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

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2011

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 or other jurisdiction of
incorporation or organization)*

75-2837058
*(I.R.S. Employer
Identification Number)*

500 North Central Expressway, Plano, Texas
(Address of principal executive offices)

75074
(Zip code)

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

Securities registered pursuant to Section 12(b) of the Act:
None

Securities registered pursuant to Section 12(g) of the Act:
Common Stock, par value \$.001 per share

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act.
Yes No

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer or a non-accelerated filer. See definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer (Do not check if a Smaller reporting company) Smaller reporting company

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

The aggregate market value of the voting stock held by non-affiliates of the registrant as of June 30, 2011 (based on the closing price as reported by the National Association of Securities Dealers Automated Quotation System) was \$57,121,109.

At March 28, 2012, there were 12,782,907 shares of the registrant's Common Stock issued, \$.001 par value.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this Annual Report, to the extent not set forth herein, is incorporated herein by reference from the registrant's definitive proxy statement relating to the annual meeting of shareholders, which definitive proxy statement shall be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Annual Report relates.

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Unless otherwise indicated, all references to “PFSweb,” “the Company,” “we,” “us” and “our” refer to PFSweb, Inc., a Delaware corporation, and its subsidiaries; references to “PFS” refer to our wholly-owned subsidiaries, Priority Fulfillment Services, Inc., PFS Canada and PFS Europe; references to “Supplies Distributors” refer to our wholly-owned subsidiary Supplies Distributors, Inc. and its subsidiaries; and references to “Retail Connect” refers to our wholly-owned subsidiary PFSweb Retail Connect, Inc.

PART I

Item 1. Business

General

PFSweb is an international business process outsourcing provider of end-to-end eCommerce solutions. PFSweb provides these solutions to major brand name companies seeking to optimize their supply chain and to enhance their traditional and online business channels and initiatives. We derive our revenues from a broad range of services as we process individual business transactions on our clients' behalf. Marketed as PFSweb's *End2End eCommerce*[®] solution, the services we offer are organized into the following categories:

- Digital Marketing
- eCommerce Technology
- Order Management
- Customer Care
- Logistics and Fulfillment
- Financial Management
- Professional Consulting

Our solutions support both direct-to-consumer ("DTC") and business-to-business ("B2B") sales channels. The majority of our clients are the merchants of record for the orders we process through our infrastructure on their behalf. For these clients, we do not own the inventory or the resulting accounts receivable, but provide management services for these client-owned assets.

For some of our clients, we are the merchant of record for the orders we process through our infrastructure on their behalf. Under these arrangements, we either record product revenue or a net sale, own the accounts receivable and inventory and we may be paid for all or a portion of our services through the resulting profit margin. In some cases, we purchase the inventory as the product is delivered to our facility. In other situations, the client retains ownership of inventory in our facility and we purchase the inventory immediately prior to each individual customer sales transaction. In all cases, we seek inventory financing from our clients in the form of extended terms, working capital programs or marketing funds to help offset the working capital requirements that follow accounts receivable and inventory ownership.

We are headquartered in Plano, Texas where our executive and administrative offices and our primary technology operations and hosting facilities are located. We operate state-of-the-art call centers from our U.S. facilities located in Plano, Texas, and Memphis, Tennessee, and from our international facilities located in Richmond Hill, Ontario, Canada, Liège, Belgium and Manila, Philippines. We lease or manage warehouse facilities of approximately 1.4 million square feet, many containing highly automated and state of the art material handling and communications equipment, in Memphis, Tennessee, Southaven, Mississippi, Grapevine, Texas, Richmond Hill, Ontario, Canada and Liège, Belgium, allowing us to provide global distribution solutions.

Recent Events

In March 2012, we announced the relocation of our corporate headquarters to Allen, Texas and our North Texas customer care center to downtown Dallas, Texas. We believe the relocation of both operations, which will be completed in April 2012, will afford greater flexibility to support our organic and new business growth, seasonal staffing fluctuations and provide an improved working environment for our employees

PFSWEB'S END2END ECOMMERCE[®] SOLUTIONS

PFSweb serves as the "brand behind the brand"[®] for companies seeking to increase efficiencies, enter new markets or launch optimized sales channels. As an eCommerce and business process outsourcer, we offer scalable and cost-effective solutions for brand manufacturers, online retailers, and distributors across a wide range of industry segments. We provide our clients with seamless and transparent solutions to support their business strategies, allowing them to focus on their core competencies. Leveraging PFSweb's technology, expertise and

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proven methodologies, we enable client organizations to develop and deploy new products and implement new business strategies or address new distribution channels rapidly and efficiently through our optimized solutions. Our clients engage us both as a consulting partner to assist them in the design of a business solution as well as a virtual and physical infrastructure partner providing the mission critical operations required to build and manage their business solution. Together, we not only help our clients define new ways of doing business, but also provide them the technology, physical infrastructure and professional resources necessary to quickly implement this business model. We allow our clients to quickly and dramatically change how they “go-to-market.”

Each client has a unique business model and unique strategic objectives that often require highly customized solutions. PFSweb supports clients in a wide array of industries including fashion apparel and accessories, fragrance and beauty products, consumer packaged goods, home furnishings and housewares, consumer electronics, office technology and network connectivity products and aviation spare parts. These clients turn to PFSweb for help in addressing a variety of business issues that include eCommerce, customer satisfaction and retention, time-definite logistics, vendor managed inventory and integration, supply chain compression, cost model realignments, transportation management and international expansion, among others. We also act as a constructive agent of change, providing clients the ability to alter their current distribution model, establish direct relationships with end-customers, and reduce the overall time and costs associated with existing distribution channel strategies. Our clients are seeking solutions that will provide them with dynamic supply chain and multi-channel marketing efficiencies, while ultimately delivering a world-class customer service experience.

Our value proposition is to become a seamless, well integrated extension of our clients’ enterprises by delivering superior solutions that drive optimal customer experiences. On behalf of the brands we serve, we wish to increase and enhance sales and market growth, bolster customer satisfaction and customer retention, and drive costs out of the business through operations and technology related efficiencies. As both a virtual and a physical infrastructure for our clients’ businesses, we embrace their brand values and strategic objectives. By utilizing our services, our clients are able to:

Quickly Capitalize on Market Opportunities. Our solutions empower clients to rapidly implement their supply chain and eCommerce strategies and to take advantage of opportunities without lengthy integration and implementation efforts. We have readily available advanced technology and physical infrastructure that is flexible in its design, which facilitates quick integration and implementation. The PFSweb solution is designed to allow our clients to deliver consistent quality service as transaction volumes grow and also to handle daily and seasonal peak periods. Through our international locations, our clients can sell their products throughout the world.

Improve the Customer Experience. We enable our clients to provide their customers with a high-touch, positive buying experience thereby maintaining and promoting brand loyalty. Through our use of advanced technology, we can respond directly to customer inquiries by e-mail, voice or data communication and assist them with online ordering and product information. We believe we offer our clients a “world-class” level of service, including 24-hour, seven-days-a-week, Web-enabled customer care service centers, detailed Customer Relationship Management (“CRM”) reporting and exceptional order accuracy. We have significant experience in the development of eCommerce storefronts that allows us to recommend features and functions easily navigated and understood by our clients’ customers. Our technology platform is designed to ensure high levels of reliability and fast response times for our clients’ customers. Because of our technology, our clients benefit from being able to offer the latest in customer communication and response conveniences to their customers.

Minimize Investment and Improve Operating Efficiencies. One of the most significant benefits outsourcing provides is the ability to transform fixed costs into variable costs. By eliminating the need to invest in a fixed capital infrastructure, our clients’ costs typically become more directly correlated with volume increases or declines. Further, as volume increases drive the demand for greater infrastructure or capacity, we are able to quickly deploy additional resources. We provide services to multiple clients, which enables us to offer our clients economies of scale, and resulting cost efficiency, that they may not have been able to obtain on their own. Additionally, because of the large number of daily transactions we process, we have been able to justify investments in levels of automation, security surveillance, quality control processes and transportation carrier interfaces that are typically outside the scale of investment that our clients might be able to cost justify on their own. These additional capabilities can provide our clients the benefits of enhanced operating performance and efficiency, reduced inventory shrinkage, and expanded customer service options.

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Access a Sophisticated Technology Infrastructure. We provide our clients with ready access to a sophisticated technology infrastructure that is designed to interface seamlessly with their systems. We provide our clients with vital product and customer information that can be immediately available to them on their own systems or through web based graphic user interfaces for use in data mining, analyzing sales and marketing trends, monitoring inventory levels and performing other management functions.

