist of defective or uncompleted items relating to the completion of construction of the Phase I Improvements (the "**Punchlist**"). Landlord shall, within a reasonable time after the Punchlist is prepared and agreed upon by Landlord and Tenant, complete such incomplete work and remedy such defective work as is set forth on the Punchlist. All construction work performed by Landlord shall be deemed approved by Tenant in all respects except for items of said work which are not completed or do not conform to the Plans and Specifications and which are included on the Punchlist.

(d) Reserved.

(e) Landlord hereby warrants to Tenant, which warranty shall survive for the two (2) year period following the Lease Commencement Date, that (i) the materials and equipment furnished by Landlord's contractors in the completion of the Phase I Improvements will be of good quality and new, and (ii) such materials and equipment and the work of such contractors shall comply with all applicable laws, rules, regulations, building codes and insurance requirements and shall be completed in accordance with the Plans and Specifications in all material respects in a good and workmanlike manner and free from defects not inherent in the quality required or permitted hereunder. This warranty shall exclude damages or defects caused by Tenant or Tenant's Affiliates, improper or insufficient maintenance, improper operation, and normal wear and tear under normal usage.

(f) For purposes of this Lease, the term "**Substantial Completion**" (or any variation thereof) shall mean completion of construction of the Phase I Improvements in accordance with the Plans and Specifications, subject only to Punchlist

items established pursuant to Section 17(c), as established by the delivery by Landlord to Tenant of a certificate of occupancy or its equivalent (or temporary certificate of occupancy or its equivalent) for Phase I issued by the appropriate governmental authority, if a certificate is so required by a governmental authority, or if not so required or if unavailable because of unfinished work to be performed by Tenant, then by the delivery by Landlord to Tenant of a Certificate of Substantial Completion for the Phase I Improvements on Standard AIA Form G-704 certified by Landlord's architect. In the event Substantial Completion is delayed because of Tenant Delay, then for the purpose of establishing the Lease Commencement Date and any other date tied to the date of Substantial Completion, Substantial Completion shall be deemed to mean the date when Substantial Completion of the Phase I Improvements would have been achieved but for such delay.

18. Tenant Alterations and Additions.

(a) Tenant shall not make or permit to be made any alterations, improvements, or additions to the Demised Premises (a "Tenant's Change"), without first obtaining on each occasion Landlord's prior written consent (which consent Landlord agrees not to unreasonably withhold) and Lender's prior written consent (if such consent is required). As part of its approval process, Landlord may require that Tenant submit plans and specifications to Landlord, for Landlord's approval or disapproval, which approval shall not be unreasonably withheld. All Tenant's Changes shall be performed in accordance with all legal requirements applicable thereto and in a good and workmanlike manner with first-class materials. Tenant shall maintain insurance reasonably satisfactory to Landlord during the construction of all Tenant's Changes. If Landlord at the time of giving its approval to any Tenant's Change notifies Tenant in writing that approval is conditioned upon restoration, then Tenant shall, at its sole cost and expense and at Landlord's option upon the termination or expiration of this Lease, remove the same and restore the Demised Premises to its condition prior to such Tenant's Change. Tenant shall have the right to request that Landlord make the determination as to whether approval is conditioned on restoration, at the time approval is given; if Tenant does make such a request by Landlord, Landlord will make the determination and notify Tenant of same. Landlord may withhold consent to any Tenant's Change that affect the roof of the Building or which is structural in nature or impairs the structural strength of the Building, in Landlord's sole discretion, or reduces its value, in Landlord's reasonable discretion. Tenant shall pay the full cost of any Tenant's Change. Except as otherwise provided herein and in Section 12, or as otherwise agreed at the time of a Tenant's Change is approved, all Tenant's Changes and all repairs and all other property attached to or installed on the Demised Premises by or on behalf of Tenant (excluding racks, conveyers and related equipment) shall immediately upon completion or installation thereof be and become part of the Demised Premises and the property of Landlord without payment therefor by Landlord and shall be surrendered to Landlord upon the expiration or earlier termination of this Lease.

(b) To the extent permitted by law, all of Tenant's contracts and subcontracts for such Tenant's Changes shall provide that no lien shall attach to or be claimed against the Demised Premises or any interest therein other than Tenant's leasehold interest in the Demised Premises, and that all subcontracts let thereunder shall contain the same provision. Whether or not Tenant furnishes the foregoing, Tenant agrees to hold Landlord harmless from, and defend against (with legal counsel acceptable to Landlord) all liens, claims and liabilities of every kind, nature and description which may arise out of or in any way be connected with such work. Tenant shall not permit the Demised Premises to become subject to any mechanics', laborers' or materialmen's lien on account of labor, material or services furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed for the Demised Premises by, or at the direction or sufferance of Tenant and if any such liens are filed against the Demised Premises, Tenant shall promptly discharge the same; provided, however, that Tenant shall have the right to contest, in good faith and with reasonable diligence, the validity of any such lien or claimed lien if Tenant shall give to Landlord, within fifteen days after demand, such security as may be reasonably satisfactory to Landlord to assure payment thereof and to prevent any sale, foreclosure, or forfeiture of Landlord's interest in the Demised Premises by reason of non-payment thereof; provided further that on final determination of the lien or claim for lien, Tenant shall immediately pay any judgment rendered, with all proper costs and charges, and shall have the lien released and any judgment satisfied. If Tenant fails to post such security or does not diligently contest such lien, Landlord may, without investigation of the validity of the lien claim, discharge such lien and Tenant shall reimburse Landlord upon demand for all costs and expenses incurred in connection therewith, which expenses shall include any attorneys' fees, paralegals' fees and any and all costs associated therewith, including litigation through all trial and appellate levels and any costs in posting bond to effect a discharge or release of the lien. Nothing contained in this Lease shall be construed as a consent on the part of Landlord to subject the Demised Premises to liability under any lien law now or hereafter existing of the state in which the Demised Premises are located.

19. Services by Landlord. Landlord shall be responsible for providing for maintenance of the Building Common Area, and, except as required by Section 10(b) hereof or as otherwise specifically provided for herein, Landlord shall be responsible for no other services whatsoever. Tenant, by payment of Tenant's share of the Operating Expenses, shall pay Tenant's pro rata share of the expenses incurred by Landlord hereunder.

20. Fire and Other Casualty. In the event the Demised Premises are damaged by fire or other casualty insured by Landlord, Landlord agrees to promptly restore and repair the Demised Premises at Landlord's expense, including the Improvements to

be insured by Tenant, but only to the extent Landlord receives insurance proceeds therefor, including the proceeds from the insurance required to be carried by Tenant on the Improvements (Landlord being responsible for the amount of any risk retained by Landlord to the extent Landlord does not carry coverage at one hundred percent (100%) of the replacement value of the Building, exclusive of fixtures and property required to be insured by Tenant under this Lease). Notwithstanding the foregoing, in the event that the Demised Premises are (i) in the reasonable opinion of Landlord, so destroyed that they cannot be repaired or rebuilt within two hundred seventy (270) days after the date of such damage; or (ii) destroyed by a casualty which is not covered by Landlord's insurance, or if such casualty is covered by Landlord's insurance but Lender or other party entitled to insurance proceeds fails to make such proceeds available to Landlord in an amount sufficient for restoration of the Demised Premises, then Landlord shall give written notice to Tenant of such determination (the "**Determination Notice**") within sixty (60) days of such casualty. Either Landlord or Tenant may terminate and cancel this Lease effective as of the date of such casualty by giving written notice to the other party within thirty (30) days after Tenant's receipt of the Determination Notice. Upon the giving of such termination notice, all obligations hereunder with respect to periods from and after the effective date of termination shall thereupon cease and terminate. If no such termination notice is given, Landlord shall, to the extent of the available insurance proceeds, make such repair or restoration of the Demised Premises to the approximate condition existing prior to such casualty, promptly and in such manner as not to unreasonably interfere with Tenant's use and occupancy of the Demised Premises (if Tenant is still occupying the Demised Premises). Base Rent and Additional Rent and all other amounts payable by Tenant hereunder shall equitably abate during the time that the Demised Premises or any part thereof are unusable by reason of any such damage thereto.

21. Condemnation.

(a) If all of the Demised Premises and Common Areas are taken or condemned for a public or quasi-public use, or if a material portion of the Demised Premises and Common Areas are taken or condemned for a public or quasi-public use and the remaining portion thereof is not usable by Tenant in the reasonable opinion of both Landlord and Tenant, this Lease shall terminate as of the earlier of the date title to the condemned real estate vests in the condemnor or the date on which Tenant is deprived of possession of the Demised Premises and Common Areas. In such event, the Base Rent herein reserved and all Additional Rent and other sums payable hereunder shall be apportioned and paid in full by Tenant to Landlord to that date, all Base Rent, Additional Rent and other sums payable hereunder prepaid for periods beyond that date shall forthwith be repaid by Landlord to Tenant, and neither party shall thereafter have any liability hereunder, except that any obligation or liability of either party, actual or contingent, under this Lease which has accrued on or prior to such termination date shall survive.

(b) If only part of the Demised Premises is taken or condemned for a public or quasi-public use and this Lease does not terminate pursuant to Section 21(a), Landlord shall, to the extent of the award it receives, restore the Demised Premises to a condition and to a size as nearly comparable as reasonably possible to the condition and size thereof immediately prior to the taking, and there shall be an equitable adjustment to the Base Rent and Additional Rent based on the actual loss of use of the Demised Premises suffered by Tenant from the taking.

(c) Landlord shall be entitled to receive the entire award in any proceeding with respect to any taking provided for in this Section 21, without deduction therefrom for any estate vested in Tenant by this Lease, and Tenant shall receive no part of such award. Nothing herein contained shall be deemed to prohibit Tenant from making a separate claim, against the condemnor, to the extent permitted by law, for the value of Tenant's moveable trade fixtures, machinery and moving expenses, provided that the making of such claim shall not and does not adversely affect or diminish Landlord's award. This Section 21 shall survive the termination of the Lease.

22. Tenant's Default.

(a) The occurrence of any one or more of the following events shall constitute an "Event of Default" of Tenant under this Lease:

(i) if Tenant fails to pay Base Rent or any Additional Rent hereunder as and when such rent becomes due and such failure shall continue for more than ten (10) days after Landlord gives written notice to Tenant of such failure; provided, however, that Landlord shall only be required to give such a notice of default three (3) times in any twelve (12) month period during the Term, it being understood and agreed that any failure to pay Base Rent or any Additional Rent on time thereafter within such twelve (12) month period shall constitute an immediate Event of Default hereunder;

(ii) Reserved;

(iii) if the Demised Premises become deserted or abandoned for more than twenty (20) consecutive days or if Tenant fails to take possession of the Demised Premises on the Lease Commencement Date or within twenty

(20) days thereafter, and in either event Tenant does not secure and maintain the Demised Premises in a manner reasonably necessary to prevent the occurrence of waste;

(iv) if Tenant permits to be done anything which creates a lien upon the Demised Premises and fails to discharge or bond such lien, or post security with Landlord acceptable to Landlord within thirty (30) days after receipt by Tenant of written notice thereof;

(v) if Tenant fails to maintain in force all policies of insurance required by this Lease and such failure shall continue for more than ten (10) business days after Landlord gives Tenant written notice of such failure;

(vi) if any petition is filed by or against Tenant or any guarantor of this Lease under any present or future section or chapter of the Bankruptcy Code, or under any similar law or statute of the United States or any state thereof (which, in the case of an involuntary proceeding, is not permanently discharged, dismissed, stayed, or vacated, as the case may be, within ninety (90) days of commencement), or if any order for relief shall be entered against Tenant or any guarantor of this Lease in any such proceedings;

(vii) if Tenant or any guarantor of this Lease becomes insolvent or makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors;

(viii) if a receiver, custodian, or trustee is appointed for the Demised Premises or for all or substantially all of the assets of Tenant or of any guarantor of this Lease, which appointment is not vacated within ninety (90) days following the date of such appointment; or

(ix) if Tenant fails to perform or observe any other term of this Lease and such failure shall continue for more than thirty (30) days after Landlord gives Tenant written notice of such failure, or, if such failure cannot be corrected within such thirty (30) day period, if Tenant does not commence to correct such default within said thirty (30) day period and thereafter diligently prosecute the correction of same to completion within a reasonable time.

(b) Upon the occurrence of any one or more Events of Default, Landlord may, at Landlord's option, without any demand or notice whatsoever (except as expressly required in this Section 22):

(i) Terminate this Lease by giving Tenant notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination and all rights of Tenant under this Lease and in and to the Demised Premises shall terminate. Tenant shall remain liable for all obligations under this Lease arising up to the date of such termination, and Tenant shall surrender the Demised Premises to Landlord on the date specified in such notice; or

(ii) Terminate this Lease as provided in Section 22(b)(i) hereof and recover from Tenant all damages Landlord may incur by reason of Tenant's default, which shall be calculated at the date of such termination, as follows: (1) the value of the excess, if any, of (A) the Base Rent, Additional Rent and all other sums which would have been payable hereunder by Tenant for the period commencing with the day following the date of such termination and ending with the Expiration Date had this Lease not been terminated (the "Remaining Term"), over (B) the aggregate reasonable rental value of the Demised Premises for the Remaining Term (which excess, if any shall be discounted to present value at the "Treasury Yield" as defined below for the Remaining Term); plus (2) the costs of recovering possession of the Demised Premises and all other expenses incurred by Landlord due to Tenant's default, including, without limitation, reasonable attorney's fees; plus (3) the unpaid Base Rent and Additional Rent earned as of the date of termination plus any interest and late fees due hereunder, plus other sums of money and damages owing on the date of termination by Tenant to Landlord under this Lease or in connection with the Demised Premises. The amount as calculated above shall be deemed immediately due and payable. The payment of the amount calculated in subparagraph (ii)(1) shall not be deemed a penalty but shall merely constitute payment of liquidated damages, it being understood and acknowledged by Landlord and Tenant that actual damages to Landlord are extremely difficult, if not impossible, to ascertain. "Treasury Yield" shall mean the rate of return in percent per annum of Treasury Constant Maturities for the length of time specified as published in document H.15(519) (presently published by the Board of Governors of the U.S. Federal Reserve System titled "Federal Reserve Statistical Release") for the calendar week immediately preceding the calendar week in which the termination occurs. If the rate of return of Treasury Constant Maturities for the calendar week in question is not published on or before the business day preceding the date of the Treasury Yield in question is to become effective, then the Treasury Yield shall be based upon the rate of return of Treasury Constant Maturities for the length of time specified for the most recent calendar week for which such publication has occurred. If no rate of return for Treasury Constant Maturities is published for the specific length of time specified, the Treasury Yield for such length of time shall be the weighted average of the rates of return of Treasury Constant Maturities most nearly corresponding to the length of the applicable period specified. If the publishing of the rate of return of Treasury Constant Maturities is ever discontinued, then the Treasury Yield shall be based upon the index which is published by the Board of Governors of the U.S. Federal Reserve System in replacement thereof or, if

no such replacement index is published, the index which, in Landlord's reasonable determination, most nearly corresponds to the rate of return of Treasury Constant Maturities. In determining the aggregate reasonable rental value pursuant to subparagraph (ii)(1)(B) above, the parties hereby agree that, at the time Landlord seeks to enforce this remedy, all relevant factors should be considered, including, but not limited to, (a) the length of time remaining in the Remaining Term, (b) the then current market conditions in the general area in which the Building is located, (c) the likelihood of reletting the Demised Premises for a period of time equal to the remainder of the Term, (d) the net effective rental rates then being obtained by landlords for similar type space of similar size in similar type buildings in the general area in which the Building is located, (e) the vacancy levels in the general area in which the Building is located, (f) current levels of new construction that will be completed during the Remaining Term and how this construction will likely affect vacancy rates and rental rates and (g) inflation; or

(iii) Without terminating this Lease, declare immediately due and payable the sum of the following: (1) the present value (calculated using the "Treasury Yield") of all Base Rent and Additional Rent due and coming due under this Lease for the entire Remaining Term (as if by the terms of this Lease they were payable in advance), plus (2) the cost of recovering and reletting the Demised Premises and all other expenses incurred by Landlord in connection with Tenant's default, plus (3) any unpaid Base Rent, Additional Rent and other rentals, charges, assessments and other sums owing by Tenant to Landlord under this Lease or in connection with the Demised Premises as of the date this provision is invoked by Landlord, plus (4) interest on all such amounts from the date due at the Interest Rate, and Landlord may immediately proceed to distrain, collect, or bring action for such sum, or may file a proof of claim in any bankruptcy or insolvency proceedings to enforce payment thereof; provided, however, that such payment shall not be deemed a penalty or liquidated damages, but shall merely constitute payment in advance of all Base Rent and Additional Rent payable hereunder throughout the Term, and provided further, however, that upon Landlord receiving such payment, Tenant shall be entitled to receive from Landlord all rents received by Landlord from other assignees, tenants and subtenants on account of said Demised Premises during the remainder of the Term (provided that the monies to which Tenant shall so become entitled shall in no event exceed the entire amount actually paid by Tenant to Landlord pursuant to this subparagraph (iii)), less all costs, expenses and attorneys' fees of Landlord incurred but not yet reimbursed by Tenant in connection with recovering and reletting the Demised Premises; or

(iv) Without terminating this Lease, in its own name but as agent for Tenant, enter into and upon and take possession of the Demised Premises or any part thereof. Any property remaining in the Demised Premises may be removed and stored in a warehouse or elsewhere at the cost of, and for the account of, Tenant without Landlord being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby unless caused by Landlord's negligence. Thereafter, Landlord may, but shall not be obligated to, lease to a third party the Demised Premises or any portion thereof as the agent of Tenant upon such terms and conditions as Landlord may deem necessary or desirable in order to relet the Demised Premises. The remainder of any rentals received by Landlord from such reletting, after the payment of any indebtedness due hereunder from Tenant to Landlord, and the payment of any costs and expenses of such reletting, shall be held by Landlord to the extent of and for application in payment of future rent owed by Tenant, if any, as the same may become due and payable hereunder. If such rentals received from such reletting shall at any time or from time to time be less than sufficient to pay to Landlord the entire sums then due from Tenant hereunder, Tenant shall pay any such deficiency to Landlord. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for any such previous default provided same has not been cured; or

(v) Without terminating this Lease, and with or without notice to Tenant, enter into and upon the Demised Premises and, without being liable for prosecution or any claim for damages therefor, maintain the Demised Premises and repair or replace any damage thereto or do anything or make any payment for which Tenant is responsible hereunder. Tenant shall reimburse Landlord immediately upon demand for any expenses which Landlord incurs in thus effecting Tenant's compliance under this Lease and Landlord shall not be liable to Tenant for any damages with respect thereto; or

(vi) Without liability to Tenant or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Tenant any property, material, labor, utilities or other service, wherever Landlord is obligated to furnish or render the same as long as an Event of Default exists under this Lease; or

(vii) With or without terminating this Lease, allow the Demised Premises to remain unoccupied and collect rent from Tenant as it comes due; or

(viii) Pursue such other remedies as are available at law or equity.

(c) If this Lease shall terminate as a result of or while there exists an Event of Default hereunder, any funds of Tenant held by Landlord may be applied by Landlord to any damages payable by Tenant (whether provided for herein or by law) as a result of such termination or default.

(d) Neither the commencement of any action or proceeding, nor the settlement thereof, nor entry of judgment thereon shall bar Landlord from bringing subsequent actions or proceedings from time to time, nor shall the failure to include in any action or proceeding any sum or sums then due be a bar to the maintenance of any subsequent actions or proceedings for the recovery of such sum or sums so omitted.

(e) No agreement to accept a surrender of the Demised Premises and no act or omission by Landlord or Landlord's agents during the Term shall constitute an acceptance or surrender of the Demised Premises unless made in writing and signed by Landlord. No re-entry or taking possession of the Demised Premises by Landlord shall constitute an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant. No provision of this Lease shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party making such waiver. Landlord's acceptance of Base Rent or Additional Rent in full or in part following an Event of Default hereunder shall not be construed as a waiver of such Event of Default. No custom or practice which may grow up between the parties in connection with the terms of this Lease shall be construed to waive or lessen either party's right to insist upon strict performance of the terms of this Lease, without a written notice thereof to the other party.

(f) If an Event of Default shall occur, Tenant shall pay to Landlord, on demand, all reasonable expenses incurred by Landlord as a result thereof, including reasonable attorneys' fees, court costs and expenses actually incurred.

23. Landlord's Right of Entry. Tenant agrees to permit Landlord and the authorized representatives of Landlord and of Lender to enter upon the Demised Premises at all reasonable times for the purposes of inspecting the Demised Premises and Tenant's compliance with this Lease, and making any necessary repairs thereto; provided that, except in the case of an emergency, Landlord shall give Tenant reasonable prior notice of Landlord's intended entry upon the Demised Premises. Nothing herein shall imply any duty upon the part of Landlord to do any work required of Tenant hereunder, and the performance thereof by Landlord shall not constitute a waiver of Tenant's default in failing to perform it. Landlord shall not be liable for inconvenience, annoyance, disturbance or other damage to Tenant by reason of making such repairs or the performance of such work in the Demised Premises or on account of bringing materials, supplies and equipment into or through the Demised Premises during the course thereof, and the obligations of Tenant under this Lease shall not thereby be affected; provided, however, that Landlord shall use reasonable efforts not to disturb or otherwise interfere with Tenant's operations in the Demised Premises in making such repairs or performing such work. Landlord also shall have the right to enter the Demised Premises at all reasonable times to exhibit the Demised Premises to any prospective purchaser, mortgagee or, during the last six (6) months of the Term, tenant thereof.

24. Lender's Rights.

(a) For purposes of this Lease:

(i) "**Lender**" as used herein means the holder of a Mortgage;

(ii) "**Mortgage**" as used herein means any or all mortgages, deeds to secure debt, deeds of trust or other instruments in the nature thereof which may now or hereafter affect or encumber Landlord's title to the Demised Premises, and any amendments, modifications, extensions or renewals thereof.

(b) Subject to the receipt by Tenant of a subordination, non-disturbance and attornment agreement, substantially in the form of Exhibit E attached hereto, along with such commercially reasonable revisions as may be requested by Lender (an "**SNDA**"), this Lease and all rights of Tenant hereunder are and shall be subject and subordinate to the lien and security title of any Mortgage. Tenant hereby agrees to execute and promptly deliver to Landlord the SNDA. Tenant recognizes and acknowledges the right of Lender to foreclose or exercise the power of sale against the Demised Premises under any Mortgage.

(c) Tenant shall, in confirmation of the subordination set forth in Section 24(b), upon demand, at any time or times, execute, acknowledge, and deliver to Landlord or to Lender any and all reasonable instruments requested by either of them to evidence such subordination (provided such instruments do not materially and adversely affect the rights of Tenant hereunder and provided further that Tenant receives the SNDA).

(d) At any time during the Term, Lender may, by written notice to Tenant, make this Lease superior to the lien of its Mortgage. If requested by Lender, Tenant shall, upon demand, at any time or times, execute, acknowledge, and deliver to Lender, any and all reasonable instruments that may be necessary to make this Lease superior to the lien of any Mortgage.