We believe our highest value proposition is achieved when our clients engage our full suite of services from all of the categories included in PFSweb's End2End eCommerce® solutions. However, we provide our clients with the opportunity to customize their solution by selecting only certain services from our offering in à la carte fashion. We believe this flexibility and willingness to create a customized solution for each client differentiates us from our competition.

Digital Marketing Services

Our team has extensive experience partnering with our clients to help grow their business. We have expertise in developing strategies to attract new customers, converting website visitors into actual buyers, and nurturing the relationships with current customers to increase their lifetime value. We achieve this through the following services:

Search Engine Optimization (SEO). We combine knowledge of SEO best practices with a detailed knowledge of the technology platform to maximize the programs' performance. Our subject matter experts achieve measurable results by using best-of-breed on-site page optimization tactics, internal-linking strategies, back-linking strategies, and back-link building. We provide both the strategies and the implementation to achieve top rankings in the search engines, increase visibility of the brand and drive sales results.

Pay-Per-Click. We go beyond buying keywords. In addition to bid management, we provide effective copywriting as well as landing page recommendations, optimization, and creation to increase conversion. Our strategic search engine marketing approach is designed to drive incremental traffic, increase conversion, and lower ad spend.

Affiliate Marketing. We seek the best affiliate partners that fit the brands, implement the program, and manage the ongoing relationships. We develop strategies for the programs and nurture the affiliate partnerships to ensure relevant traffic is driven to the website to convert into sales.

Comparison Shopping Engines. We have experience creating and managing comparison shopping feeds that will increase brand visibility in a competitive landscape while driving sales. We use the comparison shopping engine channel to enhance the search engine marketing initiatives and power mobile applications.

Merchandising. We combine industry expertise with best-in-breed technology to increase conversion and increase average order size. Our team of experts offers services in on-site merchandising, recommendations, personalization, on-site search, and promotion management and support.

Web Analytics. All of our interactive marketing services are data driven; we look at how the various channels are performing and determine where investments need to be made. We turn data into knowledge and offer insight into the customers' behavior and create strategies to provide actionable results.

Customer Experience. We determine how to optimize the website to engage the customers with the brand, drive sales conversion, and offer an ideal customer shopping experience. Our team makes it their focus to understand the customer's needs and offer site usability assessments that will improve the customer experience, enhance the brand and support revenue goals.

Email Marketing. We provide a world class email platform to create and send dynamic 1-to-1 emails designed to achieve exceptional business results. We provide email delivery services to ensure email is reaching the inbox and have established methodologies to test content, design, and subject lines, as well as drive email strategy to engage customers and increase revenue.

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Social Media. Our customer-centric approach focuses on customer service first. We have the tools to disposition customer comments, posts, replies, hash tags, etc. We also have the staff to support the strategy and ongoing management of our client’s social initiatives. We provide strategies to drive traffic and sales to client websites or on Facebook.

eCommerce Technology Services

Direct-to-Consumer eCommerce (“DTC”). PFSweb’s End2End eCommerce® solution for the DTC online channel features Demandware eCommerce, a leading third party Software-as-a-Service (“SaaS”) eCommerce platform. We have fully integrated Demandware with the rest of our world-class technology platform including other best-of-breed technology partners to create a PFSweb reference application that provides our clients with a very high-function DTC online store out-of-the-box. We are able to use the PFSweb reference application as a starting point to very quickly create a completely customized online store for our DTC clients. Designed specifically for DTC brands, our comprehensive offering redefines end-to-end eCommerce by enabling retailers and branded consumer goods manufacturers with the ability to employ a total outsourcing solution customized to their particular eCommerce strategy, without the loss of site or brand control associated with earlier end-to-end outsourcing solutions.

Business-to-Business eCommerce (“B2B”). PFSweb’s End2End eCommerce® solution for the B2B online channel features our GlobalMerchant Commerceware® service that provides a complete eCommerce website solution for our B2B clients. We engage collaboratively with our clients to design, build, host, and manage fully branded, fully customized and fully integrated eCommerce web applications for B2B channels. We offer a broad range of hosting and support plans that can be tailored to fit the needs of each client. Utilizing Microsoft’s .NET Technologies and our proprietary GlobalMerchant Commerceware platform, we maintain a robust hosting environment for our hosted client B2B web sites.

Order Management Services

Order Management Interfaces. Our order management technology solutions provide us and our clients with interfaces that allow for real-time information retrieval, including information on inventory, sales orders, shipments, delivery, purchase orders, warehouse receipts, customer history, accounts receivable and credit lines. These solutions are seamlessly integrated with our web-enabled customer contact centers, allowing for the processing of orders through shopping cart, phone, fax, mail, email, web chat, and other order receipt methods. As the information backbone for our total supply chain solution, order management services can be used on a stand-alone basis or in conjunction with our other business infrastructure offerings, including customer contact, financial or distribution services. In addition, for the B2B market, our technology platform provides a variety of order receipt methods that facilitate commerce within various stages of the supply chain. Our systems provide the ability for both our clients and their customers to track the status of orders at any time. Our services are transparent to our clients’ customers and are seamlessly integrated with our clients’ internal system platforms and web sites. By synchronizing these activities, we can capture and provide critical customer information, including:

- Statistical measurements critical to creating a quality customer experience, containing real-time order status, order exceptions, back order tracking, allocation of product based on timing of online purchase and business rules, the ratio of customer inquiries to purchases, average order sizes and order response time;
- B2B supply chain management information critical to evaluating inventory positioning, for the purpose of improving inventory turns, and assessing product flow-through and end-consumer demand;
- Reverse logistics information, including customer response and reason for the return or rotation of product and desired customer action;
- Detailed marketing information about what was sold and to whom it was sold, by location and preference; and
- Web traffic reporting showing the number of visits (“hits”) received, areas visited, and products and information requested.

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Technology Collaboration. We have created a suite of technology services that enable buyers and suppliers to fully automate their business transactions within their supply chain using the order management interfaces. Our collaboration technologies operate in an open systems environment and feature the use of industry-standard XML and SOA web services, enabling customized eCommerce solutions with minimal changes to a client's systems or our Enterprise Resource Planning ("ERP") systems. The result is a faster implementation process. We also support information exchange methods such as FTP, EDI, MQ Series, ALE, HTTP, and HTTPS.

Information Management. We have the ability to communicate with and transfer information to and from our clients through a wide variety of technology services, including real-time web service enabled data interfaces, file transfer methods and electronic data interchange. Our systems are designed to capture, store and electronically forward to our clients critical information regarding customer inquiries and orders, product shipments, inventory status (for example, levels of inventory on hand, on backorder, on purchase order and inventory due dates to our warehouse), product returns and other information. Our systems are capable of providing our clients with customer inventory and order information for use in analyzing sales and marketing trends and introducing new products. We also offer customized reports and data analyses based upon specific client needs to assist them in their budgeting and business decision process.

Customer Care Services

Customer Relationship Management. We offer a completely customized CRM solution for clients. Our CRM solution encompasses a full-scale customer contact management service offering, as well as a fully integrated customer analysis program. All customer contacts are captured and customer purchases are documented. Full-scale reporting on all customer transactions is available for evaluation purposes. Through each of our customer touch-points, information can be analyzed and processed for current or future use in business evaluation, product effectiveness and positioning, and supply chain planning.

Customer Order Assistance. An important feature of evolving commerce is the ability for the customer to speak with a live customer service representative. Our experience has been that a majority of consumers tell us they visited the web location for information, but not all of those consumers chose to place their order online. Our customer care services utilize features that integrate voice, e-mail, standard mail, fax, data and Internet chat communications to respond to and handle customer inquiries. Our customer care representatives answer various questions, acting as virtual representatives of our clients' organization, regarding order status, shipping, billing, returns and product information and availability as well as a variety of other questions. For certain clients, we handle Level I and Level II technical support. Level I technical support involves assisting clients' customers with basic technical issues, i.e. computer application issues. Level II support may involve a more in-depth question and answer session with the customer. Our web-enabled customer care technology identifies each customer contact automatically and routes it to the appropriate customer care representative who is individually trained in the clients' business and products.

Our web-enabled customer care centers are flexibly designed so that our customer care representatives can handle either several different clients and products in a shared agent environment, thereby creating economy of scale benefits for our clients, or through a highly customized dedicated agent support model that provides the ultimate customer experience and brand reinforcement. Our advanced technology also enables our representatives to up-sell, cross-sell and inform customers of other products and sales opportunities. The web-enabled customer care center is fully integrated into the data management and order processing system, allowing full visibility into customer history and customer trends. Through this fully integrated system, we are able to provide a complete customer care solution.

Quality Monitoring. Quality is essential in our client solutions. As representatives of our clients, our customer care representatives must adhere to the unique quality standards of each client. We continually monitor the quality of our customer care representatives against each client quality standard and use the results to provide agent-level feedback to continually improve the customer care experience. Clients may participate in the quality process by remotely listening to calls, assisting in the grading of recorded calls, and providing ongoing direction to improve quality standards.

Customer Self-Help. With the need for efficiency and cost optimization for many of our clients, we have integrated interactive voice response ("IVR") as another option for customer contacts. IVR creates an "electronic workforce" with virtual agents that can assist customers with vital information at any time of the day or night. IVR

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allows for our clients' customers to deal interactively with our system to handle basic customer inquiries, such as account balance, order status, shipment status, catalog requests, product and price inquiries, and routine order entry for established customers. The inclusion of IVR in our service offering allows us to offer a cost effective way to handle high volume, low complexity calls.

Logistics and Fulfillment Services

Advanced Distribution Facilities and Infrastructure. An integral part of our solution is the warehousing and distribution of inventory either owned by our clients or owned by us. We currently have approximately 1.3 million square feet of leased or managed warehouse space domestically and internationally to store and process our own and our clients' inventory. We receive inventory in our distribution centers, verify shipment accuracy, unpack and audit packages (a process that includes spot-checking a percentage of the inventory to validate piece counts and check for damages that may have occurred during shipping, loading and unloading). Upon request, we inspect for other damages or defects, which may include checking fabric, stitching and zippers for soft goods, or 'testing' power-up capabilities for electronic items as well as product specifications. We generally stock for sale within one business day of unloading. On behalf of our clients, we pick, pack and ship their customer orders and can provide customized packaging, customized monogramming, capabilities of high volume shrink packaging, inserts and promotional literature for distribution with customer orders. For many clients, we provide gift-wrapping services including line level gifting, customized gift-wrapping paper, ribbon, gift-box and gift-messaging.

Our distribution facilities contain computerized sortation equipment, highly mobile pick-to-light carts, powered material handling equipment, scanning and bar-coding systems and automated conveyors and in-line scales. Our distribution complexes include several advanced technology enhancements, such as radio frequency technology in product receiving processing to ensure accuracy, as well as an automated package routing and a pick-to-light paperless order fulfillment system. Our advanced distribution systems provide us with the capability to warehouse an extensive number of stock keeping units (SKUs), ranging from large high-end laser printers to small cosmetic compacts. Our facilities are flexibly configured to process B2B and single pick DTC orders from the same central location.

In addition to our advanced distribution systems, our pick-to-light carts, stationary pick-to-light areas and conveyor system controls provide real time productivity reporting, thereby providing our management team with the tools to implement productivity standards. This combination of computer-controlled equipment provides the seamless integration of our pick-to-light systems and mass sortation capabilities. This unique combination of technologies ensures high order accuracy for each and every customer order.

We are able to take advantage of a variety of shipping and delivery options, which range from next day service to zone skipping to optimize transportation costs. Our facilities and systems are equipped with multi-carrier functionality, allowing us to integrate with all leading package carriers and provide a comprehensive freight and transportation management offering. In addition, an increasingly important service we provide is reverse logistics management. We offer a wide array of product return services, including issuing return authorizations, return carrier shipping labels, receipt of product, crediting customer accounts and disposition of returned product.

Our domestic clients enjoy the benefits of having their inventory assets secured by trained law enforcement professionals from our security headquarters in Memphis, Tennessee and Southaven, Mississippi. Continual validation ensures that we employ the latest in security processes and procedures to further enhance our surveillance and detection capabilities. Our security program continues to gain trust and confidence from our clients as we protect their products and assets.

Facility Operations and Management. Our facilities management service offering includes distribution facility design and optimization, business process reengineering and ongoing staffing and management. Along with our operations in Mississippi and Tennessee, we also manage an aircraft parts distribution center in Grapevine, Texas on behalf of one of our clients. Our expertise in supply chain management, logistics and customer-centric fulfillment operations extends through our management of client-owned facilities, resulting in cost reductions, process improvements and technology-driven efficiencies.

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Kitting and Assembly Services. Our expanded kitting and assembly services enable our clients to reduce the time and costs associated with managing multiple suppliers, warehousing hubs, and light manufacturing partners. As a single source provider, we provide the advantage of convenience, accountability and speed. Our comprehensive kitting and assembly services provide a quality one-stop resource for any international channel. Our kitting and assembly services include light assembly, specialized kitting and supplier-consigned inventory hub either in our distribution facilities or co-located elsewhere. We also offer customized light manufacturing and supplier relationship management (“SRM”).

We will work with clients to re-sequence certain supply chain activities to aid in an inventory postponement strategy. We can provide kitting and assembly services and build-to-stock thousands of units daily to stock in a Just-in-Time (“JIT”) environment. This service, for example, can entail the procurement of packaging materials including retail boxes, foam inserts and anti-static bags. These raw material components may be shipped to us from domestic or overseas manufacturers, and we will build the finished SKUs to stock for the client. Also included is the custom configuration of high-end printers and servers. This strategy allows manufacturers to make a smaller investment in base unit inventory while meeting changing customer demand for highly customizable products.

Combining our assembly services with our supplier-owned inventory hub services allows our clients to reduce cycle times, to compress their supply chains and to consolidate their operations and supplier management functions. We have supplier inventory management, assembly and fulfillment services all in one place, providing greater flexibility in product line utilization, as well as rapid response to change orders or packaging development. Our standard capabilities include: build-to-order, build-to-stock, expedited orders, passive and active electrostatic discharge (“ESD”) controls, product labeling, serial number generation, marking and/or capture, lot number generation, asset tagging, bill of materials (“BOM”) or computer automated design (“CAD”) engineering change processing, SKU-level pricing and billing, manufacturing and metrics reporting, first article approval processes, and comprehensive quality controls.

Our kitting and assembly services also include procurement. We work directly with client suppliers to make JIT inventory orders for each component in client packages, thereby ensuring we receive the appropriate inventory quantities at just the right time and we then turn them around JIT to customers.

Kitting and inventory hub services enable clients to collapse supply chains into the minimal steps necessary to prepare product for distribution to any channel, including wholesale, mass merchant retail, or direct to consumer. Clients no longer have to employ multiple providers or require suppliers to consign multiple inventory caches for each channel. We offer our clients the opportunity to consolidate operations from a channel standpoint, as well as from a geographic perspective. Our integrated, global information systems and international locations support business needs worldwide.

Product Management and Inspection Services. We also operate a coupon management system and product management program. Coupons are managed and activated by a unique serial number, thus significantly reducing fraudulent activity. Our capabilities also extend into salvage operations, allowing our clients to reclaim valuable raw materials and components from discontinued or obsolete inventory.

We operate a test and repair center where we visually inspect items for cosmetic defects. These items are put through rigorous testing that includes: functionality, durability, accessory inspection and packaging. Items that pass the testing are repackaged and resold with a noted exception of “open-box” merchandise. Items that fail the inspection are disassembled and working spare parts are saved for future use in repairs.

Financial Management Services

Our financial services are divided into two major areas: 1) billing, credit, collection and cash application services for B2B clients and 2) fraud review, chargeback management and processing and settlement credit card services for DTC clients.

Business-to-Business Financial Management. For B2B clients, we offer full-service accounts receivable management and collection capabilities, including the ability to generate customized computer-generated invoices in our clients’ names. We assist clients in reducing accounts receivable and days sales outstanding, while minimizing costs associated with maintaining an in-house collections staff. We offer electronic credit services in the format of EDI and XML communications direct from our clients to their vendors, suppliers and retailers.

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Direct-to-Consumer Financial Management. For DTC clients, we offer secure credit card processing related services for orders made via a client web site or through our customer contact center. We offer manual credit card order review as an additional level of fraud protection. We also calculate sales taxes, goods and services taxes or value added taxes, if applicable, for numerous taxing authorities and on a variety of products. Using third-party leading-edge fraud protection services and risk management systems, we can offer high levels of security and reduce the level of risk for client transactions.

Professional Consulting Services

As part of the tailored solution for our clients, we offer a full team of experts specifically designated to focus on our clients' businesses. Team members play a consultative role, providing constructive evaluation, analysis and recommendations for the client's business. This team creates customized solutions and devises plans that will increase efficiencies and produce benefits for the client when implemented.

Comprised of industry experts from top-tier consulting firms and industry market leaders, our team of professional consultants provides client service focus and eCommerce, customer care, logistics and distribution expertise. They have built solutions for Fortune 1000 and Global 2000 market leaders in a wide range of industries, including multi-channel retailers, apparel, technology, telecommunications, cosmetics, aviation, housewares, high-value collectibles, sporting goods, pharmaceuticals and several more. Focusing on the evolving infrastructure needs of major corporations and their business initiatives, our team has a solid track record providing consulting services in the areas of interactive marketing eCommerce, supply chain management, distribution and fulfillment, technology interfacing, logistics and customer support.