(e) If Lender (or Lender's nominee, or other purchaser at foreclosure) shall hereafter succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease, Tenant shall, if requested by such successor, attorn to and recognize such successor as Tenant's landlord under this Lease without change in the terms and

provisions of this Lease and shall promptly execute and deliver any reasonable instrument that may be necessary to evidence such attornment, provided that such successor shall not be bound by (i) any payment of Base Rent or Additional Rent for more than one month in advance, except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease, and then only if such prepayments have been deposited with and are under the control of such successor, (ii) any provision of any amendment to the Lease to which Lender has not consented, (iii) the defaults of any prior landlord under this Lease, or (iv) any offset rights arising out of the defaults of any prior landlord under this Lease. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between each successor landlord and Tenant, subject to all of the terms, covenants and conditions of this Lease.

25. Estoppel Certificate and Financial Statement.

(a) Landlord and Tenant agree, at any time, and from time to time, within ten (10) business days after written request of the other, to execute, acknowledge and deliver an accurate statement in writing in recordable form to the requesting party and/or its designee certifying that: (i) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect, as modified), (ii) the dates to which Base Rent, Additional Rent and other charges have been paid, (iii) whether or not, to the best of its knowledge, there exists any failure by the requesting party to perform any term, covenant or condition contained in this Lease, and, if so, specifying each such failure, (iv) (if such be the case) Tenant has unconditionally accepted the Demised Premises and is conducting its business therein, and (v) and as to such additional matters as may be requested, it being intended that any such statement delivered pursuant hereto may be relied upon by the requesting party and by any purchaser of title to the Demised Premises or by any mortgagee or any assignee thereof or any party to any sale-leaseback of the Demised Premises, or the landlord under a ground lease affecting the Demised Premises.

(b) If Landlord desires to finance, refinance, or sell the Building, Tenant and any guarantors of Tenant's obligations hereunder, if any, shall deliver to any potential lender or purchaser designated by Landlord such financial statements of Tenant and such guarantors as may be reasonably required by such lender or purchaser, including but not limited to Tenant's financial statements for the past 3 years; provided, however, so long as Tenant is a reporting company under applicable federal securities laws, the public filings of Tenant shall be deemed to satisfy the delivery requirements under this Section 25(b). All such financial statements shall be received by Landlord and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

26. Landlord Liability. NO OWNER OF THE DEMISED PREMISES, WHETHER OR NOT NAMED HEREIN, SHALL HAVE LIABILITY HEREUNDER AFTER IT CEASES TO HOLD TITLE TO THE DEMISED PREMISES. NEITHER LANDLORD NOR ANY OFFICER, DIRECTOR, SHAREHOLDER, PARTNER OR PRINCIPAL OF LANDLORD, WHETHER DISCLOSED OR UNDISCLOSED, SHALL BE UNDER ANY PERSONAL LIABILITY WITH RESPECT TO ANY OF THE PROVISIONS OF THIS LEASE. IN THE EVENT LANDLORD IS IN BREACH OR DEFAULT WITH RESPECT TO LANDLORD'S OBLIGATIONS OR OTHERWISE UNDER THIS LEASE, TENANT SHALL LOOK SOLELY TO THE EQUITY OF LANDLORD IN THE BUILDING FOR THE SATISFACTION OF TENANT'S REMEDIES. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT LANDLORD'S LIABILITY UNDER THE TERMS, COVENANTS, CONDITIONS, WARRANTIES AND OBLIGATIONS OF THIS LEASE SHALL IN NO EVENT EXCEED LANDLORD'S EQUITY INTEREST IN THE BUILDING.

27. Notices. Any notice required or permitted to be given or served by either party to this Lease shall be deemed given when made in writing, and either (i) personally delivered, (ii) deposited with the United States Postal Service, postage prepaid, by registered or certified mail, return receipt requested, or (iii) delivered by a nationally recognized overnight delivery service providing proof of delivery, properly addressed to the address set forth in Section 1(m) (as the same may be changed by giving written notice of the aforesaid in accordance with this Section 27). If any notice mailed is properly addressed with appropriate postage but returned for any reason, such notice shall be deemed to be effective notice and to be given on the date of mailing. Any notice required or permitted to be given or served by Landlord or Tenant to this Lease may be given by either an agent, law firm or attorney acting on behalf of Landlord or Tenant.

28. Brokers. Tenant represents and warrants to Landlord that, except for those parties set forth in Section 1(o) (the "**Brokers**"), Tenant has not engaged or had any conversations or negotiations with any broker, finder or other third party concerning the leasing of the Demised Premises to Tenant who would be entitled to any commission or fee based on the execution of this Lease. Tenant hereby further represents and warrants to Landlord that Tenant is not receiving and is not entitled to receive any rebate, payment or other remuneration, either directly or indirectly, from the Brokers, and that it is not otherwise sharing in or entitled to share in any commission or fee paid to the Brokers by Landlord or any other party in connection with the execution of this Lease, either directly or indirectly. Tenant hereby indemnifies Landlord against and from any claims for any brokerage commissions (except those payable to the Brokers, all of which are payable by Landlord pursuant to a separate agreement) and all costs, expenses and liabilities in connection therewith, including, without limitation, reasonable attorneys' fees and expenses, for any breach of the

foregoing. Landlord represents and warrants to Tenant that, except for the "Brokers, Landlord has not engaged or had any conversations or negotiations with any broker, finder or other third party concerning the leasing of the Demised Premises to Tenant who would be entitled to any commission or fee based on the execution of this Lease. Landlord hereby further represents and warrants to Tenant that Landlord, apart from the standard brokerage commission, is not receiving and is not entitled to receive any rebate, payment or other remuneration, either directly or indirectly, from the Brokers. Landlord hereby indemnifies Tenant against and from any claims for any brokerage commissions (except those payable to the Brokers, all of which are payable by Landlord pursuant to a separate agreement) and all costs, expenses and liabilities in connection therewith, including, without limitation, reasonable attorneys' fees and expenses, for any breach of the foregoing. The foregoing indemnification shall survive the termination of this Lease for any reason.

29. Assignment and Subleasing.

(a) Tenant may not voluntarily, by operation of law or otherwise, assign, mortgage, pledge, encumber or otherwise transfer this Lease, or any interest hereunder, or sublet the Demised Premises, in whole or in part, without on each occasion first obtaining the prior express written consent of Landlord, which consent Landlord shall not unreasonably withhold, delay or condition, subject to the specific exclusion set forth herein. Any change in control of Tenant resulting from a merger, consolidation, stock transfer or asset sale shall be considered an assignment or transfer which requires Landlord's prior written consent (a "**Corporate Assignment**"). Notwithstanding the foregoing, Landlord's consent shall not be required for a Corporate Assignment so long as the Tangible Net Worth of the surviving Tenant entity (along with Guarantor) equals or exceeds the collective Tangible Net Worth of Tenant and Guarantor as of the Lease Date. Tenant will provide written notice to Landlord in the event of a Corporate Assignment (within a reasonable time after the occurrence thereof) and provide reasonable written documentation to Landlord enabling Landlord to confirm that the Tangible Net Worth requirement set forth in the prior sentence has been fulfilled. "**Tangible Net Worth**" means the excess of the value of tangible net current assets (i.e. assets excluding those which are intangible such as goodwill, patents and trademarks) over liabilities; and "net current assets" means only Tenant's liquid assets (e.g. cash, marketable securities, accounts receivable and inventory). For purposes of this Section 29, by way of example and not limitation, if Landlord's consent to an assignment is required, Landlord shall be deemed to have reasonably withheld consent if Landlord determines (i) that the prospective assignee or subtenant is not of a financial strength sufficient ensure Landlord that it will be capable of satisfying its obligations under this Lease, (ii) that the prospective assignee or subtenant has a poor business reputation, (iii) that the proposed use of the Demised Premises by such prospective assignee or subtenant (including, without limitation, a use involving the use or handling of Hazardous Substances) will negatively affect the value or marketability of the Building or the Project or (iv) that the prospective assignee or subtenant is a current tenant in the Project or is a bona-fide third-party prospective tenant.

(b) If Tenant desires to assign this Lease or sublet the Demised Premises or any part thereof (other than a Corporate Assignment for which Landlord's consent is required pursuant to subsection (a) above), Tenant shall give Landlord written notice no later than thirty (30) days in advance of the proposed effective date of any proposed assignment or sublease, specifying (i) the name and business of the proposed assignee or sublessee, (ii) the amount and location of the space within the Demised Premises proposed to be subleased, (iii) the proposed effective date and duration of the assignment or subletting and (iv) the proposed rent or consideration to be paid to Tenant by such assignee or sublessee. Tenant shall promptly supply Landlord with financial statements and other information as Landlord may reasonably request to evaluate the proposed assignment or sublease. Landlord shall have a period of twenty (20) days following receipt of such notice and other information requested by Landlord within which to notify Tenant in writing that Landlord elects: (i) to terminate this Lease as to the space so affected as of the proposed effective date set forth in Tenant's notice, in which event Tenant shall be relieved of all further obligations hereunder as to such space, except for obligations under Sections 11 and 28 and all other provisions of this Lease which expressly survive the termination hereof; or (ii) to permit Tenant to assign or sublet such space; provided, however, that, if the rent rate agreed upon between Tenant and its proposed subtenant is greater than the rent rate that Tenant must pay Landlord hereunder for that portion of the Demised Premises, or if any consideration shall be promised to or received by Tenant exclusively with respect to the proposed assignment or sublease (in addition to rent), then one half (1/2) of such excess rent and other consideration (after payment of brokerage commissions, attorneys' fees and other disbursements, concessions and/or abatements incurred by Tenant for such assignment and subletting if acceptable evidence of such disbursements is delivered to Landlord) shall be considered Additional Rent owed by Tenant to Landlord, and shall be paid by Tenant to Landlord once such excess has actually been accrued by Tenant, in the case of excess rent, in the same manner that Tenant pays Base Rent and, in the case of any other consideration, within ten (10) business days after receipt thereof by Tenant; or (iii) to refuse, in Landlord's reasonable discretion (taking into account all relevant factors including, without limitation, the factors set forth in the Section 29(a) above), to consent to Tenant's assignment or subleasing of such space and to continue this Lease in full force and effect as to the entire Demised Premises. If Landlord should fail to notify Tenant in writing of such election within the aforesaid twenty (20) day period, Landlord shall be deemed to have elected option (iii) above. Tenant agrees to reimburse Landlord for reasonable legal fees and any other reasonable costs incurred by Landlord in connection with any requested assignment or subletting (not to exceed \$2,500.00), and such payments shall not be deducted from the Additional Rent owed to Landlord pursuant to subsection (ii) above. Tenant shall deliver to Landlord copies of all documents executed in connection with any permitted assignment or subletting, which

documents shall be in form and substance reasonably satisfactory to Landlord and which shall require such assignee to assume performance of all terms of this Lease on Tenant's part to be performed.

(c) No acceptance by Landlord of any rent or any other sum of money from any assignee, sublessee or other category of transferee shall be deemed to constitute Landlord's consent to any assignment, sublease, or transfer. Permitted subtenants or assignees shall become liable directly to Landlord for all obligations of Tenant hereunder, without, however, relieving Tenant of any of its liability hereunder. No such assignment, subletting, occupancy or collection shall be deemed the acceptance of the assignee, tenant or occupant, as Tenant, or a release of Tenant from the further performance by Tenant of Tenant's obligations under this Lease. Any assignment or sublease consented to by Landlord shall not relieve Tenant (or its assignee) from obtaining Landlord's consent to any subsequent assignment or sublease.

30. Termination or Expiration.

(a) No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof. Notwithstanding anything to the contrary contained herein, if this Lease is rejected in any bankruptcy action or proceeding filed by or against Tenant, and the effective date of rejection is on or after the date upon which that month's Rent is due and owing, then the Rent owing under this Lease for the month during which the effective date of such rejection occurs shall be due and payable in full and shall not be prorated.

(b) At the expiration or earlier termination of the Term of this Lease, Tenant shall surrender the Demised Premises and all improvements, alterations and additions thereto, and keys therefor to Landlord, clean and neat, and in the same condition as at the Lease Commencement Date, excepting normal wear and tear, condemnation and casualty other than that required to be insured against by Tenant hereunder.

(c) If Tenant remains in possession of the Demised Premises after expiration of the Term, with or without Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a tenant-at-sufferance at the greater of (i) one hundred fifty percent (150%) of the then current fair market base rental value of the Demised Premises or (ii) one hundred fifty percent (150%) of the Base Rent in effect at the end of the Term. Tenant shall also continue to pay all other Additional Rent due hereunder. Notwithstanding the foregoing, there shall be no renewal of this Lease by operation of law or otherwise, and, in addition to and without limiting such rights and remedies as may be available to Landlord at law or in equity as a result of Tenant's holding over beyond the Term, Landlord shall be entitled to exercise any and all rights and remedies available to Landlord in respect of an Event of Default hereunder (it being agreed that any such holdover shall be deemed an immediate Event of Default hereunder). In addition to the foregoing, Tenant shall be liable for all damages, direct and consequential, incurred by Landlord as a result of such holdover. No receipt of money by Landlord from Tenant after the termination of this Lease or Tenant's right of possession of the Demised Premises shall reinstate, continue or extend the Term or Tenant's right of possession. The provisions of this subsection 30(c) shall survive the expiration of the Term.

31. Reserved.

32. Late Payments. In the event any installment of rent, inclusive of Base Rent, or Additional Rent or other sums due hereunder, if any, is not paid within five (5) days after the due date therefor, Tenant shall pay a one-time (per late payment) administrative fee (the "**Administrative Fee**") equal to five percent (5%) of such past due amount, plus interest on the amount past due at the lesser of (i) the maximum interest rate allowed by law or (ii) a rate of fifteen percent (15%) per annum (the "**Interest Rate**"), in order to defray the additional expenses incurred by Landlord as a result of such late payment. The Administrative Fee is in addition to, and not in lieu of, any of the Landlord's remedies hereunder.

33. Rules and Regulations. Tenant agrees to abide by the rules and regulations set forth on Exhibit D attached hereto, as well as other reasonable rules and regulations reasonably promulgated by Landlord from time to time, so long as such rules and regulations are uniformly enforced against all tenants of Landlord in the Building and not intended to modify or amend the basic Lease terms, or that would materially and adversely impact Tenant's cost or ability to operate.

34. Quiet Enjoyment. So long as Tenant pays its rent and performs its obligations hereunder, Landlord agrees that Tenant shall have the right to quietly use and enjoy the Demised Premises for the Term free from the disturbance by Landlord or any party by, through or under Landlord.

35. Miscellaneous.

(a) The parties hereto hereby covenant and agree that Landlord shall receive the Base Rent, Additional Rent and all other sums payable by Tenant hereinabove provided as net income from the Demised Premises, without any abatement (except as set forth in Section 20 and Section 21), reduction, set-off, counterclaim, defense or deduction whatsoever.

(b) If any clause or provision of this Lease is determined to be illegal, invalid or unenforceable under present or future laws effective during the Term, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby, and that in lieu of such illegal, invalid or unenforceable clause or provision there shall be substituted a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

(c) All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(d) TIME IS OF THE ESSENCE OF THIS LEASE.

(e) No failure of Landlord or Tenant to exercise any power given Landlord or Tenant hereunder or to insist upon strict compliance by Landlord or Tenant with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's or Tenant's rights to demand exact compliance with the terms hereof.

(f) This Lease contains the entire agreement of the parties hereto as to the subject matter of this Lease and no prior representations, inducements, letters of intent, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force and effect. Any future amendment to this Lease must be in writing and signed by the parties hereto. The masculine (or neuter) pronoun, singular number shall include the masculine, feminine and neuter gender and the singular and plural number.

(g) This contract shall create the relationship of landlord and tenant between Landlord and Tenant; no estate shall pass out of Landlord; Tenant has a usufruct, not subject to levy and sale, and not assignable by Tenant except as expressly set forth herein.

(h) Under no circumstances shall Tenant have the right to record this Lease or a memorandum thereof.

(i) The captions of this Lease are for convenience only and are not a part of this Lease, and do not in any way define, limit, describe or amplify the terms or provisions of this Lease or the scope or intent thereof.

(j) This Lease may be executed in multiple counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

(k) This Lease shall be interpreted under the laws of the State where the Demised Premises are located.

(l) The parties acknowledge that this Lease is the result of negotiations between the parties, and in construing any ambiguity hereunder no presumption shall be made in favor of either party. No inference shall be made from any item which has been stricken from this Lease other than the deletion of such item.

36. Special Stipulations. The Special Stipulations, if any, attached hereto as Exhibit C, are incorporated herein and made a part hereof, and to the extent of any conflict between the foregoing provisions and the Special Stipulations, the Special Stipulations shall govern and control.

37. Lease Date. For purposes of this Lease, the term "Lease Date" shall mean the later date upon which this Lease is signed by Landlord and Tenant.

38. Authority. Tenant is authorized by all required corporate or partnership action to enter into this Lease and the individual(s) signing this Lease on behalf of Tenant are each authorized to bind Tenant to its terms.

39. No Offer Until Executed. The submission of this Lease by Landlord to Tenant for examination or consideration does not constitute an offer by Landlord to lease the Demised Premises and this Lease shall become effective, if at all, only upon the execution and delivery thereof by Landlord and Tenant. Execution and delivery of this Lease by Tenant to Landlord constitutes an offer to lease the Demised Premises on the terms contained herein. The offer by Tenant will be irrevocable until 6:00 p.m. Eastern time for fifteen (15) days after the date of execution of this Lease by Tenant and delivery to Landlord. This Lease may be executed and delivered by facsimile or electronic media and in multiple counterparts.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands under seals, the day and year first above written.

Date: _____

STATELINE J, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

TENANT:

Date: _____

PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

[CORPORATE SEAL]

LEASE INDEX

<u>Section</u>	<u>Subject</u>
1	Basic Lease Provisions
2	Demised Premises
3	Term
4	Base Rent
5	Security Deposit
6	Operating Expenses and Additional Rent
7	Use of Demised Premises
8	Insurance
9	Utilities
10	Maintenance and Repairs
11	Tenant's Personal Property; Indemnity
12	Tenant's Fixtures
13	Signs
14	Reserved
15	Governmental Regulations
16	Environmental Matters
17	Construction of Demised Premises
18	Tenant Alterations and Additions
19	Services by Landlord
20	Fire and Other Casualty
21	Condemnation
22	Tenant's Default
23	Landlord's Right of Entry
24	Lender's Rights
25	Estoppel Certificate and Financial Statement
26	Landlord's Liability
27	Notices
28	Brokers
29	Assignment and Subleasing
30	Termination or Expiration
31	Reserved
32	Late Payments
33	Rules and Regulations
34	Quiet Enjoyment
35	Miscellaneous
36	Special Stipulations
37	Lease Date
38	Authority
39	No Offer Until Executed

Exhibit "A" Demised Premises
Exhibit "B" Preliminary Plans and Specifications/Work
Exhibit "C" Special Stipulations
Exhibit "D" Rules and Regulations
Exhibit "E" SNDA

INDUSTRIAL LEASE AGREEMENT

BETWEEN

STATELINE J, LLC

AS LANDLORD

AND

PRIORITY FULFILLMENT SERVICES, INC.

AS TENANT

EXHIBIT A

Demised Premises

A - 1

EXHIBIT B

Preliminary Plans and Specifications/Work

Phase I Improvements

1. Warehouse Lighting - 30 foot candles (average) at 3'0" AFF using T-5 high output fluorescent fixtures, based on a fifty percent (50%) racked configuration. (Phase I only)
2. Power - 800 amp, 480 volt, three-phase, four-wire service (tenant to set up account with provider). (Phase I only)
3. Warehouse HVAC - System shall maintain a 10°F differential in the summer months (based on Memphis standard ASHRAE design specification of 97° F outside temperature). Design includes fourteen (14) 25-ton rooftop units with an R-19 white TPO roof, and R-9 Thermax wall insulation on tilt wall panels. Includes: plenums, structural framing, standard thermostats, steel framing at joists, rooftop unit repair, sprinkler heads under units, condensate drains, duct detectors, and electrical connection. No specific humidity requirements and heat loads for tenant's equipment not included in cooling calculation. (Phase I and Phase II)
4. Office space - 5000 square feet. (Phase I only)
5. Dock High Doors - Fifty (50) 9' x 10' dock positions in a rear-load layout. All dock positions to receive the following new equipment: (Phase I and Phase II)
 - Heavy-duty dock door 3" tracks (existing)
 - 36" Track Guards
 - Dock bumpers
6. Nineteen (19) dock positions to receive the following new equipment: (Phase I only)
 - Genisys 7' x 8' ML 987 Series 30,000-lb. Mechanical Pit Dock Levelers
 - FDSC Standard Dock Seal
 - LED Swing-arm dock lights

Phase II Improvements

1. Warehouse Lighting - 30 foot candles (average) at 3'0" AFF using T-5 high output fluorescent fixtures, based on a fifty percent (50%) racked configuration. (Phase II only)
2. Power - 800 amp, 480 volt, three-phase, four-wire service (tenant to set up account with provider). (Phase II only)
3. Eleven (11) dock positions to receive the following new equipment: (Phase II only)
 - Genisys 7' x 8' ML 987 Series 30,000-lb. Mechanical Pit Dock Levelers
 - FDSC Standard Dock Seal
 - LED Swing-arm dock lights

Existing Building Features

1. Roof. Mechanically-attached Thermoplastic Olefin (TPO) roof with welded seams initially insulated to R-19 with a ten-year warranty. Roof exterior shall be white to reflect sunlight and heat; roof interior has white deck and skylights (skylights include rebar).
2. Exterior Walls. Painted concrete tilt wall with architectural reveals.
3. Floor Slabs. 6" thick, 4,000 PSI Ductilcrete® concrete slab on compacted subgrade.
4. Office Area. The office entrance shall be aluminum storefront with tinted insulated glass.
5. Other Warehouse Specifications.
 - Column Spacing: 54' x 50' typical and 54' x 60' (loading bay)
 - Clear Ceiling Height: 32' minimum
 - Interior Wall Finish: Interior warehouse walls are painted white from floor to bottom of structure. Roof deck is factory primed white.
 - Fire Protection: Fire sprinkler system in the warehouse is an ESFR (Early Suppression, Fast Response) system which includes an electric booster pump.

Skylights: Two (2) large 4' x 8' skylights in each 60' deep loading bay on the dock wall of the warehouse.

6. Truck Court:185' total (50' concrete + 80' heavy duty asphalt + 55' trailer parking). Concrete is Ductilcrete ®.

7. Trailer Parking:Sixty-seven (67) trailer spaces on the perimeter of the truck court (includes 10' concrete dolly strip).

8. Grade-level Door:Two (2) 14' x 16' drive-in doors in rear of building

9. Automobile Parking:156 auto spaces; handicap spaces per code.

10. Exterior Lighting:Car parking and truck court lighting to be provided to approximately 2.0 FC average by 1,000-watt and 400-watt pole and building mounted fixtures.

11. Landscaping:Class A landscaping including automatic irrigation system.

12. Exit Doors:Provided per local code. All exterior access doors will have hinges on the inside of the building or hinges that have been welded to the doors in order to prevent removal of doors.

EXHIBIT C

Special Stipulations

The Special Stipulations set forth herein are hereby incorporated into the body of the lease to which these Special Stipulations are attached (the "Lease"), and to the extent of any conflict between these Special Stipulations and the preceding language, these Special Stipulations shall govern and control.

1. Early Termination and Termination Payments.

(a) Provided that no Event of Default has occurred and is then continuing and no facts or circumstances exist, either at the time of Tenant's notice to Landlord or on the date such termination would otherwise be effective, which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, Tenant shall have the right to terminate this Lease (the "First Termination Option") effective on the date which is the last day of the seventy-fifth (75th) month of the Primary Term (the "Seventy Fifth Month Effective Termination Date"). In order to exercise the First Termination Option, Tenant shall notify Landlord of such exercise in writing (the "Seventy Fifth Month Termination Notice") at least one hundred (180) days prior to the Seventy Fifth Month Effective Termination Date (the "First Termination Deadline") of such termination, and together with the Seventy Fifth Month Termination Notice, Tenant shall deliver to Landlord an amount equal to Six Hundred Eighty Six Thousand Four Hundred Thirty Four and No/100 Dollars (\$686,434.00) as an agreed-upon payment as liquidated damages (the "Seventy Fifth Month Termination Payment"). Nothing contained herein shall be deemed to relieve Tenant of its obligation to pay Rent through the Seventy Fifth Month Effective Termination Date (in addition to the Seventy Fifth Month Termination Payment). In the event Tenant fails to deliver the Seventy Fifth Month Termination Notice and Seventy Fifth Month Termination Payment to Landlord by the First Termination Deadline, Tenant shall be deemed to have waived Tenant's First Termination Option for the remainder of the Term and any extensions thereof.

(b) Provided that no Event of Default has occurred and is then continuing and no facts or circumstances exist, either at the time of Tenant's notice to Landlord or on the date such termination would otherwise be effective, which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, Tenant shall have an additional right to terminate this Lease (the "Second Termination Option") effective on the date which is the last day of the ninety-sixth (96th) month of the Primary Term (the "Ninety Sixth Month Effective Termination Date"). In order to exercise the Second Termination Option, Tenant shall notify Landlord of such exercise in writing (the "Ninety Sixth Month Termination Notice") at least one hundred (180) days prior to the Ninety Sixth Month Effective Termination Date (the "Second Termination Deadline") of such termination, and together with the Ninety Sixth Month Termination Notice, Tenant shall deliver to Landlord an amount equal to Three Hundred Sixty Thousand Seven Hundred Sixty Eight and No/100 Dollars (\$360,768.00) as an agreed-upon payment as liquidated damages (the "Ninety Sixth Month Termination Payment"). Nothing contained herein shall be deemed to relieve Tenant of its obligation to pay Rent through the Ninety Sixth Month Effective Termination Date (in addition to the Ninety Sixth Month Termination Payment). In the event Tenant fails to deliver the Ninety Sixth Month Termination Notice and Ninety Sixth Month Termination Payment to Landlord by the Second Termination Deadline, Tenant shall be deemed to have waived Tenant's Second Termination Option for the remainder of the Term and any extensions thereof.

2. Construction of Demised Premises.

(a) Notwithstanding the provisions of Section 17 of this Lease, Landlord shall be responsible for the cost of the construction of the approximately 5,000 square foot office portion of the Phase I Improvements, including, without limitation, the breakrooms and restrooms (collectively, the "Office Improvements"), only up to an amount equal to \$70.00 per square foot thereof (not to exceed \$350,000.00 in the aggregate) (the "Tenant Allowance"). If the cost in the aggregate of the construction of the Office Improvements is less than the Tenant Allowance, the unused Tenant Allowance may be applied by Tenant toward the cost of any Change Orders in connection with the construction of the Landlord Improvements. If the entire Tenant Allowance is not utilized as of the Lease Commencement Date, up to \$50,000.00 of any un-used portion shall be applied as a credit against Tenant's first installment of Base Rent; any further surplus will be forfeited. Upon Substantial Completion of the Office Improvements, Landlord shall deliver to Tenant a bill ("Landlord's Notice") for all amounts in excess of the Tenant Allowance (collectively, the "Excess Cost"). Tenant agrees to pay any Excess Cost in full to Landlord within ten (10) calendar days following receipt of Landlord's Notice (the "Payment Period").

(b) For purposes of this Special Stipulation 2, the cost of the construction of the Office Improvements shall be deemed to include, but not be limited to, the cost of the Plans and Specifications, permits and buildout (including, without limitation, the demising walls, utilities, and heating, ventilating and air conditioning system serving or comprising a portion thereof) associated therewith.

3. Expansion Space.

(a) Effective on the first day of the second (2nd) Lease Year (the "**Expansion Date**"), the Demised Premises shall automatically be expanded to include that certain 129,600 square feet of additional warehouse space lying adjacent to the initial Demised Premises and labeled as "Phase II" on Exhibit A hereto (the "**Expansion Space**"), so that from and after such date the Demised Premises shall be deemed to include the Expansion Space (the entire Building) for all purposes of this Lease. The day prior to the Expansion Date is referred to herein as the "**Pre-Expansion Date**". Landlord shall cause the construction of the Expansion Space Improvements prior to the Expansion Date, and shall be delivered to Tenant on the Expansion Date in good order and repair and in broom clean condition. The "Expansion Space Improvements are the improvements described as "Phase II Improvements" on Exhibit B attached hereto. Prior to delivery of the Expansion Space, a representative of Landlord and a representative of Tenant together shall inspect the Expansion Space and generate a punchlist of any defective items (the "**Expansion Punchlist**"). Landlord shall, within forty-five (45) days after the Expansion Punchlist is prepared and agreed upon by Landlord and Tenant, remedy such defective work as is set forth on the Expansion Punchlist provided, however, that if such work cannot reasonably be completed within such forty-five (45) day period, then Landlord shall have such additional time to complete such work as may be reasonably necessary, provided Landlord has commenced such work within such forty-five (45) day period and has thereafter diligently pursued the same to completion. To clarify, the Expansion Improvements will be deemed a portion of the Improvements upon the occurrence of the Expansion Date for purposes of this Lease, including without limitation the insurance requirements. Subject to completion of the Expansion Improvements as required above, Tenant shall (and does hereby agree to) accept the Expansion Space "AS IS/WHERE IS" and as suitable for the Permitted Use.

(b) At any time prior to the Expansion Date, Tenant shall have the right to expand the Demised Premises to include: (i) one or more bays (increments of approximately 16,200 square feet of space each, "**Bays**") which are directly adjacent to the Premises in accordance with, the terms set forth herein ("**Early Expansions**"). In order to cause the occurrence of an Early Expansion, Tenant must deliver written notice to Landlord at least 45 days prior to the date on which Tenant desires for the particular Early Expansion to occur.

(c) If Tenant causes an Early Expansion, Landlord will cause the construction of the Expansion Space Improvements related to that portion of the Expansion Improvements prior to the effective date of the Early Expansion. Base Rent for the applicable Bays shall be equal to the product of \$3.29 times the square footage of the Bays being leased (the "**Early Expansion Base Rent**"), and Tenant's Percentage Share of Operating Expenses shall be increased to account for the addition of the Bays. If the portion of the Expansion Improvements applicable to the Early Expansion Bays are not Substantially Complete prior to the effective date of the Early Expansion (as adjusted for Delay), then Tenant will receive a credit against the Early Expansion Base Rent for those Bays in the amount of 2 days Early Expansion Base Rent for each day beyond the effective date of the Early Expansion was to occur (the "**Early Expansion Improvements Construction Late Fee**"). Upon completion of Expansion Improvements, the same will be deemed a portion of the Improvements for purposes of this Lease, including without limitation the insurance requirements.

(d) Notwithstanding the foregoing or anything to the contrary contained in this Lease, in the event Tenant commences any use or operation for any purpose whatsoever of all or any portion of the Expansion Space prior to the Expansion Date, from and after the date Tenant first commenced such use or operations the Early Expansion will be deemed to have occurred with respect to that Bay (and if that Bay is not contiguous to the Demised Premises, then also any Bays located within the gap), and (ii) Landlord will cause the completion of the Expansion Bay Improvements within that Early Expansion area as soon as reasonably practicable, but the Early Expansion Improvements Construction Late Fee will not apply.

4. Tenant's Early Occupancy.

(a) Subject to the provisions below, from and after the Lease Date Tenant shall have the right to enter the Phase I in order to install racking, install Tenant Alterations (to the extent permitted by the Lease), generally prepare the Demised Premises for occupancy, receive and store palletized Personal Property and otherwise commence business operations ("**Early Access**").

(b) Tenant's right to Early Access is subject to, and conditioned upon, the following:

(i) Early Access is only permitted if, and to the extent, permitted by applicable Governmental Requirements. Tenant will reasonably cooperate with Tenant in obtaining a temporary occupancy permit allowing for Early Access (at Tenant's cost).

(ii) Tenant shall comply with all the terms and conditions of this Lease during any Early Access, other than the obligation to pay Base Rent and its share of Operating Expenses.

(iii) Tenant shall not interfere with Landlord's completion of the Improvements; without limiting Landlord's remedies, any delay in completion of the Improvements resulting from the Early Access (including, without limitation resulting by use by Tenant of non-union labor) shall be deemed Tenant Delay.

(iv) Tenant shall at all times strictly adhere to safety protocols in place related to its construction activities.

(iv) Tenant will provide written notice to Landlord prior to any Early Access and Landlord shall have the right to have a representative present during such access.

(vi) Tenant shall be responsible for payment of all utilities during the period following commencement of Early Access by Tenant.

(vii) Notwithstanding anything to the contrary contained herein, Tenant does hereby expressly acknowledge and agree that the storage and installation of fixtures and Personal Property (including equipment) in the Demised Premises shall be at Tenant's sole risk, cost and expense, and that Landlord shall not be liable for and Tenant hereby releases Landlord from any and all liability for theft thereof or any damage thereto occasioned by any act of God or by any acts, omissions or negligence of any persons. Tenant does hereby further agree to indemnify, defend (with counsel reasonably acceptable to Landlord), and hold harmless Landlord and its employees, officers, directors, agents and contractors from and against any and all claims, liabilities, losses, actions, causes of action, demands, costs and expenses (including, without limitation, attorneys' fees at the trial and appellate levels) of any and every nature arising out of or in any way relating to Tenant's storage and installation of said fixtures and Personal Property as provided herein.

5. Cap on Controllable Expenses. Beginning after the second (2nd) full calendar year during the Primary Term, in the event that the amount of Operating Expenses for the Building attributable to all items other than taxes, utilities, insurance (including any commercially reasonable deductibles), snow removal, capital expenditures, including Code Modifications, management fees and charges assessed against or attributed to the Building pursuant to any applicable declaration of protective covenants (Operating Expenses attributable to all such other items being referred to collectively herein as "**Controllable Expenses**") in any calendar year after such second (2nd) full calendar year exceeds the amount attributable to Controllable Expenses for the Building during the immediately preceding calendar year by more than five percent (5%) (the "**Cap**"), then the amount attributable to Controllable Expenses for the Building, for purposes of determining the amount of Tenant's Operating Expense Percentage of Operating Expenses only (as Tenant's Operating Expense Percentage may have been adjusted to account for any changes in the size of the Demised Premises due to expansions or contractions), shall be limited to the amount attributable to Controllable Expenses for the Building for the immediately preceding calendar year multiplied by the sum of one hundred percent (100%) and the Cap. If the Building was not fully leased or occupied during such immediately preceding calendar year, then Operating Expenses for the Building shall be "grossed-up" (as if the Building had been fully leased for the entirety of such immediately preceding calendar year) on such basis as Landlord may reasonably determine for purposes of determining the application of this Special Stipulation to the year in question.

6. Landlord Insurance. Landlord shall maintain at all times during the Term of this Lease, with such deductible as Landlord in its sole judgment determines advisable, insurance on the "Special Form" or equivalent form on a replacement cost basis against loss or damage to the Building. Such insurance shall be in the amount of one hundred percent (100%) of the replacement value of the Building (excluding all fixtures and property required to be insured by Tenant under this Lease). Landlord may also elect to carry insurance on the "Special Form" or equivalent form against abatement or loss of rental by reason of the occurrences covered by the insurance described in the preceding sentence and by reason of any service interruptions in an amount equal to all base rent and additional rent to be derived from the Building for at least twelve (12) months following the occurrence of such casualty.

7. Inspection Rights.

(a) Landlord's books and records pertaining to the calculation of Operating Expenses for any calendar year within the Term may be inspected by Tenant (or by an independent certified accountant) at Tenant's expense, at any reasonable time within six (6) months after Tenant's receipt of Landlord's statement for Operating Expenses; provided that Tenant shall give Landlord not less than fifteen (15) days' prior written notice of any such inspection. If Landlord and Tenant agree that Landlord's calculation of Tenant's share of Operating Expenses for the inspected calendar year was incorrect, the parties shall enter into a written agreement confirming such error and then, and only then, Tenant shall be entitled to a credit against future Base Rent for said overpayment (or a refund of any overpayment if the Term has expired) or Tenant shall pay to Landlord the amount of any underpayment, as the case may be. If Tenant's inspection proves that Landlord's calculation of Tenant's share of Operating Expenses for the inspected calendar year resulted in an overpayment by more than fifteen percent (15%) of Tenant's share, Landlord shall also pay the reasonable fees and expenses of Tenant's independent professionals, if any, conducting said inspection.

(b) All of the information obtained through Tenant's inspection with respect to financial matters (including, without limitation, costs, expenses, income) and any other matters pertaining to Landlord, the Demised Premises, the Building and/or the Project as well as any compromise, settlement, or adjustment reached between Landlord and Tenant relative to the results of the inspection shall be held in strict confidence by Tenant and its officers, agents, and employees; and Tenant shall cause its independent professionals and any of its officers, agents or employees to be similarly bound. The obligations within this subsection (b) shall survive the expiration or earlier termination of the Lease.

8. Environmental Matters. Landlord shall indemnify Tenant and hold Tenant harmless from and against any and all expenses, losses and liabilities actually suffered by Tenant (with the exception of those expenses, losses, and liabilities arising from the negligence or willful act of Tenant or Tenant's Affiliates) as a result of a governmental authority having jurisdiction ordering a cleanup, removal or other remediation by Tenant of any Hazardous Substances placed on, under or about the Demised Premises by Landlord. Notwithstanding the foregoing, Landlord shall have the right to undertake and perform any studying, remedying, removing or disposing of, or otherwise addressing, any Contamination which is the responsibility of Landlord hereunder and to control all communications with regulatory or governmental agencies with respect thereto, and Tenant shall not perform such acts and communications nor be entitled to any indemnification hereunder unless (w) Tenant is specifically required by Environmental Laws to perform such acts, (x) Tenant notifies Landlord of such Contamination promptly after Tenant has actual knowledge or reasonable belief of its existence, (y) Tenant promptly provides copies to Landlord of any notices given or received by Tenant related to such Contamination and (z) Landlord has failed or refused to perform such acts and communications after having been afforded reasonable written notice by Tenant and having had reasonable opportunity to perform such acts and communications.

9. Taxes. Landlord agrees to cooperate with Tenant reasonably and in good faith, at Tenant's sole cost and expense, to minimize ad valorem real property taxes applicable to the Building by, among other things, co-signing applications for ad valorem tax exemptions for the Demised Premises at Tenant's request.

10. Options to Extend Term.

(a) Landlord hereby grants to Tenant two (2) consecutive options to extend the Term for a period of five (5) years each time, each such option to be exercised by Tenant giving written notice of its exercise to Landlord in the manner provided in this Lease at least ninety (90) days prior to (but not more than one hundred twenty (120) days prior to) the expiration of the Term, as it may have been previously extended. No extension option may be exercised by Tenant if an Event of Default has occurred and is then continuing or any facts or circumstances then exist which, with the giving of notice or the passage of time, or both, would constitute an Event of Default either at the time of exercise of the option or at the time the applicable Term would otherwise have expired if the applicable option had not been exercised.

(b) If Tenant exercises its option[s] to extend the Term, Landlord shall, within thirty (30) days after the receipt of Tenant's notice of exercise, notify Tenant in writing of Landlord's reasonable determination of the Base Rent for the Demised Premises for the applicable five (5) year option period, which amount shall be based on the greater of (i) the market rate for such space or (ii) the Annual Base Rent rate to be in effect immediately prior to the commencement of such option period. Tenant shall have thirty (30) days from its receipt of Landlord's notice to notify Landlord in writing that Tenant does not agree with Landlord's determination of the Base Rent and that Tenant elects to determine the Prevailing Market Rate (as defined and calculated below). If Tenant does not notify Landlord of such election within thirty (30) days of its receipt of Landlord's notice, Base Rent for the Demised Premises for the applicable extended term shall be the Base Rent set forth in Landlord's notice to Tenant. The phrase "Prevailing Market Rate" shall mean the then prevailing market rate for base minimum rental calculated on a per square foot basis for leases covering buildings comparable to the Building (as adjusted for any variances between such buildings and the Building) located in DeSoto County, Mississippi industrial submarket area (hereinafter referred to as the "Market Area"). The Prevailing Market Rate shall be determined by an appraisal procedure as follows:

In the event that Tenant notifies Landlord that Tenant disagrees with Landlord's determination of the market rate and that Tenant elects to determine the Prevailing Market Rate, then Tenant shall specify, in such notice to Landlord, Tenant's selection of a real estate appraiser who shall act on Tenant's behalf in determining the Prevailing Market Rate. Within twenty (20) days after Landlord's receipt of Tenant's selection of a real estate appraiser, Landlord, by written notice to Tenant, shall designate a real estate appraiser, who shall act on Landlord's behalf in the determination of the Prevailing Market Rate. Within twenty (20) days of the selection of Landlord's appraiser, the two (2) appraisers shall render a joint written determination of the Prevailing Market Rate, which determination shall take into consideration any differences between the Building and those buildings comparable to the Building located in the Market Area, including without limitation age, location, setting and type of building. If the two (2) appraisers are unable to agree upon a joint written determination within said twenty (20) day period, the two appraisers shall select a third appraiser within such twenty (20) day period. Within twenty (20) days after the appointment of the third appraiser, the third appraiser shall render a written determination of the Prevailing Market Rate by selecting, without change, the determination of one (1) of the original appraisers as to the Prevailing Market Rate and such determination shall be final, conclusive and binding. All appraisers selected in accordance with this

subparagraph shall have at least ten (10) years prior experience in the commercial leasing market of the Market Area and shall be members of the American Institute of Real Estate Appraisers or similar professional organization. If either Landlord or Tenant fails or refuses to select an appraiser, the other appraiser shall alone determine the Prevailing Market Rate. Landlord and Tenant agree that they shall be bound by the determination of Prevailing Market Rate pursuant to this paragraph. Landlord shall bear the fee and expenses of its appraiser; Tenant shall bear the fee and expenses of its appraiser; and Landlord and Tenant shall share equally the fee and expenses of the third appraiser, if any.

Notwithstanding anything to the contrary contained herein, in the event the Prevailing Market Rate as determined herein is less than the Annual Base Rent to be in effect immediately prior to the commencement of such option period, the Base Rent during the applicable extension Term shall equal the Annual Base Rent in effect during the last year of the Term.

(c) Except for the Base Rent, which shall be determined as set forth in subparagraph (b) above, leasing of the Demised Premises by Tenant for the applicable extended term shall be subject to all of the same terms and conditions set forth in this Lease, including Tenant's obligation to pay Tenant's share of Operating Expenses as provided in this Lease; provided, however, that any improvement allowances, termination rights, rent abatements or other concessions applicable to the Demised Premises during the initial Term shall not be applicable during any such extended term, nor shall Tenant have any additional extension options unless expressly provided for in this Lease. Landlord and Tenant shall enter into an amendment to this Lease to evidence Tenant's exercise of its renewal option. If this Lease is guaranteed, it shall be a condition of Landlord's granting the renewal that Tenant deliver to Landlord a reaffirmation of the guaranty in which the guarantor acknowledges Tenant's exercise of its renewal option and reaffirms that the guaranty is in full force and effect and applies to said renewal.

11. Landlord's Lien. Landlord hereby waives, releases and relinquishes any and all liens and rights of distraint (whether arising by virtue of statute, common law or otherwise) upon the trade fixtures, furnishings, signs, equipment, machinery, cash registers, point of sales terminals, inventory and personal property of Tenant in the Premises (the "**Collateral**"). Nothing in this special stipulation shall be deemed a waiver by Landlord of the right to institute and exercise any available remedy under any summary proceedings for recovering possession of the Demised Premises that provide Tenant with the right to prior notice and hearing. Further, the foregoing provisions shall not be deemed to impair Landlord's rights to (a) bid for and purchase any of the Collateral at a public or private sale; (b) any surplus monies arising out of a sale of the Collateral; or (c) file proofs of claim or otherwise participate in insolvency or bankruptcy proceedings involving Tenant or the Collateral.

12. Landlord's Default.

(a) Notice. If Landlord fails to perform or observe or otherwise breaches any term of this Lease and such failure shall continue for more than 30 days after Tenant gives Landlord written notice of such failure, or, if such failure does not arise out of a failure by Landlord to pay a sum of money and cannot reasonably be corrected within such 30-day period, if Landlord does not commence to correct such default within such 30-day period and thereafter diligently prosecute the correction of same to completion within a reasonable time, a "**Landlord Event of Default**" shall exist under this Lease.

(b) Tenant's Right to Cure. Upon the occurrence of a Landlord Event of Default, Tenant may at Tenant's option, cure the Landlord Event of Default and the actual cost of such cure shall be payable by Landlord to Tenant within 30 calendar days after written demand; provided, however, that if a failure by Landlord to perform or observe any term of this Lease gives rise to circumstances or conditions which constitute an emergency threatening human health or safety or substantial damage to the Demised Premises or Tenant's personal property, or materially impedes the conduct of the business of Tenant at the Demised Premises, Tenant shall be entitled to take immediate curative action (prior to the expiration of any notice and cure period set forth above) to the extent necessary to eliminate the emergency.

(c) Reimbursement of Costs. All costs incurred by Tenant hereunder must be reasonable in amount and reasonably incurred and must not exceed the scope of the Landlord Event of Default in question; and if such costs are chargeable as a result of labor or materials provided directly by Tenant, rather than by unrelated third parties, the costs shall not exceed the amount which would have been charged by a qualified third party unrelated to Tenant. All work performed by Tenant must be of first-class quality. Such costs must be reasonably documented and copies of such documentation must be delivered to Landlord with the written demand for reimbursement. If Tenant elects to exercise its self-help right, as provided in this Special Stipulation, right is intended to be the exclusive remedy available to Tenant with respect to the Landlord Event of Default and Landlord has reimbursed Tenant for the permissible cost of curing the Landlord Event of Default, Landlord shall no longer be deemed to be in default under this Lease with respect to the Landlord Event of Default that was the subject of the cure. Nothing contained in this Special Stipulation shall create or imply the existence of any obligation by Tenant to cure any Landlord Event of Default.