SELLER SERVICES FINANCIAL MODELS

Enablement Financial Model

We refer to the standard PFS seller services financial model as the "Enablement" model. In this model, our clients own the inventory and are the merchants of record and engage us to provide various business outsourcing services in support of their business operations. We provide eCommerce website services, inventory and order management, customer service, payment processing, and operations reports such as product sales, sales tax, and inventory management reports. In this model, we provide infrastructure and services and the clients are responsible for all financial operations and reporting related to the sales transactions.

The Enablement model should generate margins for our clients consistent with other retailers in our clients' product category and the bottom line financial results for our clients should be similar to other retailers in their space. Service fee revenues in this model are reported in our traditional PFSweb service fee segment.

Agent (Flash) Financial Model

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

Retail Financial Model

In addition to the Enablement and the Agent models, we also offer a "Retail" model. Under the Retail model, a PFSweb subsidiary purchases inventory from the client just as any other client reseller partner. In the Retail model, we place the initial and replenishment purchase orders with the client and take ownership of the product upon delivery to our facility.

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Because we are the product owner as well as the merchant of record, we work closely with the client to plan sales and promotional activities. 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. Since we purchase and own the inventory and accounts receivable, this business model generally requires significant working capital requirements for which we have credit available either through credit terms provided by our clients or under senior credit facilities.

The costs of all standard PFSweb services normally billed on a transaction basis under the Enablement model, as well as certain credit risks, may be covered by the selling margin under the Retail model arrangement. The bottom line financial results for our client should be similar to the financial benefits from the retail channel, although unlike the traditional retail channel, our clients generally control the presentation and branding of the web site and owns all the customer data from the eCommerce activities.

We currently provide the Retail model for a portion of our Procter & Gamble engagement for DTC sales through the P&G eStore. In addition, we use our Retail model to enable our Supplies Distributors subsidiary to serve as a global master distributor of printer supplies for Ricoh Infoprint Solutions Company (“IPS”) a wholly-owned subsidiary of Ricoh Company Ltd. (“Ricoh”). In this model, the product revenues are reported in our Business and Retail Connect segment.

INDUSTRY INFORMATION AND COMPETITIVE LANDSCAPE

Industry Overview

Business activities in the public and private sectors continue to operate in an environment of rapid technological advancement, increasing competition and continuous pressure to improve operating and supply chain efficiency while decreasing costs. We currently see the following trends within the industry:

- Manufacturers strive to restructure their supply chains to maximize efficiency and reduce costs in both B2B and DTC markets, and to create a variable-cost supply chain able to support the multiple, unique needs of each of their initiatives, including traditional and electronic commerce.
- Companies in a variety of industries seek outsourcing as a method to address one or more business functions that are not within their core business competencies, to reduce operating costs or to improve the speed or cost of implementation.

Supply Chain Management Trend

As companies maintain focus on improving their businesses and balance sheet financial ratios, significant efforts and investments continue to be made identifying ways to maximize supply chain efficiency and extend supply chain processes. Working capital financing, vendor managed inventory, supply chain visibility software solutions, distribution channel skipping, direct to consumer eCommerce sales initiatives, and complex upstream supply chain collaborative technology are products that manufacturers seek to help them achieve greater supply chain efficiency.

A key business challenge facing many manufacturers and retailers as they evaluate their supply chain efficiency is in determining how the trend toward increased direct-to-customer business activity will impact their traditional B2B and DTC commerce business models. Order management and small package fulfillment and distribution capabilities are becoming increasingly important processes as this trend evolves. We believe manufacturers will look to outsource their non-core competency functions to support this modified business model. We believe companies will continue to strategically plan for the impact that eCommerce and other new technology advancements will have on their traditional commerce business models and their existing technology and infrastructure capabilities.

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Manufacturers, as buyers of materials, are also imposing new business practices and policies on their supplier partners to shift the normal supply chain costs and risks associated with inventory ownership away from their own balance sheets. Through techniques like Vendor Managed Inventory or Consigned Inventory Programs (“CIP”), manufacturers are asking their suppliers, as a part of the supplier selection process, to provide capabilities where the manufacturer need not own, or even possess, inventory prior to the exact moment that unit of inventory is required as a raw material component or for shipping to a customer. To be successful for all parties, business models such as these often require a sophisticated collection of technological capabilities that allow for complete integration and collaboration of the information technology environments of both the buyer and supplier. For example, for an inventory unit to arrive at the precise required moment in the manufacturing facility, it is necessary for the Manufacturing Resource Planning systems of the manufacturer to integrate with the CRM systems of the supplier. When hundreds of supplier partners are involved, this process can become quite complex and technologically challenging. Buyers and suppliers are seeking solutions that utilize XML based protocols and traditional EDI standards to ensure an open systems platform that promote easier technology integration in these collaborative solutions.

Outsourcing Trend

In response to growing competitive pressures and technological innovations, we believe many companies, both large and small, are focusing their critical resources on the core competencies of their business and utilizing eCommerce and business process outsourcing to accelerate their business plans in a cost-effective manner and perform non-core business functions. Outsourcing can provide many key benefits, including the ability to:

- Enter new business markets or geographic areas rapidly;
- Increase flexibility to meet changing business conditions and demand for products and services;
- Enhance customer satisfaction and gain competitive advantage;
- Reduce capital and personnel investments and convert fixed investments to variable costs;
- Improve operating performance and efficiency; and
- Capitalize on skills, expertise and technology infrastructure that would otherwise be unavailable or expensive given the scale of the business.

Typically, many outsourcing service providers are focused on a single function, such as information technology, call center management, credit card processing, warehousing or package delivery. This focus creates several challenges for companies looking to outsource more than one of these functions, including the need to manage multiple outsourcing service providers, to share information with service providers and to integrate that information into their internal systems. Additionally, the delivery of these multiple services must be transparent to the customer and enable the client to maintain brand recognition and customer loyalty. Furthermore, traditional commerce outsourcers are frequently providers of domestic-only services versus international solutions. As a result, companies requiring global solutions must establish additional relationships with other outsourcing parties.

Another vital point for major brand name companies seeking to outsource is the protection of their brand. When looking for an outsourcing partner to provide infrastructure solutions, brand name companies must find a company that can ensure the same quality performance and superior experience their customers expect from their brands. Working with an outsourcing partner requires finding a partner that can maintain the consistency of their brand image, which is one of the most valuable intangible assets that recognized brand name companies possess.

Competition

We face competition from many different sources depending upon the type and range of services requested by a potential client. Many other companies offer one or more of the same services we provide on an individual basis. Our competitors include vertical outsourcers, which are companies that offer a single function solution, such as call centers, public warehouses or credit card processors. We occasionally compete with transportation logistics providers, known in the industry as 3PL's and 4PL's (third or fourth party logistics providers), who offer product management functions as an ancillary service to their primary transportation services. We also compete against other eCommerce and business process outsourcing providers, who perform various services similar to our solution offerings.

In many instances, we compete with the in-house operations of our potential clients themselves. Occasionally, the operations departments of potential clients believe they can perform the same services we do, at similar quality levels and costs, while others are reluctant to outsource business functions that involve direct customer contact. We cannot be certain we will be able to compete successfully against these or other competitors in the future.

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Although many of our competitors offer one or more of our services, we believe our primary competitive advantage is our ability to offer a full array of customized services marketed as PFSweb's *End2End eCommerce*[®] solutions, thereby eliminating any need for our clients to coordinate these services from many different providers. We believe we can differentiate ourselves by offering our clients a very broad range of eCommerce and business process services that address, in many cases, the entire value chain, from demand to delivery.

We also compete on the basis of many other important additional factors, including:

- operating performance and reliability;
- ease of implementation and integration;
- experience of the people required to successfully and efficiently design and implement solutions;
- experience operating similar solutions dynamically;
- leading edge technology capabilities;
- global reach; and
- price.

We believe we can compete favorably with respect to many of these factors. However, the market for our services is competitive and continually evolving, and we may not be able to compete successfully against current and future competitors.

COMPANY INFORMATION

Clients and Marketing

Our target clients include online retailers as well as leading technology and consumer goods brands looking to quickly and efficiently implement or enhance business initiatives, adapt their go-to-market strategies, or introduce new products or programs, without the burden of modifying or expanding their technology, customer care, supply chain and logistics infrastructure. Our solutions are applicable to a multitude of industries and company types and we have provided solutions for such companies as:

IPS (printer supplies in several geographic areas), Xerox (printers and printer supplies), Roots Canada Ltd. (apparel), Hawker Beechcraft Corp. (facilities management and time-definite logistics supporting parts distribution), Riverbed Technologies (technology products), LEGO Brand Retail (toys), Fifth and Pacific Cos, Inc (fashion apparel and accessories), Procter & Gamble (consumer packaged goods), AAFES (military exchange service), L'Oréal (health & beauty), Sorel (active outdoor apparel) among many others.

We target potential clients through an extensive integrated marketing program comprised of a variety of direct marketing techniques, email marketing initiatives, trade event participation, search engine marketing, public relations and a sophisticated outbound tele-sales lead generation model. We have also developed an intricate messaging matrix that defines our various eCommerce and business process outsourcing solutions and products, the vehicles we utilize to deliver marketing communication on these solutions/products and the target audience segments that display a demand for these solutions/products. This messaging matrix allows us to deploy highly targeted solution messages to selected key vertical industry segments where we feel we are able to provide significant service differentiation and value. We also pursue strategic marketing alliances with consulting firms, software manufacturers and other logistics providers to increase market awareness and generate referrals and customer leads.

Because of the highly complex nature of the solutions we provide, our clients demand significant competence and experience from a variety of different business disciplines during the sales cycle. As such, we utilize a selected member of our senior executive team to lead the design and proposal development of each potential new client we choose to pursue. The senior executive is supported by a select group of highly experienced individuals from our professional services group with specific industry knowledge of, or experience with, the solutions development process. We employ a team of highly trained implementation managers whose responsibilities include the oversight and supervision of client projects and maintaining high levels of client satisfaction during the transition process between the various stages of the sales cycle and steady state operations.

Technology

We maintain advanced management information systems and have automated key business functions using online, real-time or batch systems. These systems enable us to provide information concerning sales, inventory status, customer payments and other operations essential for us and our clients to efficiently manage electronic commerce and supply chain business programs. Our systems are designed to scale rapidly to handle the transaction processing demands of our clients and our growth.

We employ technology from a select group of vendors. For example, we deploy IBM e-servers and network printers in appropriate models to run web site functions as well as order management and distribution functions. Our network backbone is powered by Cisco, who provides network connectivity and network security solutions for our worldwide locations. We utilize Avaya Communication for telephone switch and call center management functions, and to interact with customers via voice, e-mail or chat. Avaya Communication technology also allows us to share web pages between customers and our service representatives. We have the ability to transmit and receive voice, data and video simultaneously on a single network connection to a customer to more effectively serve that customer for our client. Clients' interest in using this technology stems from its ability to allow shoppers to consult with known experts in a way the customer chooses prior to purchasing. Our sophisticated computer-telephony integration has been accomplished by combining systems software from IBM and Avaya Communication together with our own application development. We use Verizon Business for our private enterprise network and AT&T as our long distance carrier. We use Oracle's J.D. Edwards as the software provider for the primary ERP applications used in our operational areas and financial areas. We use Dematic/Rapistan Materials Handling Automation for our automated order selection, automated conveyor and "pick-to-light" (inventory retrieval) systems, and Symbol Technologies/Telxon for our warehouse radio frequency applications. Our Warehouse Management System ("WMS") and Distribution Requirements Planning ("DRP") system have been developed in-house to meet the varied unique requirements of our vertical markets. Both the WMS and DRP are tightly integrated to both the North American and European deployments of our J.D. Edwards' system.

Many internal infrastructures are not sufficient to support the explosive growth in e-business, e-marketplaces, supply chain compression, distribution channel realignment and the corresponding demand for real-time information necessary for strategic decision-making and product fulfillment. To address this need, we have created *PFSweb's End2End eCommerce*[®] platform to enable companies with little or no eCommerce infrastructure to speed their time to market and minimize resource investment and risk, and to allow all companies involved to improve the efficiency of their supply chain.

Using the various components of our collaboration technology suite, we can assist our clients in easily integrating their web sites or ERP systems to our systems for real-time web service enabled transaction processing without regard for their hardware platform or operating system. This high-level of systems integration allows our clients to automatically process orders, customer data and other eCommerce information. We also can track information sent to us by the client as it moves through our systems in the same manner a carrier would track a package throughout the delivery process. Our systems enable us to track, at a detailed level, information received, transmission timing, any errors or special processing required and information sent back to the client.

We provide technology interfaces to our back-office applications including our customized Oracle J.D. Edwards order management and fulfillment application. We utilize Gentran Integration Suite[™] ("GIS") as our technology platform for Enterprise Application Integration with our clients and clients' trading partners. With GIS, we have greatly increased our ability to quickly design and deploy customized B2B and DTC eCommerce solutions for our clients by utilizing a robust business process modeling tool and a highly scalable operating infrastructure. This platform facilitates the efficient and secure exchange of electronic business transactions/documents in a wide variety of formats (i.e. XML, X.12 EDI, delimited text, IDOCS) and communication protocols (i.e. FTP/SFTP, AS2/HTTP/HTTPS, AS1 SMTP, MQ Series and SOA Web Services).

We have invested in advanced telecommunications, computer telephony, electronic mail and messaging, automated fax technology, IVR technology, barcode scanning, wireless technology, fiber optic network communications and automated inventory management systems. We have also developed and utilize telecommunications technology that provides for automatic customer call recognition and customer profile recall for inbound customer service representatives.

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The primary responsibility of our systems development team of IT professionals is directed at implementing custom solutions for new clients and maintaining existing client relationships. Our development team can also produce proprietary systems infrastructure to expand our capabilities in circumstances where we cannot purchase standard solutions from commercial providers. We also utilize temporary and/or contract resources when needed for additional capacity.

Our information technology operations and infrastructure are built on the premise of reliability and scalability. We maintain diesel generators and uninterruptible power supply equipment to provide constant availability to computer rooms, call centers and warehouses. Multiple internet service providers and redundant web servers provide for a high degree of availability to web sites that interface with our systems. Capacity planning and upgrading is performed regularly to allow for quick implementation of new clients and avoid time-consuming infrastructure upgrades that could slow growth rates. In the event of a disastrous situation, we also have a disaster recovery plan that provides geographically separated and comparably equipped data centers that are able to recover stored data in a reasonable and effective manner.

Strategy

We continue to maintain our simple but effective strategy statement to drive our actions, QGP. This acronym stands for Quality, Growth and Profit. We believe if we can achieve outstanding performance on these three basic elements, they will provide for a stable foundation for our future. As the evolution of our business model continues, we will remain focused on these three fundamentals:

Quality: To exceed our client's service level requirements and enhance the value of their brand while providing their customers a positive, memorable and efficient experience.

Growth: To increase our revenue and gross profit from its current levels. To aggressively market simplified product messages to drive new clients and revenue and profit growth. To become a larger company and create career and additional employment opportunities. To embrace strategic partnering to accentuate strengths and minimize weaknesses.

Profit: To generate positive cash flow and continue to strive for consistent profitable results. To increase the value of our company for all of its stakeholders while rewarding our team members with challenging, fun and memorable life experiences.

The successful balance of the execution of these fundamental strategies is targeted to result in the formation of a solid strategic and financial foundation and provide us a sustainable and profitable business model for the future.

See "Risk Factors" for a complete discussion of risk factors related to our ability to achieve our objectives and fulfill our business strategies.

Employees

As of December 31, 2011, we had approximately 1,400 employees, of which approximately 1,100 were located in the United States. We have never suffered an interruption of business as a result of a labor dispute. We consider our relationship with our employees to be good. In the U.S., Canada and Philippines, we are not a party to any collective bargaining agreements and while our European subsidiaries are not a party to a collective-bargaining agreement, they are required to comply with certain rules mentioned in collective bargaining agreements, agreed upon by representatives of their industry (logistics) and unions.

Our success in recruiting, hiring and training large numbers of skilled employees and obtaining large numbers of hourly employees during peak periods for distribution and call center operations is critical to our ability to provide high quality distribution and support services. Call center representatives and distribution personnel receive feedback on their performance on a regular basis and, as appropriate, are recognized for superior performance or

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given additional training. Generally, our clients provide specific product training for our customer service representatives and, in certain instances, on-site client personnel to provide specific technical support. To maintain good employee relations and to minimize employee turnover, we strive to offer competitive pay, hire primarily full-time employees who are eligible to receive a full range of employee benefits, and provide employees with clear, visible career paths.

Internet Access to Reports

We maintain an Internet website, www.pfsweb.com. Our annual reports on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K (and amendments, if any, to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934) are made available, free of charge, through the investor relations section of this website as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission. The information on this website is not incorporated in this report.