13. Operating Expense Exclusions. Operating Expenses shall not include the following ("**Operating Expense Exclusions**"):

(a) expenses for the costs of any maintenance, repair, or replacement required to be performed by Landlord at its own expense under Section (10)(b);

- (b) advertising, marketing, promotional or commission expenses;
- (c) interest on, amortization of and any other charges in respect of mortgages and other debts;
- (d) profits, franchise, gains, estate, income, succession, gift, corporation, unincorporated business and gross receipts taxes imposed upon Landlord, or any interest or penalties for failure to timely pay those taxes or any other taxes;
- (e) any expenses which are not paid or incurred in respect of the Demised Premises but rather in respect of other real property owned by Landlord, provided that with respect to any expenses attributable in part to the Demised Premises and in part to other real property owned or managed by Landlord (including salaries, fringe benefits and other compensation of Landlord's personnel who provide services to both the Demised Premises and other properties), Operating Expenses shall include only such portion thereof as are apportioned by Landlord to the Demised Premises on a fair and equitable basis;
- (f) costs incurred with respect to a sale or transfer of all or any portion of the Demised Premises by Landlord or any interest therein or in any party of whatever tier owning an interest therein;
- (g) costs incurred in connection with the acquisition or sale of air rights, or transferable development rights;
- (h) the rental cost of items which (if purchased) would be capitalized and excluded from Operating Expenses, except if the cost of such items (if purchased) would be included in Operating Expenses pursuant to this Lease or if in accordance with good business practices, such items are rented on an occasional basis;
- (i) costs relating to withdrawal liability or unfunded pension liability under the Multi-Employer Pension Plan Act;
- (j) any interest, fine, penalty or other late charges payable by Landlord, incurred as a result of late payments by Landlord, except to the extent the same was with respect to a payment, part or all of which was the responsibility of Tenant hereunder and with respect to which Tenant did not make in a timely fashion or did not make at all;
- (k) the cost of repairs or replacements or restorations by reason of fire or other casualty, in each instance, to the extent Landlord receives compensation through the proceeds of insurance or by the condemning authority (except as specifically required by this Lease to be paid by Tenant) (reasonable collection costs incurred by Landlord are not excluded from Operating Expenses);
- (l) Landlord's bad debt loss, rent loss or reserves for bad debts or rent loss, if any;
- (m) the cost of investigating, monitoring or remedying any illegal environmental condition or "Hazardous Substances" (this exclusion is not intended to preclude the inclusion of ordinary trash disposal costs from Operating Expenses), in all events, only to the extent not caused by Tenant or Tenant's Affiliates;
- (n) any costs resulting from insurance deductibles being maintained by Landlord that are in excess of those that are commercially reasonable under the circumstances;
- (o) costs incurred in connection with lawsuits or other legal actions (including, without limitation, arbitrations and mediations) instituted or defended by Landlord which are unrelated to Tenant, Tenant's Affiliates, or the use of the Demised Premises during the Term;
- (p) ground rent;
- (q) costs and expenses payable to Landlord or its affiliate, to the extent that such costs and expenses materially exceed competitive costs and expenses for materials and services by unrelated persons or entities of similar skill and experience;
- (r) reserves for un-anticipated future expenses; and
- (s) the costs of the initial construction of the Phase I Improvements and the Phase II Improvements.

EXHIBIT D

Rules And Regulations

These Rules and Regulations have been adopted by Landlord for the mutual benefit and protection of all the tenants of the Building in order to insure the safety, care and cleanliness of the Building and the preservation of order therein.

1. The sidewalks shall not be obstructed or used for any purpose other than ingress and egress. No tenant and no employees of any tenant shall go upon the roof of the Building without the consent of Landlord.
2. No awnings or other projections shall be attached to the outside walls of the Building.
3. The plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags or other substances, including Hazardous Substances, shall be thrown therein.
4. No tenant shall cause or permit any objectionable or offensive odors to be emitted from the Demised Premises.
5. The Demised Premises shall not be used for (i) an auction, "fire sale", "liquidation sale", "going out of business sale" or any similar such sale or activity, (ii) lodging or sleeping, or (iii) any immoral or illegal purposes.
6. No tenant shall make, or permit to be made any unseemly or disturbing noises, sounds or vibrations or disturb or interfere with tenants of this or neighboring buildings or premises or those having business with them.
7. Each tenant must, upon the termination of this tenancy, return to the Landlord all keys of stores, offices, and rooms, either furnished to, or otherwise procured by, such tenant, and in the event of the loss of any keys so furnished, such tenant shall pay to the Landlord the cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall deem it necessary to make such change.
8. Canvassing, soliciting and peddling in the Building and the Project are prohibited and each tenant shall cooperate to prevent such activity.
9. Landlord will direct electricians as to where and how telephone or telegraph wires are to be introduced. No boring or cutting for wires or stringing of wires will be allowed without written consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the Demised Premises shall be subject to the approval of Landlord.
10. Parking spaces associated with the Building are intended for the exclusive use of passenger automobiles. Except for intermittent deliveries, no vehicles other than passenger automobiles, including pick-up trucks and SUV's, may be parked in a parking space (other than spaces expressly designated on the Plans for truck parking) without the express written permission of Landlord. Trucks may be parked only in truck dock positions and in other paved areas expressly designated for such purpose in the Plans. Trailers may be parked only in paved areas expressly designated for such purpose in the Plans. Neither trucks nor trailers may be parked or staged in (i) areas adjacent to truck docks, serving any portion of the Building, which are intended by Landlord for truck maneuvering or (ii) any driveway, drive aisle or other paved area which provides ingress or egress for cars or trucks to or from any portion of the Building or any street adjoining the Building.
11. No tenant shall use any area within the Project for storage purposes other than the interior of the Demised Premises.

12. **Floor Marking.**

- (a) **General.** Tenant will have the right to stripe or mark the floor of the Building only in compliance with this rule.
- (b) **Recommended Tape.** Landlord strongly encourages Tenant to stripe or otherwise mark the floor of the Building only with 3M floor striping tape.
- (c) **Removal.** If Tenant elects to paint stripes or other markings on the floor of the Building, all such paint must, prior to expiration or termination of this Lease, be removed by Tenant at its expense in accordance with this rule. Paint on the floor of the Building must be removed only by use of a chemical paint remover; provided that the chemical used for removal must be permissible for such use under Environmental Laws and other Governmental Requirements and the chemical must be used (and all

chemicals and removed paint must be disposed of) in accordance with Environmental Laws and other Governmental Requirements. Under no circumstances may paint be removed from the floor of the Building by grinding, scraping or shot-blasting. After paint has been chemically removed in accordance with this rule, the floor must be thoroughly cleaned to remove completely any chemical residue which might be present as a result of the removal process.

13. If Tenant installs any racking, equipment or machinery in the Building which requires installation of bolts in the floor of the Building, Tenant must, prior to expiration or termination of this Lease, at the expense of Tenant, remove all such bolts in accordance with this rule. All bolts will be cut or ground so that the top of the remaining portion of the bolt is at least 3/4 inch below the surface of the floor. All holes created by such removal of bolts must be filled with 100% epoxy, which meets the standards set by the American Concrete Institute and which is color-matched to the floor being filled.

EXHIBIT E

SNDA

RECORD AND RETURN TO:

, Esq.
, P.C.
Suite
Street,
Atlanta, Georgia 303

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT made as of the _____ day of _____, 20__, among ATLANTIC CAPITAL BANK (hereinafter referred to as "Lender"), a Georgia chartered banking company, _____, a _____ (hereinafter referred to as "Tenant"), and _____, a _____ (hereinafter referred to as "Landlord").

WITNESSETH:

WHEREAS, Landlord's predecessor in title to the Premises, and Tenant have entered into a certain _____, dated _____, as amended by _____ (hereinafter referred to as the "Lease"), relating to the premises described in Exhibit "A" attached hereto and by this reference made a part hereof, including improvements to be constructed thereon (hereinafter referred to as the "Premises"); and WHEREAS, Lender has made or has committed to make a loan to Landlord in the principal amount of \$_____.00 (the "Loan") secured by a mortgage or security deed (hereinafter referred to as the "Mortgage") dated _____, 20__ and to be recorded in the real property records of _____ County, Georgia, and an assignment of leases and rents from Landlord to Lender covering the Premises; and WHEREAS, Tenant has agreed that the Lease shall be subject and subordinate to the Mortgage held by Lender, provided Tenant is assured of continued occupancy of the Premises under the terms of the Lease; NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and notwithstanding anything in the Lease to the contrary, it is hereby agreed as follows:

1. Lender, Tenant and Landlord do hereby covenant and agree that the Lease with all rights, options, liens and charges created thereby (including, without limitation, any extension option, expansion option or option to purchase the Premises in favor of Tenant, if any) is and shall continue to be subject and subordinate in all respects to the Mortgage and to any renewals, modifications, consolidations, replacements and extensions thereof and to all advancements made thereunder. Nothing contained herein shall be deemed or construed as limiting or restricting the enforcement by Lender of any of the terms, covenants, provisions or remedies of the Mortgage, whether or not consistent with the Lease.

2. Lender does hereby agree with Tenant that, in the event Lender becomes the owner of the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, so long as Tenant complies with and performs its obligations under the Lease, (a) Lender or any other successor-in-title by virtue of such foreclosure, conveyance in lieu thereof or otherwise, and all of their successors-in-title (all references hereinafter in this Agreement to "Lender" shall be deemed to include all such successors-in-title) will take no action which will interfere with or disturb Tenant's possession or use of the Premises or other rights under the Lease, and (b) the Premises shall be subject to the Lease and Lender shall recognize Tenant as the tenant of the Premises for the remainder of the term of the Lease in accordance with the provisions thereof, provided, however, that Lender shall have no obligation to complete construction of the Premises in the event of foreclosure or conveyance in lieu thereof prior to completion thereof (provided, however that in the event Lender elects not to complete construction of the Premises, after written notice of such election to be given to Tenant within a reasonable time following foreclosure or conveyance in lieu thereof, then, Tenant shall have the option, exercisable by delivery of written notice to Lender within fifteen (15) days following its receipt of notice of Lender's election, of terminating the Lease and thereafter neither Lender nor Tenant shall have any further obligations thereunder), nor shall Lender be subject to any offsets (including any right to abate rent for Landlord's failure to complete construction of the Premises in accordance with the Lease) or defenses which Tenant might have against any prior landlord, nor shall Lender be liable for any act or omission of any prior landlord, nor shall Lender be bound by any rent or additional rent which Tenant might have paid for more than the current month to any prior landlord, nor shall it be bound by any amendment or modification of the Lease made without its consent, nor shall Lender be liable for any security deposits held by any prior landlord. Tenant acknowledges that the assignment of the Lease to Lender pursuant to the Mortgage does not impose on Lender any liability with respect to any of Borrower's obligations under the Lease accruing before Lender becomes owner of the Premises by foreclosure, deed-in-lieu of foreclosure or otherwise, and Tenant's sole recourse on account of any breach in such obligations shall be against Borrower.

3. Tenant does hereby agree with Lender that, in the event Lender becomes the owner of the Premises by foreclosure, conveyance in lieu of foreclosure or otherwise, then Tenant shall attorn to and recognize Lender as the landlord under the Lease for the remainder of the term thereof, and Tenant shall perform and observe its obligations thereunder, subject only to the terms and conditions of the Lease. Tenant further covenants and agrees to execute and deliver upon request of Lender, or its assigns, an appropriate agreement of attornment to Lender and any subsequent titleholder of the Premises.

4. So long as the Mortgage remains outstanding and unsatisfied, Tenant will mail or deliver to Lender, at the address and in the manner hereinbelow provided, a copy of all notices permitted or required to be given to the landlord by Tenant under and pursuant to the terms and provisions of the Lease. At any time before the rights of the landlord shall have been forfeited or adversely affected because of any default of the landlord, or within the time permitted the landlord for curing any default under the Lease as therein provided (but not less than sixty (60) days from the receipt of written notice), Lender may, but shall have no obligation to, pay any taxes and assessments, make any repairs and improvements, make any deposits or do any other act or thing required of the landlord by the terms of the Lease; and all payments so made and all things so done and performed by Lender shall be as effective to prevent the rights of the landlord from being forfeited or adversely affected because of any default under the Lease as the same would have been if done and performed by the landlord.

5. Tenant represents to Lender that Tenant has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of a petition by Tenant's creditors; (iii) had a receiver appointed with respect to its assets; (iv) suffered an attachment or levy of its assets; (v) admitted in writing its inability to pay its debts as they become due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

6. Tenant acknowledges that Landlord will execute and deliver to Lender an assignment of the Lease as security for said loan, and Tenant hereby expressly consents to such assignment. Accordingly, Landlord and Tenant agree that Tenant, after receiving notice from Lender that the Premises is subject to the ownership or control of Lender pursuant to rights granted to Lender in the Mortgage, or otherwise, shall pay to Lender, or to such other person or entity as may be designated by Lender, all rent, additional rent, or other monies and payments thereafter due and to become due to Landlord under the Lease. No person or entity who exercises a right arising under the Mortgage, or otherwise, to receive rents payable by Tenant under the Lease shall thereby become obligated to Tenant for the performance of any of the terms, covenants, conditions or agreements of Landlord under the Lease unless and until such person or entity acquires title to the Premises by whatever means.

7. Landlord and Tenant hereby certify to Lender that the Lease has been duly executed by Landlord and Tenant and is in full force and effect; that the Lease and any modifications and amendments specified herein are a complete statement of the agreement between Landlord and Tenant with respect to the leasing of the Premises, and the Lease has not been modified or amended except as specified herein; that to the actual knowledge of Landlord and Tenant, no party to the Lease is in default thereunder; that no rent under the Lease has been paid more than thirty (30) days in advance of its due date; that the term of the Lease commenced on _____, 20____ and terminates on _____, ____; that Tenant has _____ (_____) options to renew and extend the Lease for a term of _____ (_____) years each; that Tenant accepted delivery and is presently in occupancy of the Premises as provided in the Lease; and that Tenant, as of this date, has no charge, lien or claim of offset under the Lease, or otherwise, against the rents or other charges due or to become due thereunder.

8. Anything herein or in the Lease to the contrary notwithstanding, in the event that Lender shall acquire title to the Premises by foreclosure or deed in lieu thereof, Lender shall have no obligation nor incur any liability beyond Lender's interest, if any, in the Premises, and Tenant shall look exclusively to such interest of Lender, if any, in the Premises, for the payment and discharge of any obligations imposed upon Lender under the Lease. Tenant agrees that with respect to any money judgment which may be obtained or secured by Tenant against Lender, Tenant shall look solely to the estate or interest owned by Lender in the Premises, and Tenant will not collect or attempt to collect any such judgment out of any other assets of Lender.

9. Unless and except as otherwise specifically provided herein, any and all notices, elections, approvals, consents, demands, requests and responses thereto ("Communications") permitted or required to be given under this Agreement shall be in writing, signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective upon the earlier of receipt thereof on the third day after or deposit thereof in the United States mail, postage prepaid, certified with return receipt requested by messenger or courier service, to the other party at the address of such other party set forth hereinbelow or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any Communication must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective with respect to Communications sent prior to the time of receipt thereof. Receipt of Communications hereunder shall occur upon actual delivery whether by, messenger or courier service to an individual party or to an officer or general or limited partner of a party or to any agent or employee of such party at the address of such party set forth hereinbelow, subject to change as provided hereinabove. An attempted delivery in accordance with the foregoing, acceptance of which is refused or rejected, shall be deemed to

be and shall constitute receipt; and an attempted delivery in accordance with the foregoing by mail, messenger, or courier service (whichever is chosen by the sender) which is not completed because of changed address of which no notice was received by the sender in accordance with this provision prior to the sending of the Communication shall also be deemed to be and constitute receipt. Any Communication, if given to Lender, must be addressed as follows, subject to change as provided hereinabove:

Atlantic Capital Bank
3280 Peachtree Road, N.E.
Suite 1600
Atlanta, Georgia 30305
Attn: Mr. Patrick T. Hickey

with copy to:

, Esq.
, P.C.
Suite
Street
Atlanta, Georgia 303

and, if given to Tenant, must be addressed as follows, subject to change as provided hereinabove:

Attn: _____

and, if given to Landlord, shall be addressed as follows:

Attn: _____

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-title and assigns. When used herein, the term "landlord" refers to Landlord and to any successor to the interest of Landlord under the Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above written.

LENDER:

ATLANTIC CAPITAL BANK

Signed, sealed and delivered
in the presence of:

By: _____
Title: _____

Unofficial Witness

(BANK SEAL)

Notary Public
My Commission Expires:

[NOTARY SEAL]

[SIGNATURES CONTINUE ON NEXT PAGE]

TENANT:

Signed, sealed and delivered
in the presence of:

Unofficial Witness

By: _____

Name:

Title:

Notary Public
My Commission Expires:

[NOTARY SEAL]

[SIGNATURES CONTINUE ON NEXT PAGE]

LANDLORD:

Signed, sealed and delivered
in the presence of:

Unofficial Witness

By: _____

Name:

Title:

Notary Public
My Commission Expires:

[NOTARY SEAL]

Exhibit A

(Premises)

GUARANTY

THIS GUARANTY (this "**Guaranty**"), made and entered into this ___ day of March, 2016, by PFSWeb, Inc., a Delaware corporation (hereinafter referred to as "**Guarantor**") in favor of Stateline J, LLC, a Delaware limited liability company (hereinafter called "**Landlord**") and any subsequent owner or holder of the Lease (as hereinafter defined).

R E C I T A L S :

Landlord has entered into an Industrial Lease Agreement ("**Lease**") with Priority Fulfillment Services, Inc., a Delaware corporation ("**Tenant**"), in which Guarantor has a direct or indirect financial interest or affiliation, which Lease was executed by Tenant on or about the date hereof, and provides for the leasing to Tenant of space in a building located at 1620 Stateline Road, Southaven, Mississippi; and

Landlord will not enter into the Lease unless Guarantor guarantees the obligations of Tenant under the Lease as set forth herein; and

Guarantor derives benefits from the Lease to Tenant.

NOW THEREFORE, as a material inducement to Landlord to enter into the Lease with Tenant, and for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged and confessed, Guarantor does hereby, irrevocably and unconditionally, warrant and represent unto and covenant and agree with Landlord as follows:

1. **Guaranty** - Guarantor hereby unconditionally guarantees the full, faithful and punctual payment of all rent, additional rent and other amounts due to Landlord under the Lease by Tenant and the full, faithful and punctual performance by Tenant of all the terms, provisions and conditions of the Lease, together with interest or late charges on all of the foregoing as provided in the Lease and all other costs and expenses of collection (all of the foregoing sometimes hereinafter referred to as the "Obligations").

2. **No Discharge** - This Guaranty by Guarantor shall continue for the benefit of Landlord notwithstanding (a) any extension, modification, amendment or alteration of the Lease entered into by Tenant, (b) any assignment of the Lease, with or without the consent of Landlord, (c) any bankruptcy, reorganization, or insolvency of Tenant or any successor or assignee thereof, or (d) any release, extension or modification of the liability of Tenant or any other party liable under the Lease or any other guaranty of the Lease. This Guaranty shall in all respects be a continuing, absolute and unconditional guaranty of payment and performance and shall remain in full force and effect notwithstanding, without limitation, the death or incompetency of Guarantor or Tenant, or any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Guarantor or Tenant or by any defense which Tenant may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

3. Primarily Liable - This Guaranty is a guaranty of payment and not of collection. The liability of Guarantor under this Guaranty shall be joint and several and primary and direct and in addition to any right of action which shall accrue to Landlord under the Lease. Landlord shall have the right, at its option, to proceed against Guarantor (or any one or more parties constituting Guarantor) without having commenced any action, or having obtained any judgment, against Tenant or any other party liable under the Lease or any other guaranty of the Lease.

4. Default - In the event of a default by Tenant under the Lease, Landlord shall have the right to enforce its rights, powers and remedies under the Lease, any other guaranty of the Lease, and under this Guaranty and all rights, powers and remedies available to Landlord shall be non-exclusive and cumulative of all other rights, powers and remedies under the Lease, any other guaranty of the Lease or under this Guaranty or by law or in equity. The obligations of Guarantor hereunder are independent of the obligations of Tenant or any other guarantor, and Landlord may proceed directly to enforce all rights under this Guaranty without proceeding against or joining Tenant, any other guarantor or any other person or entity. Until all of the Obligations have been performed and paid in full, Guarantor shall have no right of subrogation to Landlord, and Guarantor hereby waives any rights to enforce any remedy which Landlord may have against Tenant.

5. Waivers - Guarantor expressly waives and agrees not to assert or take advantage of: (a) the defense of the statute of limitations in any action hereunder or in any action for collection of the Obligations, (b) any defense that may arise by reason of the failure of the Landlord to file or enforce a claim against Guarantor or Tenant in bankruptcy or in any other proceeding, (c) any defense based on the failure of Landlord to give notice to Guarantor of the creation, existence or incurring of any new obligations or on the action or non-action of any person or entity in connection with the Obligations, (d) any duty on the part of Landlord to disclose to Guarantor any facts it may know or may hereafter acquire regarding Tenant, (e) any defense based on lack of diligence on the part of Landlord in the collection of any and all of the Obligations, or (f) any demand for payment, presentment, notice of protest or dishonor, notice of acceptance of this Guaranty and any and all other notices or demands to which Guarantor might otherwise be entitled by law.

6. Subordination; Waiver of Subrogation; Preference and Fraudulent Transfer Indemnity. After a default under the Lease, any indebtedness (including, without limitation, interest obligations but excluding trade receivables and trade payables accruing in the ordinary course of business for fair value) of Tenant to Guarantor now or hereafter existing shall be deferred, postponed and subordinated to the Obligations. Subject to the limitation on survival hereinafter set forth, Guarantor hereby unconditionally and irrevocably agrees that (a) Guarantor will not at any time assert against Tenant (or Tenant's estate in the event Tenant becomes bankrupt or becomes the subject of any case or proceeding under the bankruptcy laws of the United States of America) any right or claim to indemnification, reimbursement, contribution or payment for or with respect to any and all amounts Guarantor may pay or be obligated to pay Landlord, including, without limitation, any and all Obligations which Guarantor may perform, satisfy or discharge, under or with respect to this Guaranty; (b) Guarantor waives and releases all such rights and claims and any other rights and claims to indemnification, reimbursement, contribution

or payment which Guarantor, or any of them, may have now or at any time against Tenant (or Tenant's estate in the event Tenant becomes bankrupt or becomes the subject of any case or proceeding under any bankruptcy laws); (c) Guarantor shall have no right of subrogation, and Guarantor waives any right to enforce any remedy which Landlord now has or may hereafter have against Tenant; (d) Guarantor waives any benefit of, and any right to participate in, any security now or hereafter held by Landlord; and (e) Guarantor waives any defense based upon an election of remedies by Landlord which destroys or otherwise impairs any subrogation rights of Guarantor or the right of Guarantor to proceed against Tenant for reimbursement. The waivers hereunder shall continue and survive only until the ninety first (91st) day after the Obligations are satisfied in full, provided Tenant has not filed a petition or had a petition filed against it under any present or future section or chapter of the United States Bankruptcy Code during the ninety (90) day period following the date on which the Obligations are so satisfied in full (in which event the same shall survive without limitation). Guarantor further hereby unconditionally and irrevocably agrees and guarantees (on a joint and several basis) to make full and prompt payment to Landlord of any of the Obligations or other sums paid to Landlord pursuant to the Lease which Landlord is subsequently ordered or required to pay or disgorge on the grounds that such payments constituted an avoidable preference or a fraudulent transfer under applicable bankruptcy, insolvency or fraudulent transfer laws; and Guarantor shall fully and promptly indemnify Landlord for all costs (including, without limitation, attorney's fees) incurred by Landlord in defense of such claims of avoidable preference or fraudulent transfer.