Government Regulation

We are subject to federal, state, local and foreign consumer protection laws, including laws protecting the privacy of our customers' personally identifiable information and other non-public information and regulations prohibiting unfair and deceptive trade practices. Furthermore, the growth and demand for online commerce has and may continue to result in more stringent consumer protection laws that impose additional compliance burdens and greater penalties on online companies. Moreover, there is a trend toward regulations requiring companies to provide consumers with greater information regarding, and greater control over, how their personal data is used, and requiring notification when unauthorized access to such data occurs. For example, many states currently require us to notify each of our customers who are affected by any data security breach in which an unauthorized person, such as a computer hacker, obtains such customer's name and one or more of the customer's social security number, driver's license number, credit or debit card number or other similar personal information. In addition, several jurisdictions, including foreign countries, have adopted privacy-related laws that restrict or prohibit unsolicited email promotions, commonly known as "spam," and that impose significant monetary and other penalties for violations. One such law, the CAN-SPAM Act of 2003 imposes complex, burdensome and often ambiguous requirements in connection with our sending commercial email to our customers and potential customers. Moreover, in an effort to comply with these laws, Internet service providers may increasingly block legitimate marketing emails. These consumer protection laws may become more stringent in the future and could result in substantial compliance costs and could interfere with the conduct of our business.

We collect sales or other similar taxes for shipments of goods in certain states. One or more local, state or foreign jurisdictions may seek to impose sales tax collection obligations on us and other out-of-state companies that engage in online commerce. If sales tax obligations are successfully imposed upon us by a state or other jurisdiction, we could be exposed to substantial tax liabilities for past sales and fines and penalties for failure to collect sales taxes and we could suffer decreased sales in that state or jurisdiction as the effective cost of purchasing goods from us increases for those residing in that state or jurisdiction. In addition, new legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to our business or the application of existing laws and regulations to the Internet and commercial online services could result in significant additional taxes or regulatory restrictions on our business. These taxes could have an adverse effect on our cash flows and results of operations. Furthermore, there is a possibility that we may be subject to significant fines or other payments for any past failures to comply with these requirements.

Item 1A. RISK FACTORS

Our business, financial condition and operating results could be adversely affected by any or all of the following factors, in which event the trading price of our common stock could decline, and you could lose part or all of your investment.

General Risks Related to Our Business

Our business and future growth depend on our continued access to bank and commercial financing. An uncertain or recessed economy may negatively impact our business, results of operations, financial condition or liquidity.

During the past several years, the credit markets and the financial services industry have been experiencing a period of unprecedented turmoil and upheaval characterized by the bankruptcy, failure, collapse or sale of various financial institutions and an unprecedented level of intervention from the United States and foreign governments. An uncertain or recessed economy could also adversely impact our customers' operations or ability to maintain liquidity, which may negatively impact our business and results of operations.

Our business and future growth currently depend on our ability to access bank, vendor and commercial lines of credit. We currently depend on line of credit facilities provided by various banks and commercial lenders that provided for an aggregate of up to approximately \$101 million in available financing as of December 31, 2011. These lines of credit currently mature at various dates through March 2014 and are secured by substantially all our assets. Our ability to renew our lines of credit depends upon various factors, including the availability of bank loans and commercial credit in general, as well as our financial condition and prospects. Therefore, we cannot guarantee that these credit facilities will continue to be available beyond their current maturities on reasonable terms or at all. Our inability to renew or replace our credit facilities or find alternative financing would materially adversely affect our business, financial condition, operating results and cash flow.

Our clients and customers may be unable to pay us for our products and services

Our clients and customers include some companies that may from time to time encounter financial difficulties, especially in light of the current economic environment and the turmoil in the credit markets. If a client's or customer's financial difficulties become severe, they may be unwilling or unable to pay our invoices in the ordinary course of business, which could adversely affect collections of both our accounts receivable and unbilled services. The bankruptcy of a client or customer with a substantial account receivable could have a material adverse effect on our financial condition and results of operations. In addition, if a client or customer declares bankruptcy after paying us certain invoices, a court may determine that we are not properly entitled to that payment and may require repayment of some or all of the amounts we received, which could adversely affect our financial condition and results of operations.

We anticipate incurring significant expenses in the foreseeable future, which may reduce our ability to achieve or maintain profitability.

To reach our business growth objectives, we may increase our operating and marketing expenses, as well as capital expenditures. To offset these expenses, we will need to generate additional profitable business. If our revenue grows slower than either we anticipate or our clients' projections indicate, or declines or if our operating and marketing expenses exceed our expectations or cannot be reduced to an appropriate level, we may not generate sufficient revenue to be profitable or be able to sustain or increase profitability on a quarterly or annual basis in the future. Additionally, if our revenue grows slower than either we anticipate or our clients' projections indicate, we may incur unnecessary or redundant costs and our operating results could be adversely affected.

We have a large investment in fulfillment and computer technology equipment as well as long term building leases. A reduction in our clients' ecommerce business or our inability to increase service fee revenue from new or existing clients could negatively impact our operating results.

We seek to maintain sufficient capacity in our fulfillment operations and computer technology systems to support growth in our clients' business and service those clients during seasonal volume increases. A reduction in our clients' business or our inability to increase service fee revenue from new or existing clients could result in an underutilization in our invested assets. Furthermore, we recently entered into two building leases with lease terms long enough to secure competitive lease rates, but which require early termination payments in the event we elect to terminate the leases prior to their scheduled expiration, thus limiting our flexibility to reduce fixed capacity in response to reduced revenue.

Changes to financial accounting standards may affect our reported results of operations.

We prepare our financial statements to conform to United States generally accepted accounting principles, or GAAP. GAAP is subject to interpretation by the Financial Accounting Standards Board, the Securities and Exchange Commission and various bodies formed to interpret and create appropriate accounting policies. A change in those policies could have a significant effect on our reported results and could even affect our reporting of transactions that were completed before a change is announced. Accounting rules affecting many aspects of our business, including rules relating to accounting for revenue recognition, arrangements involving multiple deliverables and operating leases, have recently been revised or are currently under review. Changes to those rules, or current interpretation of those rules, may have a material adverse effect on our reported financial results or on the way we conduct 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 including PFS, Supplies Distributors and Retail Connect.

As of December 31, 2011, our total credit facilities outstanding, including debt, capital lease obligations and our vendor accounts payable related to financing of IPS product inventory, was approximately \$54.8 million. Certain of the credit facilities have maturity dates in calendar year 2013 or beyond, but are classified as current liabilities in our consolidated financial statements given the underlying nature of the credit facility. 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. Any non-renewal, default under or acceleration of any of our credit facilities would have a material adverse impact upon our business and financial condition. In addition we have provided \$3.5 million of subordinated indebtedness to Supplies Distributors as of December 31, 2011. The maximum level of this subordinated indebtedness to Supplies Distributors that may be provided without approval from our lenders is \$5.0 million. The restrictions on increasing this amount without lender approval may limit our ability to comply with certain loan covenants or further grow and develop Supplies Distributors' business. 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. We have also guaranteed our subsidiary Retail Connect's \$7.5 million credit line, as well as certain of its vendor trade payables.

We are dependent on our key personnel, and we need to hire and retain skilled personnel to sustain our business.

Our performance is highly dependent on the continued services of our executive officers and other key personnel, the loss of any of whom could materially adversely affect our business. In addition, we need to attract and retain other highly-skilled, technical and managerial personnel for whom there is intense competition. We cannot assure you we will be able to attract and retain the personnel necessary for the continuing growth of our business. Our inability to attract and retain qualified technical and managerial personnel could materially adversely affect our ability to maintain and grow our business significantly.

We are subject to risks associated with our international operations.

We currently operate a distribution complex in Liège, Belgium with approximately 200,000 square feet, and a distribution center in Richmond Hill, Ontario, Canada with approximately 34,000 square feet. We also operate a facility in the Philippines with approximately 7,000 square feet to provide technology development and administrative support. We cannot assure you we will be successful in expanding in these or any additional international markets. In addition to the uncertainty regarding our ability to generate revenue from foreign operations and expand our international presence, there are risks inherent in doing business internationally, including:

- changing regulatory requirements;
- legal uncertainty regarding foreign laws, tariffs and other trade barriers;
- political instability;
- potentially adverse tax consequences;
- foreign currency fluctuations; and
- cultural differences.

Any one or more of these factors could materially adversely affect our business in a number of ways, such as increased costs, operational difficulties and reductions in revenue.

We are uncertain about our need for and the availability of additional funds.

Our future capital needs are difficult to predict. We may require additional capital to take advantage of unanticipated opportunities, including strategic alliances and acquisitions, and to fund capital expenditures, or to respond to changing business conditions and unanticipated competitive pressures. We may also require additional funds to finance operating losses. Should these circumstances arise, our existing cash balance and credit facilities

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may be insufficient and we may need to raise additional funds either by borrowing money or issuing additional equity. We cannot assure you that such resources will be adequate or available for all of our future financing needs. Our inability to finance our growth, either internally or externally, may limit our growth potential and our ability to execute our business strategy. If we are successful in completing an additional equity financing, this could result in further dilution to our shareholders' ownership or reduce the market value of our common stock.