7. Choice of Law - This Guaranty is to be performed in the State of Mississippi and shall be governed by and construed in accordance with the laws of the State of Mississippi, without regard to its conflicts laws or choice of law rules.

8. Time of Essence - Time is of the essence of this Guaranty.

9. Notices - Wherever any notice or other communication is required or permitted hereunder, such notice or other communication shall be in writing and shall be delivered by hand, or by nationally-recognized overnight express delivery service, by U. S. registered or certified mail, return receipt requested, postage prepaid to the addresses set out below or at such other addresses as are specified by written notice delivered in accordance herewith:

Landlord: Stateline J, LLC
c/o IDI Gazeley
1100 Peachtree Street, Suite 1000
Atlanta, Georgia 30309
Attn: Director – Lease Administration

Guarantor: PFSWeb, Inc.
505 Millennium Dr.
Allen, TX 75013
Attn: Chief Financial Officer

Any notice or other communication mailed as hereinabove provided shall be deemed effectively given (a) on the date of delivery, if delivered by hand; or (b) on the date mailed if sent by overnight express delivery or if sent by U.S. mail. Such notices shall be deemed received (a) on the date of delivery, if delivered by hand or overnight express delivery service; or (b) on the date indicated on the return receipt if mailed. If any notice mailed is properly addressed but returned for any reason, such notice shall be deemed to be effective notice and to be given on the date of mailing.

10. Authority - Guarantor is authorized by all required corporate or partnership action to enter into this Guaranty and the individual(s) signing this Guaranty on behalf of Guarantor are each authorized to bind Guarantor to its terms.

11. Successors and Assigns - This Guaranty shall be binding upon and inure to the benefit of the parties hereto and their heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, Guarantor has executed under seal and delivered this Guaranty to Landlord on the date and year above first written.

GUARANTOR:

PFSWEB, INC., a Delaware corporation

By: _____

Name: _____

Title: _____

Attest: _____

Name: _____

Title: _____

[CORPORATE SEAL]

DEED OF SUB-LEASE

THIS DEED OF SUB-LEASE (“**Sub-Lease**”) is made and executed at Bengaluru on this the **31st day of December, 2015 (31/12/2015)**:

BY AND BETWEEN:

MILESTONE BUILDCON PRIVATE LIMITED, a company incorporated under the Companies Act, 1956 having its registered office at E-52, New Manglapuri, Mandi Road (Mehrauli), New Delhi – 110 030, and its corporate office at No. 100/1, Ground Floor, Anchorage-1, Richmond Road, Bengaluru – 560 025, duly represented by its Authorized Signatory, Mr. G. Raghavan, hereinafter referred to as the “**Sub-Lessor**” (which expression shall, unless excluded by or repugnant to the subject or context thereof, be deemed to mean and include its successors and assigns) of the ONE PART;

AND:

PFSWEB GLOBAL SERVICES PRIVATE LIMITED, a company incorporated under the Companies Act, 2013, having its registered office at PRESTIGE AL-KAREEM, No. 3, Edward Road, Civil Station, Corporation Division No. 72, Bangalore – 560 052, duly represented by its Authorised Signatory and Managing Director, Mr. Malahara Raju Pinnelli, hereinafter referred to as the “**Sub-Lessee**” (which expression shall, unless excluded by or repugnant to the subject or context thereof, mean and include its successors and permitted assigns) of the OTHER PART.

(The Sub-Lessor and the Sub-Lessee shall, wherever the context may hereinafter so require, be individually referred to as a “Party” and collectively as the “Parties”).

W H E R E A S

- A. The Sub-Lessor holds the leasehold rights and is in occupation and enjoying the long term lease of 29 years in respect of the land measuring about 25 Acres 7 Guntas situated at and comprised in Sy. Nos. 32/1(p), 35(p), 37, 38(p), 39(p), 40, 41(p) & 44(p) of Chokkanahalli Village, Thanisandra Main Road, Chokkanahalli, Bengaluru – 560 064, Karnataka (presently being part of BBMP Khata No. 6/2), through a registered lease document executed between Bhartiya City Developers Pvt. Ltd. (formerly known as Zigma Land Developers Pvt. Ltd.) and the Sub-Lessor vide Lease Deed dated 01/08/2010, and registered on 28/08/2010 as Document Number 2425/2010-11 and stored in CD No. BYPD53 at the office of the Sub-Registrar, Byatarayanapura, Bengaluru; and as confirmed vide Deed of Confirmation cum Rectification dated 27/11/2012, and registered on 28/11/2012 as Document Number 1701/2012-13 and stored in CD No. GNRD58 at the office of the Sub-Registrar,

Gandhinagar, Bengaluru; and more fully described in the “**Schedule-A**” hereunder written and hereinafter referred to as the “**Said Land**”.

- B. The Said Land has been notified as sector specific IT/ ITES Special Economic Zone (“**SEZ**”) vide Notification Number S.O. 2344(E) dated 27th September 2010; and Approval Number F.1/252/2007-SEZ dated 30/10/2008 issued by the Department of Commerce (SEZ Section), Ministry of Commerce and Industry, Government of India.
- C. The registered lease document executed between the Sub-Lessor and Bhartiya City Developers Pvt. Ltd. vide Lease Deed dated 01/08/2010, registered as Document Number 2425/2010-11 and stored in CD No. BYPD53 at the office of the Sub-Registrar, Byatarayanapura, Bengaluru, permits the Sub-Lessor to sub-lease the Said Land or the construction put up thereon and the Sub-Lessor has all legal rights to enter into this Deed of Sub-lease.
- D. The Sub-Lessor represents that under the aforesaid Lease Deed dated 01/08/2010, it has the right to construct commercial buildings in and upon the Said Land and to sub-lease the same to prospective occupiers, for IT/ ITES SEZ businesses and related services and amenities.
- E. The Sub-Lessor has constructed a building known as “Block 1” on the Said Land for IT/ ITES SEZ businesses and related services and amenities (hereinafter referred to as the “**Building**”); and the Said Land along with all constructed and proposed buildings to be constructed thereon are hereinafter collectively referred to as Bhartiya Centre of Information Technology or BCIT (also referred to as the “**Project**” herein).
- F. The Sub-Lessor and the Sub-Lessee have entered into a Letter of Intent (‘LOI’) dated 04/11/2015, and pursuant to the said LOI, the Sub-Lessor having complied with its obligations therein, the Sub-Lessor has agreed to give on Sub-Lease and the Sub-Lessee has agreed to take on Sub-Lease the entire 8th floor of the Building, admeasuring 57,090 (fifty seven thousand and ninety only) square feet of Super Built Up Area (defined below) and Carpet Area (defined below) of 80% of the Super Built-up Area (hereinafter referred to as the “**Premises**”), together with exclusive right to use of 88 (eighty eight) Car Parking Spaces in the basement of the said Building, and more fully described in the “**Schedule-B**” herein under. The Floor Plan of the Premises is annexed hereto as **Annexure-A**.
- G. The Parties are executing this Deed of Sub-Lease to reduce the agreed terms and conditions in respect of the Sub-Lease of the Premises in writing, superseding all previous writings, agreements or arrangements or any oral understanding or correspondence leading to any arrangement/ agreement in respect of this transaction including under the Letter of Intent (‘LOI’) dated 04/11/2015.

NOW THIS DEED OF SUB-LEASE WITNESSETH AS FOLLOWS:

1. DEFINITIONS

Unless the context herein otherwise provides, the following terms shall have the meanings assigned to such terms hereunder:

- 1.1. “**Affiliates**” shall mean any group company, holding or subsidiary company, any transferee companies which have resulted from a merger and with respect to any entity, any company, corporation, association or other entity, which, directly or indirectly, controls, is controlled by or is under common control with such entity, such control being exercised by the controlling entity through its ability to direct the management and policies of the controlled entity through ownership of voting shares of the controlled entity;
- 1.2. “**Appropriate Authority**” shall mean and include the Karnataka Industrial Areas Development Board, Bangalore Development Authority, Bruhat Bengaluru Mahanagara Palike, Bangalore Water Supply & Sewerage Board (BWSSB), Bangalore Fire Services Department, Airports Authority of India, Telecommunication Department, Bangalore Electric Supply Company Limited (BESCOM), Karnataka State Electrical Inspectorate and/or any other government and or semi-government authorities/ agencies/ departments including any and all authorities/ agencies/ departments of or constituted by local, state and central government and or under any legislation, ordinance, etc. and or any judicial or quasi judicial authority as may be applicable;
- 1.3. “**Applicable Laws**” means any and all laws, rules, regulations, ordinances, orders, directives, codes, judgments, decrees, injunctions, determinations, awards, permits, licenses, authorizations, directives, rulings of, agreements with, or by any commission, court or other government or regulatory authority, instrumentality or forum, whether central, state, local, municipal or judicial, as may be applicable from time to time and shall include the SEZ Laws;
- 1.4. “**Building**” shall have the meaning ascribed to the term in Recital E;
- 1.5. “**Business Day(s)**” shall mean a day other than Sunday on which scheduled commercial banks are open for normal banking business in Bangalore;
- 1.6. “**Car Parking Spaces**” shall mean 88 (eighty eight) car parking spaces based on a ratio of 1 car parking space per 650 square feet of Super Built Up Area of the Premises;

- 1.7. “**Car Parking Charges**” shall mean the monthly consideration payable by the Sub-Lessee for the use of the Car Parking Spaces provided by the Sub-Lessor to the Sub-Lessee as detailed in Clause 6.2 below;
- 1.8. “**Carpet Area**” shall mean the entire office area on each floor of the Building between the external walls of the office units, including column spaces, any dedicated air handling unit rooms, toilet areas and other dedicated areas (such as electrical and telecom rooms) but shall not include open terraces and basement areas for car parking and shall be not less than 80% of the Super Built Up Area on a full floor basis;
- 1.9. “**Common Areas**” shall collectively mean the Common Areas of the Building and the Common Areas of the Project;
- 1.10. “**Common Areas of the Building**” shall refer to all areas and facilities located or installed within or affixed to the Building, which are installed and provided by the Sub-Lessor at its own expense and designated by the Sub-Lessor for the general use and convenience of all, some or one of the sub-lessees in the Building, their respective clients, employees, customers and guests including the areas and facilities such as corridors, hallways, elevators and elevator lobby, equipment rooms, DG room, Electrical room, STP room, etc.;
- 1.11. “**Common Areas of the Project**” shall refer to all areas and facilities located or installed outside of the Building, but within the Said Land which are installed and provided by the Sub-Lessor at its own expense and designated by the Sub-Lessor for the general use and convenience of all, some or one of the sub-lessees in the Project, their respective clients, employees, customers and guests including the areas and facilities such as food court, utility block, landscaping, sports area, internal roads;
- 1.12. “**Communications Equipment**” shall mean communications devices (including but not limited to satellite dishes, radio masts and other equipment to receive and transmit messages and information) and related equipment and cabling to be installed by the Sub-Lessee;
- 1.13. “**Deed of Sub-Lease**” shall mean this Deed of Sub-Lease and annexures and/or schedules attached hereto and any amendments hereto, to be executed between the Parties;
- 1.14. “**Encumbrance**” shall mean (i) a security interest of whatsoever kind or nature including any mortgage, charge (whether fixed or floating), pledge, lien (including negative lien), hypothecation, assignment, deed of trust, title retention, or other encumbrance of any kind securing, or conferring any priority of payment in respect of, any obligation of any Person including without limitation, any right granted by a transaction which, in legal

terms, is not the granting of security but which has an economic or financial effect similar to the granting of security under Applicable Laws, (ii) any voting agreement, interest, option, right of first offer, or refusal or transfer restriction in favour of any Person, and (iii) any adverse claim as to title, possession, access or use;

- 1.15. “**Maintenance Agency**” shall mean the designated authorized agent in relation to the operations and maintenance of BCIT and other related facilities nominated by the Sub-Lessor;
- 1.16. “**Force Majeure**” shall have the meaning ascribed to the term under Clause 31;
- 1.17. “**Initial Term**” shall have the meaning ascribed to the term in Clause 4.1;
- 1.18. “**Lock-in Period**” shall have the meaning ascribed to it in Clause 5.1;
- 1.19. “**Maintenance Agreement**” or “**Agreement for Services**” shall mean the maintenance agreement of even date executed between the Sub-Lessee, Sub-Lessor and the Maintenance Agency;
- 1.20. “**Maintenance Charges**” shall have the meaning ascribed to the term in the Maintenance Agreement or Agreement for Services, which charges are required to be paid to the Maintenance Agency;
- 1.21. “**Maintenance Services**” shall mean the maintenance services to be provided by the Maintenance Agency as detailed in the Maintenance Agreement;
- 1.22. “**Normal Working Hours**” shall mean normal working hours of the Sub-Lessee being from Monday to Friday between 9 AM to 6 PM;
- 1.23. “**Occupancy Certificate**” shall mean the certificate issued by the Bruhat Bengaluru Mahanagara Palike or such other Appropriate Authority to occupy the Building including the Premises, confirming that the Building has been built in accordance with the plans sanctioned by that authority with such permitted changes as may be recorded in the said Occupancy Certificate;
- 1.24. “**Project**” shall have the meaning ascribed to the term in Recital E;
- 1.25. “**Rent**” shall mean the monthly consideration payable by the Sub-Lessee to the Sub-Lessor, being the sum of the Warm Shell Rent (*defined below*) and Car Parking Charges;
- 1.26. “**Rent Commencement Date**” shall mean June 01, 2016;

- 1.27. **“Renewal Term”** shall have the meaning ascribed to the term in Clause 4.2;
- 1.28. **“Security Deposit”** shall mean the interest free refundable security deposit to be paid by the Sub-Lessee to the Sub-Lessor as per Clause 7.1 hereof;
- 1.29. **“SEZ”** shall have the meaning ascribed to the term in Recital B;
- 1.30. **“SEZ Laws”** shall have a collective reference to the Special Economic Zone Act, 2005 and amendments thereto and the Special Economic Zone Rules, 2006 and any amendments thereunder;
- 1.31. **“Sub-Lessor”** shall mean MILESTONE BUILDCON PRIVATE LIMITED, its directors, employees and/ or authorized representatives and authorized agents.
- 1.32. **“Sub-Lessee”** shall mean PFSWEB GLOBAL SERVICES PRIVATE LIMITED, its directors, employees and/ or authorized representatives and authorized agents.
- 1.33. **“Sub-Lease Commencement Date”** shall mean January 01, 2016;
- 1.34. **“Sub-Lessee’s Improvements”** shall mean the fit outs that are or to be installed or affixed in the Premises by the Sub-Lessee, which are in the nature of interiors done by the Sub-Lessee and belonging to the Sub-Lessee;
- 1.35. **“Super Built Up Area”** shall in respect of the Premises mean: (i) the built up area of the Premises including walls and external finish; (ii) the staircases, balconies and sit outs, if any, in the Building; (iii) the proportionate share in all the Common Areas, amenities & services of the Building and Utility Block; and (iv) amenities & services provided in the terrace floor of the Building, terrace areas, basements, stilt floors and parking spaces (but includes the service areas);
- 1.36. **“Term”** shall mean the Initial Term stated in Clause 4.1 and shall include the Renewal Term/s stated in Clause 4.2, if the Sub-Lessee exercises its renewal option;
- 1.37. **“Utilities”** shall mean the supply of raw power, back-up power, HVAC cold water supply, water supply to the Premises as provided in Clauses 12 and 13;
- 1.38. **“Utilities Charges”** shall mean the charges payable by the Sub-Lessee for the use of Raw Power, Backup Power, Power of HVAC, exclusive use of water in the Sub-Lessee’s cafeteria, etc. as provided in Clause 12 and Clause 13.1 herein below;
- 1.39. **“Warm Shell Condition”** shall mean High Side air conditioning, Air Handling Units (AHUs), electric power supply of up to 1 kVA per 100 sq. ft. of Super Built Up Area including HVAC and related services loads and common area loads, along with 100%

power back up through diesel generators (DG), finished toilets, floor screed and internal wall plastering and the Warm Shell Specifications;

- 1.40. **“Warm Shell Rent”** shall mean the monthly consideration payable by the Sub-Lessee for Sub-Lease of the Premises as detailed in Clause 6.1 below; and
- 1.41. **“Warm Shell Specifications”** shall mean the specifications as per **Annexure-B** attached hereto for the Premises and the Building.

2. INTERPRETATION

In construing this Deed of Sub-Lease:

- 2.1. the headings are inserted for ease of reference only and shall not affect the construction or interpretation of this Deed of Sub-Lease; and
- 2.2. time is of the essence in the performance of the Parties’ respective obligations and if any time period specified herein is extended in writing by the Parties, such extended time shall also be of the essence; and
- 2.3. references to one gender include all genders; and
- 2.4. words in the singular shall include the plural and vice versa; and
- 2.5. references to an “agreement” including this Deed of Sub-Lease or “document” shall be construed as a reference to such agreement or document as the same may have been amended, varied, supplemented or novated in writing at the relevant time in accordance with the requirements of such agreement or document and, if applicable, of this Deed of Sub-Lease with respect to amendments; and
- 2.6. unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by including the day on which the period commences and including the day on which the period ends and by extending the period to the following Business Day if the last day of such period is not a Business Day; and
- 2.7. unless otherwise specified, whenever any payment is to be made or action taken under this Deed of Sub-Lease is required to be made or taken on a day other than a Business Day such payment shall be made or action taken on the next Business Day; and
- 2.8. the words “include”, “including”, “for example” or “such as” are not used as, nor is it to be interpreted as, a word of limitation and when introducing an example, do not limit the meaning of the words to which the examples of a similar kind apply; and

- 2.9. reference to any Applicable Laws includes a reference to such Applicable Laws as amended or re-enacted from time to time, and any rule or regulation promulgated there under; and
- 2.10. the terms “herein”, “hereof”, “hereto”, “hereunder” and words of similar purport refer to this Deed of Sub-Lease as a whole; and
- 2.11. any consents to be given by the Parties pursuant to or in accordance with this Deed of Sub-Lease unless otherwise provided in this Deed of Sub-Lease shall be at the sole discretion of such Party and shall always be in writing; and
- 2.12. no provisions of this Deed of Sub-Lease shall be interpreted in favour of, or against, any Party by reason of the extent to which such Party or its counsel participated in the drafting hereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof; and
- 2.13. the provisions of this Deed of Sub-Lease shall be read and interpreted in conjunction with the schedules and annexures hereto. However, in the event of there being an inconsistency in the interpretation of the provisions of this Deed of Sub-Lease and the schedules or annexures, the terms of this Deed of Sub-Lease shall take precedence.

3. GRANT OF SUB-LEASE

- 3.1. **Sub-Lease of Premises.** In consideration of the Sub-Lessee paying the Rent hereby reserved and complying with the terms of this Deed of Sub-Lease, including making payments of all charges hereunder, the Sub-Lessor hereby grants on Sub-Lease to the Sub-Lessee, and the Sub-Lessee hereby takes on Sub-Lease from the Sub-Lessor, the Premises for the Initial Term (as defined herein). The Sub-Lessor hereby confirms that possession of the Premises shall be handed over by the Sub-Lessor to the Sub-Lessee on or before the Sub-Lease Commencement Date in the Warm Shell Condition.
- 3.2. **Car Parking Spaces.** The Car Parking Spaces for the Premises are for the exclusive use of the Sub-Lessee at all times during the Term. The Car Parking Spaces are a total of 88 (eighty eight) nos., located in the basement of the Building and identified on the Floor Plan annexed hereto as **Annexure-A-1**. The Car Parking Spaces shall be utilized only for parking of four-wheeler and two-wheeler vehicles and for no other purpose. If any Car Parking Space is being used for parking two wheeler vehicles the same shall be as per the provision of Applicable Laws. Each Car Parking Space measures approximately 2.4 meters in width by 4.2 meters in length. The Sub-Lessor shall not be responsible for damage or loss to possessions or items left in Sub-Lessee’s vehicles or

any damage to Sub-Lessee's vehicles, whether or not such damage is caused by other vehicle(s) or person(s) in the parking lot.

4. DURATION OF SUB-LEASE

4.1. **Initial Term.** The Sub-Lease of the Premises will commence on the Sub-Lease Commencement Date and end 5 (five) years thereafter (the "**Initial Term**").

4.2. **Renewal Term.** The Sub-Lessee may, at its sole option, renew the Sub-Lease of the Premises for one (1) additional period of 5 (five) years (such additional period is hereinafter referred to as the "**Renewal Term**"). In order for the Sub-Lessee to exercise this option of renewal, the Sub-Lessee will be required to give the Sub-Lessor written notice of the Sub-Lessee's intention to renew the Sub-Lease, six (6) months prior to the expiry of the Initial Term. On the Sub-Lessee having notified the Sub-Lessor of such intent to renew the Sub-Lease, the Sub-Lessor and the Sub-Lessee shall renew the Sub-Lease of the Premises by executing a fresh deed of Sub-Lease for the Renewal Term. Save and except with respect to the increase in the Warm Shell Rent, the Sub-Lease of the Premises during the Renewal Term will be on identical terms as provided in this Deed of Sub-Lease. There shall not be any Lock-in Period obligation for the Renewal Term. It is categorically agreed to between the Parties that such renewal shall only be validly operational and come into effect only upon execution of a fresh deed of Sub-Lease. The Sub-Lessee should however endeavor to register such fresh deed of Sub-Lease before the Sub-Lease commencement date of the Renewal Term.

5. LOCK-IN PERIOD

5.1. The Parties hereby agree that neither the Sub-Lessor nor the Sub-Lessee shall be entitled to terminate this Deed of Sub-Lease during the first 3 (three) years from the Sub-Lease Commencement Date (the "**Lock-in Period**"), save and except as provided in Clause 27 below.

5.2. If the Sub-Lessee terminates the Sub-Lease during the Lock-in Period for reasons other than those provided for in Clauses 27.2, 27.4 and 29, or the Sub-Lease is terminated by the Sub-Lessor as provided in Clauses 27.6 and 27.7, the Sub-Lessee shall become liable to pay the Rent payable for the remainder of the Lock-in Period as liquidated damages which have been agreed between the Parties hereto as pre-determined damages that would be suffered by the Sub-Lessor and neither the Sub-Lessor nor the Sub-Lessee shall question the quantum of such liquidated damages. It is expressly agreed between the Parties that no Lock-in Period shall be applicable during the Renewal Term.