We may engage in future strategic alliances or acquisitions that could dilute our existing shareholders' ownership, cause us to incur significant expenses or harm our business.

We may review strategic alliance or acquisition opportunities that would complement our current business or enhance our technological capabilities. Integrating any newly acquired businesses, technologies or services may be expensive and time-consuming. To finance any acquisitions, it may be necessary for us to raise additional funds through borrowing money or completing public or private financings. Additional funds may not be available on terms that are favorable to us and, in the case of equity financings, may result in dilution to our shareholders' ownership. We may not be able to operate any acquired businesses profitably or otherwise implement our growth strategy successfully. If we are unable to integrate any newly acquired entities or technologies effectively, our operating results could suffer. Future acquisitions could also result in incremental expenses and the incurrence of debt and contingent liabilities, any of which could harm our operating results.

If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud. As a result, current and potential shareholders could lose confidence in our financial reporting, which could harm our business and the trading price of our common stock.

Based on the current requirements and our public float, we are not required to comply with the requirements of Section 404 of the Sarbanes-Oxley Act to obtain a report by our independent auditors opining on the effectiveness of our internal controls over financial reporting. If we fail to correct any issues in the design or operating effectiveness of internal controls over financial reporting or fail to prevent fraud, current and potential shareholders could lose confidence in our financial reporting, which could harm our business and the trading price of our common stock.

Delivery of our and our clients' products could be delayed or disrupted by factors beyond our control, and we could lose customers and clients as a result.

We rely upon third party carriers for timely delivery of our and our clients' product shipments. As a result, we are subject to carrier disruptions and increased costs due to factors that are beyond our control, including employee strikes, inclement weather and increased fuel costs. Any failure to deliver products to our and our clients' customers in a timely and accurate manner may damage our reputation and brand, and could cause us to lose customers and clients. We cannot be sure that our relationships with third party carriers will continue on terms favorable to us, if at all. If our relationship with any of these third party carriers is terminated or impaired, or if any of these third parties is unable to deliver products, we would be required to use alternative carriers for the shipment of our and our clients' products to customers. We may be unable to engage alternative carriers on a timely basis or on favorable terms, if at all. Potential adverse consequences include:

- reduced visibility of order status and package tracking;
- delays in order processing and product delivery;
- increased cost of delivery, resulting in reduced margins; and
- reduced shipment quality, which may result in damaged products and customer dissatisfaction.

Our profitability could be adversely affected if the operation of our facilities were interrupted or shut down as the result of a natural disaster.

We operate a majority of our distribution facilities in and around the Memphis, Tennessee area and our headquarters and call center operations are centered in the Dallas, Texas area. We also maintain facilities in Canada, Europe and the Philippines. Any natural disaster or other serious disruption to our facilities due to fire, tornado, flood or any other cause would substantially disrupt our operations and would impair our ability to adequately service our customers. In addition, we could incur significantly higher costs during the time it takes for us to reopen or replace any one or more of our facilities, which may or may not be reimbursed by insurance. As a result, disruption at one or more of our facilities could adversely affect our profitability.

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We may be a party to litigation involving our eCommerce intellectual property rights. If third parties claim we are infringing their intellectual property rights, we could incur significant litigation costs, be required to pay damages, or change our business or incur licensing expenses.

Third parties have asserted, and may in the future assert, that our business or the technologies we use infringe on their intellectual property rights. As a result, we may be subject to intellectual property legal proceedings and claims in the ordinary course of business. We cannot predict whether third parties will assert claims of infringement in the future or whether any future claims will prevent us from offering popular products or services. If we are found to infringe, we may be required to pay monetary damages, which could include treble damages and attorneys' fees for any infringement that is found to be willful, and either be enjoined or required to pay ongoing royalties with respect to any technologies found to infringe. Further, as a result of infringement claims either against us or against those who license technology to us, we may be required, or deem it advisable, to develop non-infringing technology, which could be costly and time consuming, or enter into costly royalty or licensing agreements. Such royalty or licensing agreements, if required, may be unavailable on terms that are acceptable, or at all. If a third party successfully asserts an infringement claim against us and we are enjoined or required to pay monetary damages or royalties or we are unable to develop suitable non-infringing alternatives or license the infringed or similar technology on reasonable terms on a timely basis, our business, results of operations and financial condition could be materially harmed.

A breach of our eCommerce security measures could reduce demand for our services. Credit card fraud and other fraud could adversely affect our business.

A requirement of the continued growth of eCommerce is the secure transmission of confidential information over public networks. A party who is able to circumvent our security measures could misappropriate proprietary information or interrupt our operations. Any compromise or elimination of our security could reduce demand for our services.

We may be required to expend significant capital and other resources to protect against security breaches or to address any problem they may cause. Because our activities involve the storage and transmission of proprietary information, such as credit card numbers, security breaches could damage our reputation, cause us to lose clients, impact our ability to attract new clients and we could be exposed to litigation and possible liability. Our security measures may not prevent security breaches, and failure to prevent security breaches may disrupt our operations. In certain circumstances, we do not carry insurance against the risk of credit card fraud and other fraud, so the failure to adequately control fraudulent transactions on either our behalf or our client's behalf could increase our expenses.

We may be liable for misappropriation of our customers' and our clients' customers' personal information.

Data security laws are becoming more stringent in the United States and abroad. Third parties are engaging in increased cyber attacks against companies doing business on the Internet and individuals are increasingly subjected to identity and credit card theft on the Internet. If third parties or unauthorized employees are able to penetrate our network security or otherwise misappropriate our customers' or our clients' customers' personal information or credit card information, or if we give third parties or our employees improper access to customers' personal information or credit card information, we could be subject to liability. This liability could include claims for unauthorized purchases with credit card information, impersonation or other similar fraud claims. This liability could also include claims for other misuses of personal information, including unauthorized marketing purposes. Liability for misappropriation of this information could decrease our profitability. In such circumstances, we also could be liable for failing to provide timely notice of a data security breach affecting certain types of personal information. In addition, the Federal Trade Commission and state agencies have brought numerous enforcement actions against Internet companies for alleged deficiencies in those companies' privacy and data security practices, and they may continue to bring such actions. We could incur additional expenses if new regulations regarding the collection, use or storage of personal information are introduced or if government agencies investigate our privacy or security practices.

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We rely on encryption and authentication technology licensed from third parties to provide the security and authentication necessary to effect secure transmission of sensitive customer information such as customer credit card numbers. Advances in computer capabilities, new discoveries in the field of cryptography or other events or developments may result in a compromise or breach of the algorithms that we use to protect customer transaction data. If any such compromise of security were to occur, it could subject us to liability, damage our reputation and diminish the value of our brand-name. A party who is able to circumvent the security measures could misappropriate proprietary information or cause interruptions in operations. We may be required to expend significant capital and other resources to protect against such security breaches or to alleviate problems caused by such breaches. Our security measures are designed to prevent security breaches, but our failure to prevent such security breaches could subject us to liability, damage our reputation and diminish the value of our brand-name.

We also may provide non-secured channels for customers to communicate. Despite the increased security risks, customers may use such channels to send personal information and other sensitive data. In addition, “phishing” incidents are on the rise. Phishing involves an online company’s customers being tricked into providing their credit card numbers or account information to someone pretending to be the online company’s representative. Such incidents have recently given rise to litigation against online companies for failing to take sufficient steps to police against such activities by third parties, and may discourage customers from using online services.

Specific Risks Related to Our Business Process Outsourcing Business

Our service fee revenue and gross margin is dependent upon our clients’ business and transaction volumes and our costs; many of our client service agreements are terminable by the client at will; we may incur financial penalties if we fail to meet contractual service levels under certain client service agreements.

Our service fee revenue is primarily transaction based and fluctuates with the volume of transactions or level of sales of the products by our clients for whom we provide transaction management services. If we are unable to retain existing clients or attract new clients, or if we dedicate significant resources to clients whose business does not generate sufficient revenue or whose products do not generate substantial customer sales, our business may be materially adversely affected. Moreover, our ability to estimate service fee revenue for future periods is substantially dependent upon our clients’ and our own projections, the accuracy of which has been, and will continue to be, unpredictable. Therefore, our planning for client activity and targeted goals for service fee revenue and gross margin may be materially adversely affected by incomplete, delayed or inaccurate projections. In addition, many of our service agreements with our clients are terminable by the client at will. Therefore, we cannot assure you any of our clients will continue to use our services for any period of time. The loss of a significant amount of service fee revenue due to client terminations could have a material adverse effect on our ability to cover our costs and thus on our profitability. Certain of our client service agreements contain minimum service level requirements and impose financial penalties if we fail to meet such requirements. The imposition of a substantial amount of such penalties could have a material adverse effect on our business and operations.