6. RENT

- 6.1. **Warm Shell Rent.** From the Rent Commencement Date, the Sub-Lessee agrees to pay the Sub-Lessor, subject to statutory deductions, warm shell rent per month for sub-lease of the Premises calculated at Rs. 42.00/- (Rupees Forty Two) per square foot of the Super Built Up Area per month ("**Warm Shell Rent**") and subject to escalation in Rent as defined in Clause 6.5 herein below.
- 6.2. **Car Parking Charges.** The Sub-Lessee shall, commencing from the Rent Commencement Date, pay to the Sub-Lessor car parking charges of Rs. 2,500.00/- (Rupees Two Thousand Five Hundred Only) per Car Parking Space per month (the "**Car Parking Charges**"). It is clarified that the Car Parking Charges shall not escalate during the Initial Term or the Renewal Term.
- 6.3. **Payment of Rent.** The Rent shall be paid monthly in advance on or before the fifth (5th) day of each calendar month in respect of which the Rent is due. The Sub-Lessee shall commence payment of Rent from the Rent Commencement Date. The Sub-Lessor shall issue an invoice to the Sub-Lessee on or before 1st day of every month during the Initial Term.
- 6.4. **Pro rata Payment.** If the Rent Commencement Date is other than the first (1st) day of a calendar month, then the Rent for such partial month shall be prorated on a daily basis, based on the actual number of days remaining in such month and shall be payable on the Rent Commencement Date.
- 6.5. **Escalation.** The Parties hereby agree that the Warm Shell Rent payable shall stand escalated at the rate of 15% (fifteen percent) over the last paid Warm Shell Rent at the end of every 3 (three) years commencing from the Sub-Lease Commencement Date. It is clarified that the Car Parking Charges shall not be subject to any escalation during the Term. The payment of Rent and the escalation of the Warm Shell Rent are detailed in Annexure-C.

7. SECURITY DEPOSIT

- 7.1. **Security Deposit.** The Sub-Lessee shall pay to the Sub-Lessor an interest free refundable security deposit equivalent to 9 (nine) months' Warm Shell Rent, amounting to Rs. 2,15,80,020.00/- (Rupees Two Crores Fifteen Lakhs Eighty Thousand and Twenty Only), simultaneously with the execution of this Deed of Sub-Lease, receipt of which shall be acknowledged by the Sub-Lessor in writing. It is clarified that the Security Deposit shall not escalate during the Initial Term or any Renewal Term.

7.2. **Refund of Security Deposit.** On the expiry or earlier termination of the Sub-Lease of the Premises, the Sub-Lessor shall, within seven (07) days of the Sub-Lessee delivering physical and vacant possession of the Premises to the Sub-Lessor, refund the Security Deposit to the Sub-Lessee, subject to adjustments of any notified arrears of Rent and or Utilities Charges and/or Maintenance Charges, payable by the Sub-Lessee under this Deed of Sub-Lease or Maintenance Agreement or towards any undisputed damages to the Premises due to Sub-Lessee's acts of omission or commission (normal wear and tear, damage by Force Majeure, and damage by third parties but not being the agents, employees, director or anyone claiming through the Sub-Lessee, exempted) or due to any other valid claims of the Sub-Lessor which are acknowledged and agreed to in writing by the Sub-Lessee. It is clarified that starting from thirty (30) days prior to vacation of the Premises by the Sub-Lessee, the Sub-Lessor shall have a right to visit and inspect the Premises in order to assess the damages caused to the Premises, if any. This right of Sub-Lessor is imperative to the Sub-Lessor being able to refund the Security Deposit within seven (07) days of the Sub-Lessee delivering physical and vacant possession of the Premises as provided for hereinabove.

7.3. **Failure to refund the Security Deposit.** If the Sub-Lessor fails to refund the Security Deposit in terms of Clause 7.2 above, the Sub-Lessor shall become liable to pay interest calculated at the rate of 1.5% per month on the amounts due towards the Security Deposit from the date of the same becoming due till the date of payment or realization. In addition to the payment of interest, the Sub-Lessee shall hold back / retain possession the Premises without the payment of any Rent or any Utility Charges including Maintenance Charges from the date of expiry of the Initial Term or the earlier termination of the Sub-Lease of the Premises, up to the date of actual repayment of the amounts toward the Security Deposit along with interest as aforesaid. This is without prejudice to the rights of the Sub-Lessee to initiate any recovery proceedings. Such retaining of possession of the Premises by the Sub-Lessee shall not constitute a default by the Sub-Lessee of this Deed of Sub-Lease. Notwithstanding the aforesaid, (i) if the Sub-Lessee uses the Premises for its business operations during such period that the amounts towards the refund of the Security Deposit are not being refunded by the Sub-Lessor, then the Sub-Lessee shall be liable to pay only the Utility Charges and the Maintenance Charges but no Rent; and (ii) it is expressly recorded and mutually agreed that the provisions of this Clause do not and shall not be construed or deemed to extend the duration of the Term, or in any way affect or prejudice the rights of the Sub-Lessee for recovery of the Security Deposit in terms above.

8. TAX DEDUCTIONS

8.1. The Sub-Lessee shall deduct tax at source as may be applicable under the Applicable Laws on all payments which are payable to the Sub-Lessor. The Sub-Lessee shall

provide tax deduction at source certificates to the Sub-Lessor on a quarterly basis for each financial year.

9. PAYMENT OF TAXES

9.1. **Property Tax.** The Sub-Lessor agrees that it will be solely liable to pay all past, present and future rates, taxes, cesses, assessments and other outgoings with respect to the Premises, the Building and the Said Land, including but not restricted to, land tax, building tax, corporation and house tax, property tax and municipal tax (“**Property Taxes**”) as applicable. In case of default in payment of Property Taxes and if the same is demanded from the Sub-Lessee, the Sub-Lessee at its discretion shall pay and recover such amounts by deducting from the immediate Rent payable by the Sub-Lessee.

9.2. **Taxes on Rent and Utilities Charges paid by the Sub-Lessee under the Deed of Sub-Lease.** Any tax in the nature of service tax, VAT or lease tax or Goods and Service Tax as may be applicable which is incidental on the payment of Rent and Utility Charges other than: (i) income tax or any company/ corporate taxes which may be directly levied upon the Sub-Lessor whatsoever; or (ii) Property Tax as set out in Clause 9.1 above, shall be paid by the Sub-Lessee along with the Rent and Utilities Charges.

10. SUB-LESSOR’S REPRESENTATIONS AND WARRANTIES

10.1 The Sub-Lessor represents, warrants and covenants as under:

- (a) The Sub-Lessor (i) holds legal and valid leasehold rights in respect of the Said Land, Building and the Premises, having valid right, title and interest to the Said Land, Building and the Premises as mentioned in the Recitals C and D; (ii) has the absolute right, authority and power to grant a Sub-Lease of the Premises in favour of the Sub-Lessee upon the terms and conditions herein contained; (iii) that there are no legal impediments of any nature whatsoever in sub-leasing the Premises in favour of the Sub-Lessee; (iv) that the Sub-Lessee will be ensured uninterrupted, quiet, peaceful, physical, vacant and legal possession of the Premises during the Term; and (v) that Sub-Lessor is entitled to develop the Said Land, construct the Project and the Building on the Said Land and let out the Premises to the Sub-Lessee on Sub-Lease basis.
- (b) The Building (including the Premises) has been constructed pursuant to and as per: (i) the plan sanctioned by the concerned local /municipal authorities; and (ii) the Warm Shell Specifications.
- (c) Other than this Deed of Sub Lease, the Sub-Lessor has not entered into any memorandum of understanding or arrangement or agreement of any nature

whatsoever, oral or written with any third party in respect of the Premises for leasing or occupation. The Sub-Lessor has not given any other tenants expansion options, rights of first refusal with respect to the Premises or any part thereof.

- (d) The Sub-Lessor is in receipt of the final fire clearance certificate and the Occupancy Certificate from the Appropriate Authority, a copy of which has been provided to the Sub-Lessee.
- (e) The Sub-Lessor agrees to indemnify the Sub-Lessee, its directors, employees and or agents and keep them harmless during the Sub-Lease period against any demands, claims, actions or proceedings that may be initiated against the indemnified persons due to non-receipt of any approvals from the applicable local authorities and/ or the SEZ authorities resulting in the Sub-Lessee being restricted in any manner from occupying the Premises peacefully and as contemplated in this Deed of Sub-Lease.
- (f) All approvals, consents and permissions necessary under the Applicable Laws for the occupation and use of the Premises have been obtained by the Sub-Lessor and the Premises can be legally used and occupied by the Sub-Lessee for IT/ITES purpose in accordance with SEZ Laws. A copy of the Occupancy Certificate in respect of the Building (including the Premises) has been obtained in accordance with the Applicable Laws has been provided to the Sub-Lessee by the Sub-Lessor. The Premises can be legally used and occupied by the Sub-Lessee from the Sub-Lease Commencement Date.
- (g) There exist no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or any process issued by any court or authority including the competent authority under the Income Tax Act, 1961 or other proceedings whatsoever relating to the Premises or the Building.
- (h) The Sub-Lessor represents that the Said Land including the land underlying the Building has been notified as a SEZ under the SEZ Laws and there is no impediment for Sub-Lessee to use the Premises in the Building constructed thereon for IT/ITES purposes and to avail the benefits under the provisions of the SEZ Laws.
- (i) The Lessee, its agents, representatives, employees and guests shall have unrestricted, unlimited and unimpaired access and the use of, the Premises at all times subject to adherence of all Bye-Laws framed by the Sub-Lessor, during the day or the night for all the 365 days, that is, 24 hours a day, 7 days-a-week basis during the entire Initial Term and the Renewal Term.

- (j) The electricity, water and sewerage connections will be provided to the Premises before the start of business operation of the Sub-Lessee and each such connection shall be fully functional.
- (k) The Sub-Lessor shall be liable and pay all Property Taxes at all times.
- (l) The Sub-Lessee, on paying the Rent, Utilities Charges, Maintenance Charges on the respective due dates thereof and in the manner herein provided and on observing and performing the covenants, conditions and stipulations contained in this Deed of Sub-Lease and on its part being observed and performed, shall be entitled to unimpeded, quiet, peaceful possession, use and occupation of the Premises at all times during the Term, without any let, obstruction, eviction, interruption and/or disturbance, claim and demand whatsoever by the Sub-Lessor or any person or persons lawfully or equitably claiming by, from, under or in trust for them.
- (m) The Sub-Lessor shall keep and maintain the Premises in wind and water tight condition and shall maintain the water and sanitary pipes, electric wiring, for the Premises in good condition. AHUs once handed over to the Sub-Lessee shall be maintained by the Sub-Lessee at its cost including the cost towards the annual maintenance charges.
- (n) The Sub-Lessor has passed all the required resolutions for the execution of this Deed of Sub-Lease. A certified copy of the authorizing resolutions has been provided by the Sub-Lessor to the Sub-Lessee.
- (o) The Sub-Lessor shall ensure that the development of the remaining portions of the Project will not affect the peaceful enjoyment of the Premises and rights of the Sub-Lessee and its occupants at the Premises. The Sub-Lessor shall ensure that the least possible inconvenience is caused to the Sub-Lessee, in the course of the development of the remaining portions of the Project.
- (p) The Sub-Lessor shall, within a period of 5 (five) years from the Sub-Lease Commencement Date, provide a common food court, fitness centre and other common amenities to all the occupants of the Project as part of the Common Areas of the Project.

10.2 The Sub-Lessee, based on the Sub-Lessor's representations and warranties in this Clause, has entered into this Deed of Sub-Lease. Further, the Sub-Lessor agrees that during the Term, if any of the representations and warranties mentioned in Clause 10.1 directly affecting the use of the Premises is found to be misleading, invalid or untrue, then notwithstanding the rights of the Sub-Lessee as contained in this Deed of Sub-Lease, the Sub-Lessor will intimate the Sub-Lessee of the same within 7

(seven) days of the applicable representation or warranty becoming invalid or untrue.

11. SUB-LESSEE'S REPRESENTATIONS AND WARRANTIES

11.1. The Sub-Lessee represents and warrants the following:

- (a) The Sub-Lessee shall, from the Rent Commencement Date, pay the Rent on its due date without any delay or demand and pay the Utilities Charges and Maintenance Charges to the Maintenance Agency within the prescribed time frame commencing from the Sub-Lease Commencement Date.
- (b) The Sub-Lessee shall permit the Sub-Lessor and its representatives, at Normal Working Hours, after prior notice of twenty four (24) hours, except in cases of *bona fide* emergency, where notice is not required to be provided, to enter the Premises for the purpose of inspection or Maintenance Services, provided that such entry would not in any way interfere with, or impede, the operations of the Sub-Lessee and the Sub-Lessor and/ or its representatives will be required to be accompanied by an employee of the Sub-Lessee at all times and to comply with the Sub-Lessee's security procedures.
- (c) The Sub-Lessee shall always observe and perform all the terms and conditions, covenants and provisions on which the Premises are given on Sub-Lease.
- (d) The Sub-Lessee shall use the Premises for office purposes and shall not carry on or permit to be carried on in the Premises, or in any part thereof, any activities which are unlawful, or of nuisance, annoyance or disturbance to other tenants/occupants in the Building.
- (e) The Sub-Lessee agrees to indemnify the Sub-Lessor, its directors, employees and or agents and keep them harmless during the Sub-Lease period against any demands, claims, actions or proceedings that may be initiated against the indemnified persons due to non-receipt/ renewal of any approvals from the applicable authorities and/ or the SEZ authorities resulting in the Sub-Lessee performing the activities in an unauthorized manner from the Premises.
- (f) There exist no claims, actions, litigations, arbitrations, or any process issued by any court or authority including the competent authority under the Income Tax Act, 1961 or other proceedings whatsoever relating to the restriction imposed on performing the business activities by the Sub-Lessee.
- (g) The Sub-Lessee shall be liable and pay all applicable taxes at all times in relation to this Deed of Sub-Lease and Maintenance/ Agreement for Services.

- (h) The Sub-Lessee shall keep and maintain the Premises in good and tenable condition at all times during the Initial Term of this Sub-Lease and any Renewal Term.
- (i) The Sub-Lessee has passed all the required resolutions for the execution of this Deed of Sub-Lease. A certified copy of the authorizing resolutions has been provided by the Sub-Lessee to the Sub-Lessor.

11.2. The Sub-Lessor, based on the Sub-Lessee's representations and warranties in this Clause, has entered into this Deed of Sub-Lease. Further, the Sub-Lessee agrees that during the Term, if any of the representations and warranties mentioned in Clause 11.1 directly affecting the Sub-Lease of the Premises is found to be misleading, invalid or untrue, then notwithstanding the rights of the Sub-Lessor as contained in this Deed of Sub-Lease, the Sub-Lessee will intimate the Sub-Lessor of the same within 10 (ten) days of the applicable representation or warranty becoming invalid or untrue.

12. ELECTRICITY

12.1. **Raw Power.** The Sub-Lessor shall provide the Sub-Lessee raw power calculated at the rate of 0.5 KVA for every one hundred (100) square feet of Super Built Up Area of the Premises including the power required for the AHUs on the floor and such power is supplied by Bangalore Electricity Supply Company Limited ("BESCOM") and the same shall be made available from the start of business operations of the Sub-Lessee.

12.2. **Power Consumption Charges.** The Sub-Lessee shall bear and pay the electricity charges (based on HT rates) allocable to the Premises based on bills issued by BESCOM with regard to the consumption of power in the Building. The Sub-Lessee has been made aware that BESCOM has provided a single meter to the whole Building and from that meter the Sub-Lessor would be providing the power to the whole Premises under a separate meter provided for the Premises.

12.3. **Payment for Power Consumption.** Commencing from the Sub-Lease Commencement Date, the Sub-Lessee shall pay the electricity charges based on the bills issued to it by the Sub-Lessor for the actual consumption of electricity in the Premises by the Sub-Lessee as per the reading in the separate meter provided therein by the Sub-Lessor along with proportionate share of transmission loss between the main meter and the sub meter provided in the Building/ Project, if applicable. The Sub-Lessor shall set out the details of the sub meter reading of the Premises and the main meter, with the calculation of the electricity charges, the proportionate transmission loss applicable to the Premises together with a copy of the bills from the main meter. The electricity charges shall be payable within 7 (seven) Business Days from receipt of an invoice from the Sub-Lessor for the same. In the event of the Sub-Lessee failing to pay the consumption charges for its use of the electricity within the timelines detailed in this Clause 12.3, the Sub-Lessor may without prejudice to its rights under Clause 27.6, at its discretion and under a written notice to the Sub-Lessee pay such charges to ensure that the electricity supply is not disrupted which will thereby affect the entire Building in which the Premises is situated. The Sub-Lessee shall forthwith become liable to pay the amounts paid by the Sub-Lessor with interest thereon at the rate of 18% per annum from the due date up to the actual date of the Sub-Lessee having paid the amounts to the Sub-Lessor.

12.4. **Monthly Minimum Deposit.** The Sub-Lessor has informed the Sub-Lessee that BESCO charges a minimum deposit relatable to the power consumption (MMD) and presently such demand for deposit is 2 months' power consumption charges as MMD. The obligation to pay the MMD or enhancements in MMD as charged by BESCO from time to time during the period of Sub-Lease shall be of the Sub-Lessee. The Sub-Lessee shall pay the MMD and/or the enhancements in MMD within 10 (ten) days from demand by the Sub-Lessor based on the demand for the same made by BESCO. Failure of the Sub-Lessee to pay the MMD and/or enhancements in MMD within the stipulated timeframe as aforesaid shall be construed as breach in terms of Clause 27.6. The Sub-Lessor may, without prejudice to its rights under Clause 27.6, at its discretion, pay the MMD and/or enhancements in MMD to BESCO and in such event the Sub-Lessee shall become liable to reimburse to the Sub-Lessor the amounts paid by the Sub-Lessor towards MMD and/or enhancements in MMD along with an interest of 18% (eighteen percent) per annum from the due date up to the actual date of payment by the Sub-Lessee to the Sub-Lessor.

In the event, the MMD and/or the enhancements in MMD is required to be paid in the name of the Sub-Lessor, the Sub-Lessee shall pay the said amounts in the name of Sub-Lessor and it shall be the obligation of the Sub-Lessor to refund the same in full to the Sub-Lessee on termination of the Deed of Sub-Lease along with the refund of the Security Deposit. The Sub-Lessor will be entitled to recover such MMD and/or enhancements in MMD from the BESCO as and when the BESCO becomes liable to refund the same.

12.5. **Alternative Power Source.** The Sub-Lessor shall ensure that, if the supply of electricity to the Premises is not made available through BESCO or is interrupted

as a result of any act of omission or commission of the Sub-Lessor or other occupant of the Building, the Sub-Lessor shall provide power backup through DG Sets to the Sub-Lessee. During such period of non-availability of permanent power under this clause the supply of power through the DG Sets shall be at BESCO rates for consumption of such power. However, the Sub-Lessee agrees to pay power back-up charges as described in Clause 12.6 herein below during any scheduled/ unscheduled power break downs, outages, maintenance works during the Initial Term of this Sub-Lease or any Renewal Term.

12.6. **Power Backup.** The Sub-Lessor has provided 100% (one hundred percent) backup power for the Premises. The Sub-Lessee shall pay for consumption of backup power through diesel generator based on actual power generation cost plus 20% (twenty percent) basis and which is currently estimated to be INR 23/- per unit of power back-up. The charges will be based on the meter reading for the back-up power provided for the Premises. It is further expressly clarified that such charges shall only be payable by the Sub-Lessee as regards the Premises and shall not include charges for backup power designated for the Common Areas, which shall be included as part of the Maintenance Charges and accordingly recovered on a proportionate basis.

12.7. **Maintenance of Power Equipment.** The Sub-Lessee has been made aware of and is aware that there would be planned shut-down of power backup equipment for the purpose of maintenance. The Sub-Lessee shall not object to such planned shut-downs during which backup power will not be available. Such planned shutdowns shall, as far as possible, be conducted only on weekends, non-Business Days or during non-peak hours. Such planned shut-downs shall be conducted after providing to the Sub-Lessee prior written notice of 15 (fifteen) Business Days.

12.8. **HVAC Systems.** The Sub-Lessee will be liable to pay the consumption charges for the provision of air conditioning based on the chilled water consumption metered through BTU Meter and calculated on actual cost plus 20% basis

13. WATER AND SEWERAGE

13.1. The Building will be provided with water and sewerage connections in accordance with Applicable Laws. The Sub-Lessor shall provide sufficient quantity of water to meet the needs of the Premises which will include water for toilets, maintenance and housekeeping, and other purposes, except drinking. Such water supply shall be either from the Bangalore Water Supply and Sewerage Board and or tankers or any other source. The Sub-Lessee shall not be liable to pay any charges towards water and or sewerage connection provided to the Building and the Premises. The Sub-Lessee shall pay for the water consumption charges in the Premises. The water consumption charges shall be a part of, and included in, the Maintenance Charges, except for the water consumption by the Sub-Lessee in its pantry on the floor or

water requirement for any laboratory etc., if any. Such consumption of water at the pantry/ laboratory, etc. on the floor shall be duly recorded and charges for the same shall be borne by the Sub-Lessee. The Sub-Lessee shall at its cost install a water meter as per Sub-Lessor's specification to record such water consumption.

14. MAINTENANCE AND REPAIRS

- 14.1. **Maintenance Services.** The Parties agree that the operation, management and maintenance of the Project, Building, the Premises, the Common Areas and the building systems are being done by the Maintenance Agency, the exclusive maintenance manager. The Maintenance Agency shall be responsible for maintaining the Common Areas of the Building, the Common Areas of the Project, and common services for the Premises as detailed in the Maintenance Agreement. The Maintenance Agency shall raise the invoices for the Maintenance Charges and for the Utilities Charges and collect the same directly from the occupants of the Project.
- 14.2. **Maintenance Charges.** Commencing from the earlier of (a) the Sub-Lease Commencement Date or (b) the date of handover of the Premises to the Sub-Lessee for fit outs, the Sub-Lessee shall pay the Maintenance Agency quarterly maintenance charges in advance as per the Maintenance Agreement, which the Sub-Lessor has informed the Sub-Lessee and as applicable to the Project and all occupants is based on cost plus 20% (twenty percent) (the "**Maintenance Charges**") on open book basis.
- 14.3. **Maintenance Agreement.** The Maintenance Agreement shall be executed between the Sub-Lessee and the Maintenance Agency simultaneously with the execution of this Deed of Sub-Lease. The Parties agree that in the event the Maintenance Agency is in breach of the Maintenance Agreement which breach results in disruption of the business operations of the Sub-Lessee, and does not permit the Sub-Lessee to step in and carry out the maintenance service as detailed in the Maintenance Agreement, or if the Maintenance Agency or the Sub-Lessor herein do not remedy the breach within the timelines set out in the Maintenance Agreement, the Sub-Lessee will be entitled to forthwith terminate this Deed of Sub-Lease. If such termination is within the Lock-in Period, the Sub-Lessee will not be bound by the Lock-in Period clause.
- 14.4. **Structural Repairs by Sub-Lessor.** The Sub-Lessor shall take care of (or cause to be taken care of) any major repairs to the Building or Utilities which may be in the nature of structural repairs to the Building/ Premises, or to any of the sewage systems/ pipes/ water pipe/ electrical installation, leakages in the Building and/ or the Premises.
- 14.5. **Standard of Performance.** The Sub-Lessor shall keep the Building in wind and watertight condition. The Sub-Lessor shall use reasonable efforts to carry out any

repairs and maintenance, construction or any other work in such a manner as not to interfere with or impair the Sub-Lessee's use or occupancy of the Premises. All repairs and maintenance to be performed under this Clause shall be carried out in a prompt, diligent and good workmanlike manner. The Sub-Lessor shall commence any such work of repairs as soon as possible and within seven (7) days, or such mutually agreed period of the defect being brought to the notice of the Sub-Lessor by the Sub-Lessee in writing (a "**Structural Defect Notice**").

- 14.6. **Self Help.** If the Sub-Lessor fails to commence to perform its obligations under Clause 14.5 above, within the period specified therein, the Sub-Lessee without prejudice to its right to terminate may cause the commencement of repairs at the cost of the Sub-Lessor. The Sub-Lessee will forward such cost estimate to the Sub-Lessor and the Sub-Lessor shall approve the same within 5 (five) days of receiving the same, failing which it shall be deemed as being approved by the Sub-Lessor. The Sub-Lessor shall reimburse the Sub-Lessee the entire cost of performing such obligations within Thirty (30) Business Days of receipt of an invoice for such costs having expended by the Sub-Lessee. If the Sub-Lessor fails to reimburse the Sub-Lessee for such costs within the above-mentioned period, the Sub-Lessee shall have the right to deduct such costs from future Rent payable to the Sub-Lessor till the adjustment of the entire cost.
- 14.7. **Maintenance by Sub-Lessee.** The Sub-Lessee shall carry out and be responsible for routine maintenance of the interiors of the Premises along with interiors or fit outs belonging to the Sub-Lessee within the Premises. Also, AHUs and Finished Toilets once handed over will be maintained by Sub-Lessee as per manufacturer's guidelines including annual maintenance contracts, repairs, operations and maintenance, etc.
- 14.8. The Sub-Lessee shall keep the Premises and in good and tenantable condition and shall not do or cause to be done any damage to the Common Areas of the Building and the Project. In case any damage is done or caused to be done by the Sub-Lessee, the Sub-Lessee shall use reasonable efforts to rectify such damage as per Sub-Lessor's standards and specifications. If the Sub-Lessee fails to rectify such damage within the period specified by the Sub-Lessor, the Sub-Lessor without prejudice to its right to terminate may cause the commencement of repairs at the cost of the Sub-Lessee. The Sub-Lessor will forward such cost estimate to the Sub-Lessee and the Sub-Lessee shall approve the same within 5 (five) days of receiving the same, failing which it shall be deemed as being approved by the Sub-Lessee. The Sub-Lessee shall reimburse the Sub-Lessor the entire cost of performing such obligations within Thirty (30) Business Days of receipt of an invoice for such costs having expended by the Sub-Lessee. If the Sub-Lessee fails to reimburse the Sub-Lessor for such costs within the above-mentioned period, the Sub-Lessor shall have the right to deduct such costs from the Security Deposit paid by the Sub-Lessee apart from charging interest at the rate of 18% per annum from the date of such costs becoming due.

15. ANTENNA AND ANCILLARY EQUIPMENT

- 15.1. The Sub-Lessor, at the request of the Sub-Lessee, has permitted the Sub-Lessee to use approximately 25 square feet of space on the terrace of the Building to enable the Sub-Lessee to install, for the sole use of Sub-Lessee, its Communication Equipment required for its business operations at no extra cost. This would be subject to technical feasibility and statutory approvals, consents, licenses etc., as may be necessary for the installation of the Communications Equipment on the roof-top by the Sub-Lessee. Provided always, the Sub-Lessee shall keep the Sub-Lessor indemnified in terms of Clause 15.3 below. Such space for communication equipment of Sub-Lessee shall be designated by the Sub-Lessor alone.
- 15.2. The cost of installation, running, up keep, safety etc. of such Communications Equipment shall be borne and paid by the Sub-Lessee. It shall be the responsibility of the Sub-Lessee to obtain all licenses, consents, approvals etc. from the Appropriate Authority and ensure compliance with relevant laws, including but not limited to telecommunication and wireless laws for such installation on the roof-top for the use of such Communication Equipment. The Sub-Lessor shall assist by way of signing any NOC for the Sub-Lessee in obtaining any licenses, consents or approvals as may be required in this regard.
- 15.3. The Sub-Lessee shall keep the Sub-Lessor fully indemnified and harmless against any losses, damages, cost, expenses claims penalties, levies that may be suffered by the Sub-Lessor due to any act of omission or commission of the Sub-Lessee in complying with any of the rules and regulations regarding the installation and or the use of such Communication Equipment or any violation of any of the Applicable Laws.

16. TELEPHONE LINES

- 16.1. The Sub-Lessor has informed the Sub-Lessee that the Project is being serviced by multiple service providers for telephone/ fax/ ISDN/ International Private Leased Circuit and other telecommunications systems and devices. The Sub-Lessee may use such service provider presently permitted to operate in the complex for installation of the required telephone/ fax/ ISDN/ International Private Leased Circuit and other telecommunications systems and devices within the Premises as it may deem necessary for its business activities, in its own name and at its own cost and expense. The Sub-Lessee shall pay the charges for such lines installed to such service providers directly.
- 16.2. If the Sub-Lessee chooses to engage any other service providers in this regard, the Sub-Lessee shall inform the Sub-Lessor and the Sub-Lessor shall provide all assistance to the Sub-Lessee in this regard and the Sub-Lessor shall, subject to

mutual agreement between the Sub-Lessor and the said service provider, execute such documents as may be required with the said service provider for provision of services including installing telephone/ fax/ ISDN/ International Private Leased Circuit and other telecommunications systems and devices in the Building and the Project. It is agreed that the Sub-Lessor shall not charge the Sub-Lessee any fees for enabling/ operationalizing such requests.

- 16.3. The Sub-Lessor shall provide right of access at locations identified and approved by the Sub-Lessor, to such third party service provider appointed by the Sub-Lessee for the purpose of providing telephone/ fax/ ISDN/ International Private Leased Circuit and other telecommunications systems and devices to the Sub-Lessee, which may pass through the Building and the Project, subject to the applicable 'tenant operation guidelines' provided by the Sub-Lessor, and as may be amended from time to time. The Sub-Lessee shall ensure that the service provider does not damage any finished surface/ roads or any underground cables while carrying out any works in order to connect their telephone/ fax/ ISDN/ International Private Leased Circuit and other telecommunications systems and devices. In the event of any damages, the cost for rectification of the same will be borne by the service provider or the Sub-Lessee, if such cost is not paid by the service provider. Such right of access to a third party service provider is subject to mutual agreement between the Sub-Lessor and the said third party service provider.

17. QUIET ENJOYMENT & USE OF THE PREMISES

- 17.1. The Sub-Lessor covenants and agrees that, the Sub-Lessee on paying the Rent, Maintenance Charges, Utilities Charges and observing the terms, covenants and conditions of the Deed of Sub-Lease, will be entitled lawfully, peaceably and quietly hold, occupy and enjoy the Premises along with the use of the Common Areas on a seven (7) days a week, twenty four (24) hours a day basis, without any hindrance, obstruction and at no extra charge, subject to the rules and regulations applicable to the use of such Common Areas as prescribed by the Sub-Lessor, during the Sub-Lease Term to all tenants and occupants of the Building and the Project.
- 17.2. The Sub-Lessee shall have the right to move materials through the Common Areas of the Project at all times, in accordance with the Sub-Lessee's business needs without causing any obstruction or nuisance to the other occupants of the Project and in compliance with the Sub-Lessor's 'tenant operating guidelines' or 'Bye-Laws' as provided to the Sub-Lessee from time to time and applicable to all tenants of the Project.

18. BAR ON STRUCTURAL ALTERATIONS

18.1. The Sub-Lessee shall not make any structural addition or alteration to any of the electrical or plumbing lines or to the Premises or relocation of any electrical fitting, wiring or relocation of any of the plumbing lines unless with the prior written consent of by the Sub-Lessor. The Sub-Lessee at its cost shall obtain all necessary approvals from the Appropriate Authority under Applicable Law, if applicable, for such alteration prior to taking up such alteration as may be consented by the Sub-Lessor. On the termination of the Sub-Lease for any reasons the Sub-Lessee shall be responsible at its cost reinstatement of such alterations unless otherwise agreed by the Sub-Lessor.

19. SUB-LESSEE'S IMPROVEMENTS

19.1 Subject to compliance with the tenant fit out guidelines, the Sub-Lessee will be entitled to carry out its interior works which are in the nature of non-structural alterations, in a good workmanlike, safe and sound manner within the Premises, (the "**Sub-Lessee Improvements**") at its cost and using such contractors as are selected by it. However the Sub-Lessee shall not in any manner make any changes to the fixed fittings and fixtures provided by the Sub-Lessor in the Premises and Common Areas. The Sub-Lessee agrees that any Sub-Lessee Improvements shall conform to all Applicable Laws and building regulations. Any permissions or authorizations required to be obtained for the Sub-Lessee Improvements shall be the Sub-Lessee's sole responsibility and cost, provided that the Sub-Lessor shall, at the Sub-Lessee's cost, provide any assistance by way of execution of any NOC required for the procurement of such permission or authorization under any Applicable Laws. The Sub-Lessor acknowledges that the Sub-Lessee shall at all times be the sole owner of all Sub-Lessee Improvements. If any damage is caused to the Premises or any of the Common Areas whilst removing or transporting such Sub-Lessee Improvements, the Sub-Lessee shall repair such damage. If the Sub-Lessee fails to repair such damages to the Premises and or the Common Areas, the amounts required to repair the damages shall be paid by the Sub-Lessee against a separate invoice generated by the Sub-Lessor for such amounts within 10 (ten) days from the date of receipt of the invoice and in the event there is a delay in receipt of such amounts beyond the stipulated period of 10 (ten) days, then the Sub-lessee shall be liable to pay interest at 18% per annum on such amounts from the date they are due to be paid. In the event Sub-Lessee does not clear such amounts, the Sub-Lessor reserves the right to invoke Clause 24 (Default in Payment of Rent/ Utilities and other Dues).

20. SIGNAGE

20.1. The Sub-Lessee shall have the right to install signage in the Building Directory at the foyer/ lobby of the Building and at any other location designated specifically for the

Sub-Lessee by the Sub-Lessor within the Common Areas of the Project, at no additional cost. The Sub-Lessee's signage will be approved by the Sub-Lessor's architect and the cost of such signage will be borne solely by the Sub-Lessee.

21. TITLE- OWNERSHIP

Save as provided in this Deed of Sub-Lease, no right, title or interest in the Premises shall pass/be transferred to the Sub-Lessee by virtue of these presents or otherwise.

22. ASSIGNMENT AND SUBLETTING UNDER THE DEED OF SUB-LEASE

22.1. Subject to SEZ Laws, the Sub-Lessee shall be entitled to assign the Sub-Lease of the Premises or further sub-lease or license the entire / portion of the Premises to any of its Affiliates, with the prior written consent of the Sub-Lessor, which consent shall not be unreasonably withheld, delayed or conditioned. In the event of any assignment, sub-lease or license in terms of this Clause 22.1, the Sub-Lessee shall continue to be responsible for all obligations under the Sub-Lease including the payment of the Rent.

22.2. The Sub-Lessee shall not be entitled to assign its rights and obligation under the Sub-Lease to or sub-lease or license the Premises to any third party during the Term.

22.3. Any assignment and/or sub lease under Clause 22.1 shall be co-terminus with this Deed of Sub-Lease (including renewal, if any) between the Sub-Lessor and the Sub-Lessee and such assignment and/or sub-lease shall not be for any commercial gains.

23. SALE – MORTGAGE-RENTAL DISCOUNTING BY THE SUB-LESSOR

23.1. **Sale by the Sub-Lessor.** The Sub-Lessor shall have the right to sell or otherwise alienate its interest in the Premises. The Parties hereby agree that in the event of such sale, the Sub-Lessee will attorn the leasehold rights under this Deed of Sub-Lease in favour of the new owner on receipt of the letter of attornment from the Sub-Lessor calling upon the Sub-Lessee to attorn the leasehold rights in favour of the new owner accompanied by an undertaking from the new owner confirming and undertaking to comply with the terms and condition of the Sub-Lease including the refunding of the Security Deposit in terms of the Deed of Sub-Lease. On the attornment being complete the Sub-Lessor will have no rights or obligation under this Deed of Sub-Lease.

23.2. **Mortgage - Rental Discounting.** The Sub-Lessor shall be entitled at any time after the execution of this Deed of Sub-Lease to seek any mortgage or rental discounting facility from any bank or financial institution against the security of the Premises and or Rent, provided such facility/ies shall not in any manner affect the rights of the

Sub-Lessee to use and occupy the Premises during the Term. The Sub-Lessor shall provide the Sub-Lessee with details as regards the entity to whom the Rent is payable and undertakes to discharge the Sub-Lessee from all claims on payment of Rent to the identified entity. In the event such bank or financial institution requires any NOC letter for these purposes, the Sub-Lessee shall provide the same.

24. DEFAULT IN PAYMENT OF RENT, UTILITIES CHARGES AND/OR OTHER DUES

24.1. In the event of a delay / default in payment of the Rent and/or Utilities Charges and any other dues as payable by the Sub-Lessee on its due date, without prejudice to the Sub-Lessor's rights under Clause 27.6 (Termination by Sub-Lessor due to Sub-Lessee's breach), the Sub-Lessee shall be liable to pay the outstanding Rent and/ or Utilities Charges with interest thereon at the rate of 18% (eighteen percent) per annum from the due date till payment or recovery of such amounts.

25. INSURANCE

25.1. During the Term, the Sub-Lessor shall, take out and maintain appropriate insurance cover for the Premises and the Utilities provided in the Building and the Project with a reputed insurance company against all insurable risks, including without limitation, for repair and replacement thereof, natural disasters, fires, floods, acts of God, acts of terrorism, acts of war and other hostilities, civil commotion and aerial and other accidents, including, damage to and destruction of the whole or any portion of the Premises due to any of the risks listed herein, on a full replacement basis. The Sub-Lessor shall furnish the copies of the policies and renewal thereof. The insurance premium payable during the Term will form part of the Maintenance Charges.

25.2. The Sub-Lessee shall take out comprehensive third party insurance with respect to the property owned by the Sub-Lessee in the Premises and the Sub-Lessee shall pay the premium in respect of such insurance.

26. INDEMNIFICATION

26.1. **Sub-Lessee's Indemnification.** Notwithstanding anything to the contrary contained herein, the Sub-Lessee will indemnify, defend and hold Sub-Lessor, its directors, employees and or agents harmless during the Term against any claims, damages, charges, expenses, costs, losses or injuries arising out of or relating to: (i) any breach of terms of this Deed of Sub-Lease; and (ii) any act or omission of Sub-Lessee which results in violation of its legal, statutory, regulatory or other duty or obligation in connection with its business or use of Premises. Nothing contained herein will require the Sub-Lessee to defend, indemnify or hold harmless the Sub-Lessor, or its employees and agents, for losses or damages related to claims of bodily injury or

death to any person or damage to property to the extent caused by the acts of omission or commission by the Sub-Lessor, or its employees or agents.

26.2. **Sub-Lessor's Indemnification.** Notwithstanding anything to the contrary contained herein, the Sub-Lessor will indemnify and hold Sub-Lessee, its directors, employees and or agents harmless during the Term against any demands, claims, actions or proceedings that may be initiated against the Sub-Lessee due to: (i) any defect in title to the Premises; (ii) misrepresentation of any of the representations as to the title and construction of the Building; and (iii) non-compliance with or failure to keep and maintain valid all permissions / clearances required for occupation / usage of Premises, resulting in the Sub-Lessee being prevented from using the Premises. Nothing contained herein will require the Sub-Lessor to defend, indemnify or hold harmless the Sub-Lessee, or its employees and agents, for losses or damages related to claims of bodily injury or death to any person or damage to property to the extent caused by the acts of omission or commission by the Sub-Lessee, or its employees or agents.

26.3. The provisions of this Clause 26 shall remain in full force and effect and shall survive the performance or termination of this Deed of Sub-Lease or the culmination of the transactions contemplated herein for any acts done prior to such termination.

27. **TERMINATION OF SUB-LEASE**

27.1. **Termination by efflux of time.** This Deed of Sub-Lease shall stand terminated at the end of the Term.

27.2. **Termination by the Sub-Lessee due to Sub-Lessor's breach.** In the event of the Sub-Lessor committing breach of any of the terms of this Deed of Sub-Lease, the Sub-Lessee shall notify the Sub-Lessor in writing and call upon the Sub-Lessor to remedy the breach within thirty (30) days or such further period as may be mutually agreed between the Parties. If such breach is not rectified / cured during such period of thirty (30) days of the aforesaid notice or such further period as may be mutually agreed between the Parties, the Sub-Lessee will, at its option, be entitled to terminate this Deed of Sub-Lease and be ready for handing over possession of the Premises subject to refund of the Security Deposit in terms of Clause 7.2 or rectify (if capable of being rectified by the Sub-Lessee) such breach at the cost of the Sub-Lessor, which cost the Sub-Lessee shall be entitled to recover from the Sub-Lessor based on bills and payments made and other expenses incurred by the Sub-Lessee in rectifying the breach. The Sub-Lessee shall be entitled to deduct such amounts from the Rent if not paid by the Sub-Lessor.

27.3. **Termination by Sub-Lessee at end of Lock-in Period.** The Sub-Lessee may terminate the Sub-Lease by issuing a notice of 6 (six) months prior to the end of the Lock-in

Period, i.e. the Sub-Lessee may terminate the Sub-Lease by providing a prior written notice to the Sub-Lessor on completion of the 30th month during the Lock-in Period or at any time thereafter.

- 27.4. **Termination by the Sub-Lessee due to Sub-Lessor being wound up.** In the event of the Sub-Lessor being ordered to be wound up for any reasons by any court and/or liquidator/receiver being appointed, the Deed of Sub-Lease shall, at the option of the Sub-Lessee, stand terminated with effect from the date of notice issued by the Sub-Lessee. In such an event, the Sub-Lessee shall be entitled to refund of the Security Deposit in terms of Clause 7.2 above and simultaneously upon the Sub-Lessee handing over possession of the Premises. Further, in the event of the termination of the Sub-Lease during the Lock-in Period under this Clause, the Sub-Lessee will not be bound by the terms of the Lock-in Period. However, this Clause will have no application in the event of a merger, amalgamations, acquisitions or other schemes or arrangements in which the Sub-Lessor may (directly or indirectly) be a part.
- 27.5. **Liquidated Damages for breach of the Sub-Lessor.** In the event the sub-lease is terminated by the Sub-Lessee for breach of the Sub-Lessor which breach (i) is not rectified during the notice period as provided in Clause 27.2 of this Deed of Sub-Lease; and (ii) is due to willful misconduct or misrepresentation of the Sub-Lessor; and (iii) renders the Premises unusable by the Sub-Lessee, then the Sub-Lessee will be entitled to a refund of the proportionate stamp duty and registration fees paid by the Sub-Lessee on this Deed of Sub-Lease from the Sub-Lessor. In addition to the above, the Sub-Lessor shall pay to the Sub-Lessee the written down value of the Sub-Lessee's Improvements, which are immovable in nature and are installed by the Sub-Lessee at the Premises, based on the book value of the fit outs depreciated over a period of five (05) years from the Lease Commencement Date. It is clarified and agreed by the Parties that such Liquidated Damages will be calculated considering the actual amount spent by the Sub-Lessee on such immovable improvements or a maximum value of INR 1,800/- per square foot, whichever is lower. It is agreed between the Parties that this clause (Liquidated Damages for breach of the Sub-Lessor) will be applicable only for five (05) years from the Lease Commencement Date and will cease to exist thereafter including the Renewal Term.
- 27.6. **Termination by the Sub-Lessor due to Sub-Lessee's Breach.** In the event of the Sub-Lessee committing any breach of any of the terms of this Deed of Sub-Lease or upon failure to make payment of Rent for a period of twenty (20) days from its due date or commits delay in payment of the Utility Charges and any other dues as provided in this Deed of Sub-Lease and the Maintenance Agreement, the Sub-Lessor shall notify the Sub-Lessee of such breach and the Sub-Lessee shall within thirty (30) days of such notice cure the breach, failing which the Sub-Lease under this Deed of Sub-Lease shall stand terminated. If such termination is during the Lock-In Period, the Sub-Lessee shall

be liable to pay liquidated damages in terms of Clause 5 above. Where the failure or breach in payment of Rent, Utility Charges and any other charges due under this Deed of Sub-Lease occurs for and up to three times during the period of Sub-Lease, the Sub-Lessor shall without prejudice to its rights and other remedies to recover such outstanding Rent, Utility Charges and other charges, be entitled at its option, to terminate the Sub-Lease forthwith anytime after such third occurrence of failure or breach. If such termination by Sub-Lessor is during the Lock-In Period, the Sub-Lessee shall be liable to pay liquidated damages in terms of Clause 5 above.

27.7. **Termination by the Sub-Lessor due to Sub-Lessee being wound up.** In the event of the Sub-Lessee being ordered to be wound up for any reasons by any Court or direction and/or liquidator/receiver being appointed, the Sub-Lease under this Deed of Sub-Lease shall stand terminated and Sub-Lessor shall become entitled to vacant possession of the Premises and to resume possession subject to refund of the interest free Security Deposit in terms of Clause 7.2 above. In the event of the Sub-Lessee being wound up during the Lock-in Period the Sub-Lessor will be entitled to the liquidated damages in terms of Clause 5 above. However, this Clause will have no application to mergers, amalgamations, acquisitions or other schemes or arrangements in which the Sub-Lessee may (directly or indirectly) be a part.

27.8. **Right of the Sub-Lessor to resume possession.** The Sub-Lessee agrees that the Sub-Lessor, upon termination of this Deed of Sub-Lease under any of the circumstances mentioned in any of the Clauses set out under Clauses 27.1 to 27.7 above, shall be entitled to resume possession of the Premises, simultaneously upon refund of the Security Deposit amount in terms of and pursuant to Clause 7.2 above.

28. RETURN OF PREMISES

28.1. On expiry / termination of the Sub-Lease, the Sub-Lessee shall return the Premises to Sub-Lessor in good condition subject to normal wear and tear, damage by Force Majeure and damage by third parties (but not being the agents, employees, director or anyone claiming through the Sub-Lessee) exempted. In case the Sub-Lessee has installed its own fit outs within the Premises then the Sub-Lessee shall be liable to remove all its fittings and fixtures from the Premises at its own cost without causing any damage to the Premises and or the Building. The Sub-Lessee shall have the obligation to either: (a) reinstate the Premises to its original condition as on the date of handover of the Premises to the Sub-Lessee and remove all the Sub-Lessee Improvements without causing damage to the Premises; or (b) leave behind all of the Sub-Lessee Improvements, without the Sub-Lessor having to pay for such Sub-Lessee Improvements (except active IT components) being fixed in nature which are left behind by the Sub-Lessee. It is clarified that there will be no part removal of the Sub-Lessee Improvements or part reinstatement of the Premises.

28.2. **Handover of Premises against refund of Security Deposit.** The Sub-Lessee agrees that in any of the eventualities of the termination of this Deed of Sub-Lease, the Sub-Lessee is bound and liable to hand over full, free and vacant possession of the Premises against the refund of the Security Deposit in terms of Clause 7.2 and any other deposit that would have been due to the Sub-Lessee from the Sub-Lessor, failing which, the Sub-Lessee agrees to pay liquidated damages being calculated at twice the applicable Rent for such un-authorized occupation, beyond the date of termination for the first ninety (90) days; and thereafter at thrice such amounts. This is without prejudice to the rights of the Sub-Lessor under Applicable Laws inter alia to take steps to evict the Sub-Lessee from the Premises.

29. SUSPENSION OF RENT AND SUB-LEASE

29.1. In the event the Premises or any part thereof is destroyed due to Force Majeure, or any portion thereof becoming uninhabitable or unusable or the Utilities servicing the Premises being interrupted so as to render the entire Premises uninhabitable or unusable for a period exceeding thirty (30) days, provided such damage or destruction is not due to any act of omission or commission of the Sub-Lessee, the Sub-Lessee shall be entitled to suspend payment of Rent and Utilities Charges until such time that the Premises is fit for occupation and use. In any event due to such Force Majeure conditions, the Sub-Lessee is unable to occupy and operate out of the Premises for a period beyond ninety (90) days, then, either Party will have the right to terminate this Deed of Sub-Lease by giving 15 (fifteen) days notice to the other Party and the Sub-Lessor shall refund the Security Deposit in terms of Clause 7.2 on the execution of a Deed of Surrender of Sub-Lease. In the event of termination of this Deed of Sub-Lease due to this Clause, the Sub-Lessee will not be bound by the terms of Lock-in Period if such restraint occurs during the Lock-in Period. Where the Sub-Lessee is able to remedy the situation and cure the matter causing the disruption, the Sub-Lessee may remedy the situation at the cost of the Sub-Lessor if the Sub-Lessor has not been able to remedy the situation despite receipt of notice in this regard.

29.2. In the event of there being any restraint order passed by any Court of law or statutory authority in use of the Premises due to any misrepresentation as to title to the Premises or due to any violation of construction of the Building, or due to failure on the part of Sub-Lessor in obtaining and maintaining all requisite statutory permissions and approvals, including those with respect to the Project and the Premises under SEZ Laws and such restraint continues beyond three (3) days, the Sub-Lessee shall suspend payment of further Rent and Utilities Charges until such time that such restraint is vacated / lifted. If such restraint continues for a period beyond ninety (90) days, this Deed of Sub-Lease shall be terminated at the option of the Sub-Lessee. If such restraint continues for one hundred and eighty (180) days, then the Sub-Lease would stand terminated automatically. Upon termination of the

Sub-Lease in terms of this Clause 29.2, the Sub-Lessor shall refund the Security Deposit in terms of Clause 7.2 above against the surrender of the Premises and the Sub-Lessee will not be bound by the terms of Lock-in Period if such restraint occurs during the Lock-in Period.

30. SEZ REQUIREMENTS

- 30.1. By way of a notification dated September 27, 2010, issued under the provisions of the SEZ Laws, the Said Land has been notified as an SEZ for information technology and/or information technology enabled services. Both Parties agree to comply with the provisions of the applicable SEZ Laws as applicable to either of them.
- 30.2. The Sub-Lessee has secured the SEZ Approval to enable it to take on Sub-Lease the Premises. If the Letter of Approval is cancelled by the SEZ authorities during the subsistence of the Term and during the Lock-in Period, for any reason whatsoever attributable to the Sub-Lessee, the Sub-Lessee shall become liable to pay the liquidated damages as provided in terms of Clause 5 above.
- 30.3. The Sub-Lessor and the Sub-Lessee shall comply with the provisions of the SEZ Laws and any breach thereof shall be treated as a breach by the other Party.
- 30.4. It is expressly agreed that the Lock-in Period shall be subject to the Sub-Lessor obtaining and maintaining all requisite statutory permissions and approvals with respect to the SEZ Project and the Premises under the applicable SEZ Laws during the Lock-in Period.

31. FORCE MAJEURE

- 31.1. If the performance by the Sub-Lessor of any of its obligations under this Deed of Sub-Lease is prevented, restricted or interfered with by reason of fire or other casualty or accident, strike or other violence (not due to any act, neglect or default of the Sub-Lessor), war or other violence, any law, or regulation of any government, governmental delay, or any act or condition whatsoever beyond the reasonable control of the Sub-Lessor (each such event shall be called a "**Force Majeure**" event), then the Sub-Lessor shall be excused from such performance to the extent of such prevention, restriction or interference; provided, however, that Sub-Lessor shall give prompt notice within a period of seven (7) days from the date of the Force Majeure occurrence and providing a description to the Sub-Lessee of such Force Majeure in such notice, including a description, in reasonable specificity, of the cause of the Force Majeure; and provided further that Sub-Lessor shall use reasonable efforts to avoid or remove such cause of non-performance and shall continue performance hereunder whenever such causes are removed. If such Force Majeure event prevents the Sub-Lessor to comply with its obligation beyond the period of ninety

(90) days, either Party at their discretion would be entitled to terminate this Deed of Sub-Lease by giving fifteen (15) days notice and on such termination the Sub-Lessee will hand-over the Premises to the Sub-Lessor and the Sub-Lessor shall refund the Security Deposit to the Lessee in terms of Clause 7.2 of this Deed of Sub-Lease.

31.2. Neither Party shall hold the other responsible for any structural damage to the Premises due to a Force Majeure event.

32. REQUISITION

32.1. In the event of the Premises or any part thereof being requisitioned any time during the Term by any Appropriate Authority or the Government for their occupation, this Deed of Sub-Lease shall terminate on such requisition being finally becoming effective. On such termination the Sub-Lessee shall hand over possession of the Premises to the Sub-Lessor and the Sub-Lessor shall refund the Security Deposit in terms of Clause 7.2. If such requisition is during the Lock-in Period, the Sub-Lessee shall not be bound by the Lock-in Period as provided in Clause 5 above.

33. LIMITATION OF LIABILITY

33.1. Subject to the liquidated damages that would be payable as agreed between the Parties hereto, with respect to any reference to any losses, damage, claims, compensation, indemnity etc., neither Party will be liable to the other for any incidental, consequential, penal, exemplary or like damages, or any direct or indirect loss of profits or any claim for loss of opportunity or any action in tort even if advised of the possibility of such claims.

34. STAMP DUTY AND REGISTRATION

34.1. The cost of stamp duty, registration charges and any deficit of stamps and other incidental expenses in connection with the execution and registration of this Deed of Sub-Lease and any deed of Sub-Lease for the Renewal Term, if any, shall be borne by the Sub-Lessee. The Sub-Lessor shall cooperate and assist in registration of this Deed of Sub-Lease or any deed of Sub-Lease for the Renewal Term/s as may be applicable. The original Deed of Sub-Lease shall remain in the possession of the Sub-Lessee and a certified copy thereof shall be retained by the Sub-Lessor. All incidental expenses towards registration of the applicable documents will be borne by the Sub-Lessee alone.

35. MODIFICATION / VARIATION

35.1. No change, variation or modification of any of the terms and conditions set forth herein shall be valid unless incorporated as an amendment to this Deed of Sub-Lease and signed by the duly authorized representatives of both Parties.

36. WAIVER / FORBEARANCE

36.1. The Parties hereto agree that in the event of there being any delay in or indulgence shown by either of the Parties with regard to the enforcement of any of the terms of this Deed of Sub-Lease, the same shall not be construed as a waiver by the Party showing such indulgence or tolerance and any such indulgence or forbearance shall not be deemed to be a waiver of the rights and the Parties shall be entitled to enforce such right without prejudice to such indulgence or tolerance shown.

37. DISPUTE RESOLUTION AND ARBITRATION

37.1. **Disputes.** In case of any disputes or difference arising amongst the Parties as to the construction of any of the terms of this Deed of Sub-Lease or as to any matter or thing of whatsoever nature arising thereunder or in connection therewith, including any question regarding its existence, validity or termination of this Deed of Sub-Lease (the “**Dispute**”), either Party may give written notice of a Dispute to the other Party within ten (10) days of the occurrence of the event which gives rise to such Dispute or the day that such event came to the notice of the concerned Party.

37.2. **Mediation:** On any Dispute being raised by any Party, the Parties shall initially seek to mediate such Dispute and if such Dispute is not resolved by mediation of Parties within a period of thirty (30) days of such Dispute arising, the Parties shall then resort to Arbitration in terms of Clause 37.3 below.

37.3. **Arbitration.** If any Dispute arising between the Parties is not amicably settled within thirty (30) days of commencement of amicable attempts to settle the same as provided above, the Dispute shall be referred to, and be finally settled by, arbitration and shall be submitted to a sole arbitrator and such submission shall be a submission to arbitration in accordance with the provisions of the (Indian) Arbitration and Conciliation Act, 1996 as presently in force by which the Parties in dispute agree to be so bound. The decision of the arbitrator shall be final and binding on the Parties.

37.4. **Language and Arbitration Venue.** The arbitration proceedings shall be conducted in the English language. The arbitration proceedings shall be conducted only in Bengaluru.

37.5. Subject to the provisions of the foregoing clause relating to arbitration, the Courts of appropriate jurisdiction at Bengaluru city shall have exclusive jurisdiction in respect of all matters relating to this Deed of Sub-Lease.

38. ANTI-BRIBERY, CORRUPTION AND PROHIBITED BUSINESS PRACTICES

38.1. Each Party will be familiar with and will strictly comply with all Applicable Laws related to bribery, corruption, and prohibited business practices. The Parties and their Affiliates have not and will not, for the purpose of unlawfully influencing or inducing anyone to influence decisions in favour of the Sub-Lessor, Sub-Lessee or any of either Party's Affiliates, offer, promise or make or agree to make, directly or indirectly, (a) any political contributions of any kind or any payment to or for the benefit of any public official, whether elected or appointed, (b) any payments for gifts, meals, travel or other value for a government employee or his/her family members or (c) any payments or gifts (of money or anything of value) to anyone. The Parties shall not, under any circumstances, reimburse one another for any such political contributions, payments or gifts.

38.2. The Sub-Lessee has informed the Sub-Lessor that the Sub-Lessee is required to comply with the provisions of the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq. (hereinafter referred to as the "FCPA") and have been made aware by the Sub-Lessee that the FCPA prohibits the payment or giving of anything of value, either directly or indirectly, by a United States company to an official of a foreign government for the purpose of influencing an act or decision in its official capacity or inducing him to use its influence with the foreign government, to assist the United States company in obtaining or retaining business for or with, or directing business to, any person ("FCPA Principles"). While the Sub-Lessor does not admit to or concede the applicability of the FCPA to the Sub-Lessor, the Sub-Lessor will, subject to the Applicable Law, implement the FCPA Principles in relation to this Sub-Lease. This clause does not in any manner take away the jurisdiction of Indian Court or any of the Applicable Laws and that by virtue of this clause the Sub-Lessor would not be subjected to jurisdiction of any other court other than the courts in India.

39. ENTIRETY AND SEVERABILITY

39.1. This Deed of Sub-Lease, including the attached Schedules and Annexures, constitutes the entire agreement between the Sub-Lessor and the Sub-Lessee with respect to the Premises alone, and supersedes any other prior oral or written communications, representations or statements with respect to the transaction contemplated in this Deed of Sub-Lease including the letter of intent dated November 4, 2015. If a court finds any provision of this Deed of Sub-Lease to be invalid, the remainder of this Deed of Sub-Lease will be valid, enforceable and effective. If any of the provisions within this

Deed of Sub-Lease contradict any of the provisions of the 'Tenant Fit-out Guidelines', 'Tenant Operating Guidelines' or any other document which the Sub-Lessee may be required to adhere to during the Term, the provisions of this Deed of Sub-Lease will prevail. It is expressly clarified that except to the extent expressly set out herein as regards the Premises, this Deed of Sub-Lease shall continue to govern the Parties and shall survive the execution of this Deed of Sub-Lease.

40. NOTICES

40.1. All notices under this Deed of Sub-Lease will be given in writing, postage prepaid, by certified or registered mail, return receipt requested, by personal delivery, or by reputable national overnight courier, at the addresses listed below. The respective addresses for such purposes are:

If to the Sub-Lessor:

Attention: Mr. G. Raghavan/ Mr. Shama Sunder

Address: Milestone Buildcon Pvt. Ltd. (A Bhartiya Group Company)
100/1, Anchorage I, Ground Floor,
Richmond Road,
Bangalore – 560 025

With a copy to: shama.sunder@bhartiya.com

Email: g.raghavan@bhartiya.com / shama.sunder@bhartiya.com

If to the Sub-Lessee:

Attention: Mr. Malahara Raju Pinnelli, Director

Address: PRESTIGE AL-KAREEM, No. 3, Edward Road,
Civil Station, Corporation Division No. 72,
Bengaluru – 560 052

Email: malahar@pfsweb.com

With a copy to: asyed@pfsweb.com

40.2. Either Party may change its notice address from time to time by delivering notice thereof to the other Party in accordance with this Clause.

41. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

41.1. Neither this Deed of Sub-Lease, nor any of the terms of this Deed of Sub-Lease, shall be construed or sought to be interpreted to authorize either of the Parties to use any of the intellectual property rights of the other, including, without limitation, the other Party's logo, trade names and trademarks, in any manner whatsoever. However the Sub-Lessor will be entitled to in any prospectus / offer document or its brochure in any medium / media to use the name the Sub-Lessee and its logo, only for the purpose of informing/ stating that the Sub-Lessee is a tenant of the Sub-Lessor.

42. AUTHORITY FOR EXECUTION

42.1. Each Party represents and warrants to the other that it has full right and authority to enter into this Deed of Sub-Lease and by doing so does not violate any existing agreement or indenture to which it is a party or by which it is bound or affected. Each Party further represents and warrants to the other that the execution and delivery of this Deed of Sub-Lease has been duly authorized by its board of directors. Each Party represents and warrants to the other that it has the financial wherewithal to perform its obligations under this Deed of Sub-Lease.

43. RELATIONSHIP BETWEEN PARTIES

43.1. Nothing contained in this Deed of Sub-Lease shall be deemed or construed by the Parties or by any third party or court to create the relationship of principal and agent or employer or employee or of partnership or of joint venture or of any association between the Sub-Lessor and Sub-Lessee, and neither method of computation of Rent nor any other provisions contained in this Deed of Sub-Lease nor any acts of the Parties shall be deemed to create any relationship between the Parties, other than the relationship of the Sub-Lessor and the Sub-Lessee.

44. REMEDIES

44.1. The Parties acknowledge that the remedies available to the Sub-Lessor and or Sub-Lessee under this Deed of Sub-Lease are all mutually exclusive and without prejudice to any other right / remedy available to the Parties under applicable law.

45. GOVERNING LAW AND JURISDICTION

45.1. This Deed of Sub-Lease and any other document connected to this Deed of Sub-Lease between the Parties shall be governed and construed in accordance with the laws of the Republic of India. Subject to arbitration as provided in Clause 37 above,

the Parties agree that the courts at Bengaluru shall have exclusive jurisdiction in relation to this Deed of Sub-Lease.

46. SURVIVAL

46.1. The provisions of Clauses 1 (Definitions), 2 (Interpretations), 26 (Indemnification), 33 (Limitation of Liability), 35 (Modification/ Variation), 36 (Waiver), 37 (Dispute Resolution and Arbitration), 39 (Entirety and Severability), 40 (Notices), 45 (Governing Law and Jurisdiction), 46 (Survival) and any other provision relevant to survive and give full effect to the terms hereof shall survive the expiry or termination of this Deed of Sub-Lease.

47. RIGHT OF FIRST REFUSAL

47.1 It is expressly agreed between the Parties that the Sub-Lessor shall provide a one-time Right of First Refusal to the Sub-Lessee to take on sub-lease additional office space in the building proposed to be constructed in Block 2 at BCIT, measuring about 55,000 sq. ft. to 60,000 sq. ft. ("ROFR Space") i.e. one (01) entire floor, for a period of 12 months commencing from the Lease Commencement Date hereinabove ("ROFR Period").

47.2 After the Sub-Lessor notifies the Sub-Lessee in writing of such offer, the Sub-Lessee shall have fifteen (15) days after the date of receipt of the offer notice to exercise the Right of First Refusal by written notice to the Sub-Lessor. If the Sub-Lessee exercises the Right of First Refusal, the Sub-Lessee shall be required to take on sub-lease such ROFR Space that is the subject of the offer. If the Sub-Lessee fails to notify the Sub-Lessor of its election within the aforesaid fifteen (15) days' period, the Sub-Lessee shall be deemed to have waived the Right of First Refusal and thereafter no further Right of First Refusal will be available to the Sub-Lessee. Upon exercise by the Sub-Lessee of the Right of First Refusal in accordance herewith, the Sub-Lessor and the Sub-Lessee shall promptly but no later than ten (10) days from the date of exercise of the Right of First Refusal, execute an indenture/ deed of sub-Lease in respect of such ROFR Space on such terms and conditions as may be mutually agreed between the Parties at that time. It is specifically agreed between the Parties that any sub-lease of the ROFR Space as mentioned in this Clause shall be made only by way of execution of a separate indenture/ deed of sub-lease between the Parties herein. The abovementioned separate indenture/ deed of sub-lease to be executed for the ROFR Space mentioned above shall be adequately stamped and registered with the appropriate authority.

SCHEDULE – A

(DESCRIPTION OF THE SAID LAND)

All that piece and parcel of land measuring about 25 Acres 7 Guntas comprised in Sy. Nos. 32/1(p), 35(p), 37, 38(p), 39(p), 40, 41(p) & 44(p) of Chokkanahalli Village, Thanisandra Main Road, Chokkanahalli, Bengaluru – 560 064, Karnataka (presently being part of BBMP Khata No.6/2), and bounded on the –

East by	:	Internal/ CDP Road;
West by	:	Land in Sy. No. 36 of Chokkanahalli village;
North by	:	Land in Sy. No. 32/1 of Chokkanahalli Village; and
South by	:	Peripheral Ring Road.

SCHEDULE – B

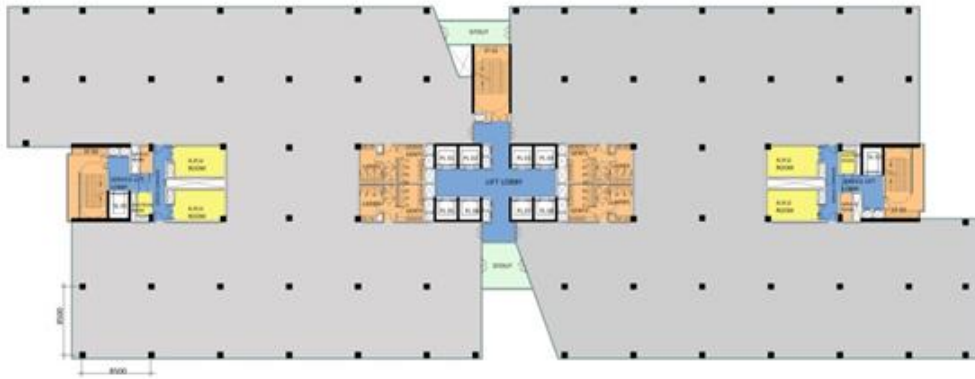
(DESCRIPTION OF THE LEASED PREMISES)

All that piece and parcel of the commercial office space measuring 57,090 (fifty seven thousand and ninety only) square feet of Super Built Up Area and Carpet Area of 80% of the Super Built-up Area comprising the entire 8th Floor of the Building identified as Block-1 of Bhartiya Centre of Information Technology ('BCIT'), Bhartiya City, constructed in and upon the land detailed in the Schedule-A above, together with exclusive right of use of 88 (eighty eight) Car Parking Spaces in the basement of the said Building identified as Block-1.

ANNEXURE – A

FLOOR PLAN OF THE PREMISES

Entire Eighth Floor of the Building identified as Block-1 of Bhartiya Centre of Information Technology ('BCIT'), Bhartiya City, measuring 57,090 square feet.



ANNEXURE – A-1

**FLOOR PLAN OF THE CAR PARKING SPACES IN THE BASEMENT OF THE BUILDING
(88 slots in Basement 2 at Block 1)**



ANNEXURE – B

(WARM SHELL SPECIFICATIONS)

Warm Shell Specifications: Bare Shell along with high-side air conditioning, air handling units (AHUs), electric power supply of up to 0.5 KVA for every one hundred (100) square feet of Super Built Up Area of the Premises including the power required for the AHUs on the floor, 100% power back up through diesel generators (DG), finished toilets, office floor screed and internal wall plastering.

ANNEXURE - C

(RENT PAYMENT SCHEDULE)

Period	For Office Space - Rent Per Month (in INR)	For Car Parking -Charges Per Month (in INR)	Total Rent Per Month (in INR)
01/01/2016 to 31/05/2016	NIL	NIL	NIL
01/06/2016 to 31/12/2018	23,97,780.00	2,20,000.00	26,17,780.00
01/01/2019 to 31/12/2020	27,57,447.00	2,20,000.00	29,77,447.00

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEAL TO THESE PRESENTS ON THE DAY, MONTH & YEAR FIRST ABOVE WRITTEN IN THE PRESENCE OF THE FOLLOWING WITNESSES:

SUB-LESSOR:

M/s. MILESTONE BUILDCON PRIVATE LIMITED

Represented by its Authorized Signatory

Mr. G. Raghavan

SUB-LESSEE:

PFSWEB GLOBAL SERVICES PRIVATE LIMITED

Represented by its Authorised Signatory &

Director,

Mr. Malahara Raju Pinnelli

Witnesses:

1.

2.

Signature

Name:

Address:

Signature:

Name:

Address:

**CERTIFICATIONS OF PRINCIPAL EXECUTIVE
OFFICER PURSUANT TO 18 U.S.C. SECTION 1350**

I, Michael Willoughby, certify that:

1. I have reviewed this quarterly report on Form 10-Q of PFSweb, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2016

By: /s/ Michael Willoughby
Chief Executive Officer

**CERTIFICATIONS OF PRINCIPAL FINANCIAL
OFFICER PURSUANT TO 18 U.S.C. SECTION 1350**

I, Tom Madden, certify that:

1. I have reviewed this quarterly report on Form 10-Q of PFSweb, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation;
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent function):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2016

By: /s/ Thomas J. Madden
Chief Financial Officer

**CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY
ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code), each of the undersigned officers of PFSweb, Inc. (the "Company"), does hereby certify that:

The Quarterly Report on Form 10-Q for the period ended March 31, 2016 (the "Form 10-Q") of the Company fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934 and the information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company as of, and for, the periods presented in the Form 10-Q.

May 10, 2016

/s/ Michael WilloughbyMichael Willoughby
Chief Executive Officer

May 10, 2016

/s/ Thomas J. MaddenThomas J. Madden
Chief Financial Officer

The foregoing certification is being furnished as an exhibit to the Form 10-Q pursuant to Item 601(b)(32) of Regulation S-K and Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code) and, accordingly, is not being filed as part of the Form 10-Q for purposes of Section 18 of the Securities Exchange Act of 1934, as whether made before or after the date hereof, regardless of any general incorporation language in such filing.

A signed original of this written statement required by Section 906 has been provided to PFSweb, Inc. and will be retained by PFSweb, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.