We subcontract a portion of our client services to third parties, and we are subject to various risks and liabilities if such subcontractors do not provide the subcontracted services or provide them in a manner that does not meet required service levels.

We currently, and may in the future, subcontract to one or more third parties a portion of our end-to-end solution service offering. Although our end-to-end solution service clients generally approve in advance the designation of the subcontractor and its provision of the subcontracted services, under the terms of our contracts with our end-to-end solution service clients, we remain liable to provide such subcontracted services and may be liable for the actions and omissions of such subcontractors. In certain instances, our end-to-end solution service clients prepay in advance a portion of the service fees payable in respect of the subcontracted services, and, under certain circumstances, including our breach or the breach by our subcontractor of our or their respective obligations, we are liable to refund all or a portion of such prepaid fees. Consequently, in the event our subcontractor fails to provide the subcontracted services in compliance with required services levels, or otherwise breaches its obligations, or discontinues its business, whether as the result of bankruptcy, insolvency or otherwise, we may be required to provide such services at a higher cost to us and may otherwise be liable for various costs and expenses related to such event. In addition, any such failure may damage our reputation and otherwise result in a material adverse affect upon our business and financial condition.

We may incur liability for indemnification obligations under our contracts with our clients and business partners which may have a material adverse effect upon our business, results of operations and financial condition.

We include indemnification provisions in the contracts we enter into with our clients and business partners. Generally, the provisions require us to defend claims arising out of our infringement of third-party intellectual property rights, breach of contractual obligations and/or unlawful or otherwise culpable conduct. The indemnity obligations generally cover damages, costs and attorneys' fees arising out of such claims. In many instances, our indemnification obligations to our clients include the actions or omissions of our third-party providers. Although we seek to limit our total liability under such provisions to either a portion of the value of the contract or a specified, agreed-upon amount, in some cases our total liability under such provisions is unlimited. Although in most cases our third party providers indemnify us for their actions and omissions, such providers may dispute or be unable to satisfy their indemnification obligation to us. In most cases, the term of the indemnity provision is perpetual. If we are required to indemnify a claim in a material amount, or if a series of indemnification claims are in the aggregate a material amount, we may be required to expend significant resources to defend the claims, which may have a material adverse effect upon our business, results of operations and financial condition.

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

For fiscal year 2011, two clients represented approximately 31% of our service fee revenue (excluding pass-through revenue) and 16% of consolidated revenue. We currently anticipate that one or more of these clients and other clients will reduce the level of services or terminate their relationship with us so that, unless we are able to increase our service fee revenue from other existing or new clients or adjust our operating costs, such reduction or termination of services would 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 master distributor agreements with IPS. These agreements are terminable at will and no assurance can be given that IPS will continue the master distributor agreements with Supplies Distributors. Supplies Distributors does not have its own sales force and relies upon IPS's sales force and product demand generation activities for its sale of IPS product. We have been advised that IPS is implementing certain operational changes in the sale and distribution of IPS products which we expect will result in reduced revenues and profitability for Supplies Distributors in 2012. Further reduction in the IPS business may have a material adverse effect on Supplies Distributors' business and our overall financial condition.

Sales by Supplies Distributors to two customers in the aggregate accounted for approximately 25% and 27% of Supplies Distributors' total product revenue for the years ended December 31, 2011 and 2010, respectively (13% and 17% of our consolidated net revenues for the years ended December 31, 2011 and 2010, respectively). 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.

Our operating results are materially impacted by our client mix and the seasonality of their business.

Our business is materially impacted by our client mix and the seasonality of their business. Based upon our current client mix and their current projected business volumes, we anticipate our revenue will be at its lowest in the first quarter of our fiscal year and at its highest in the fourth quarter of our fiscal year. We are unable to predict how the seasonality of future clients' business may affect our quarterly revenue and whether the seasonality may change due to modifications to a client's business. As such, 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.

Our systems may not accommodate significant growth in our number of clients.

Our success depends on our ability to handle a large number of transactions for many different clients in various product categories. We expect the volume of transactions will increase significantly as we expand our operations. In addition, client marketing programs, such as "secret sales" or "flash sales" often result in significant short-term spikes in transaction volumes. When this occurs, additional stress is placed upon our network hardware and

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software, and our ability to efficiently manage our operations and we cannot assure you of our ability to efficiently manage a large number of transactions. If we are not able to maintain an appropriate level of operating performance, we may develop a negative reputation, and impair existing and prospective client relationships and our business would be materially adversely affected.

We may not be able to recover all or a portion of our start-up costs associated with one or more of our clients.

We generally incur start-up costs in connection with the planning and implementation of business process solutions for our clients. Although we generally attempt to recover these costs from the client in the early stages of the client relationship, or upon contract termination if the client terminates without cause prior to full amortization of these costs, there is a risk that the client contract may not fully cover the start-up costs. To the extent start-up costs exceed the start-up fees received, certain excess costs will be expensed as incurred. Additionally, in connection with new client contracts we generally incur capital expenditures associated with assets whose primary use is related to the client solution. There is a risk that the contract may end before expected and we may not recover the full amount of our capital costs.

Our revenue and margins may be materially impacted by client transaction volumes that differ from client projections and business assumptions.

Our pricing for client transaction services, such as call center and fulfillment, is often based upon volume projections and business assumptions provided by the client and our anticipated costs to perform such work. In the event the actual level of activity or cost is substantially different from the projections or assumptions, we may have insufficient or excess staffing, incremental costs or other assets dedicated for such client that may negatively impact our margins and business relationship with such client. In the event we are unable to meet the service levels expected by the client, our relationship with the client will suffer and may result in financial penalties and/or the termination of the client contract.

We face competition from many sources that could adversely affect our business; growth in our clients' ecommerce business may make it more efficient for the client to perform our services themselves.

Many companies offer, on an individual basis, one or more of the same services we do, and we face competition from many different sources depending upon the type and range of services requested by a potential client. Our competitors include vertical outsourcers, which are companies that offer a single function, such as call centers, public warehouses or credit card processors. We compete against transportation logistics providers who offer product management functions as an ancillary service to their primary transportation services. We also compete against other business process outsourcing providers, who perform many similar services as us. Many of these companies have greater capabilities than we do for the single or multiple functions they provide. In many instances, our competition is the in-house operations of potential clients themselves. The in-house operations of potential clients often believe they can perform the same services we do, while others are reluctant to outsource business functions that involve direct customer contact. We cannot be certain we will be able to compete successfully against these or other competitors in the future.

In addition, growth in our clients' ecommerce businesses may cause a client to consider making the necessary investments to process their ecommerce operations in-house. In such event, unless we can provide a more cost-effective solution to the client, the client may choose to terminate our services. There is no assurance that we will be able to provide a more cost-effective solution, or that any such solution will not reduce our profitability or be accepted by the client.

Our sales and implementation cycles are highly variable and our ability to finalize pending contracts may cause our operating results to vary widely.

The sales cycle for our services is variable, typically ranging between several months to up to a year or longer from initial contact with the potential client to the signing of a contract. Occasionally the sales cycle requires substantially more time. Delays in signing and executing client contracts may affect our revenue and cause our operating results to vary widely. A potential client's decision to purchase our services is discretionary, involves a significant commitment of the client's resources and is influenced by intense internal and external pricing and

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operating comparisons. To successfully sell our services, we generally must educate our potential clients regarding the use and benefit of our services, which can require significant time and resources. Consequently, the period between initial contact and the purchase of our services is often long and subject to delays associated with the lengthy approval and competitive evaluation processes that typically accompany significant operational decisions. Additionally, the time required to finalize pending contracts and to implement our systems and integrate a new client can range from several weeks to many months. Delays in signing and integrating new clients may affect our revenue and cause our operating results to vary widely.

Our business could be adversely affected by a systems or equipment failure, whether ours or our clients.

Our operations are dependent upon our ability to protect our distribution facilities, customer service centers, computer and telecommunications equipment and software systems against damage and failures. Damage or failures could result from fire, power loss, equipment malfunctions, system failures, natural disasters and other causes. If our business is interrupted either from accidents or the intentional acts of others, our business could be materially adversely affected. In addition, in the event of widespread damage or failures at our facilities, our short-term disaster recovery and contingency plans and insurance coverage may not be sufficient.

Our clients' businesses may also be harmed from any system or equipment failures we experience. In that event, our relationship with these clients may be adversely affected, we may lose these clients, our ability to attract new clients may be adversely affected and we could be exposed to liability.

Interruptions could also result from the intentional acts of others, like hackers. If our systems are penetrated by computer hackers, or if computer viruses infect our systems, our computers could fail or proprietary information could be misappropriated.

If our clients suffer similar interruptions in their operations, for any of the reasons discussed above or for others, our business could also be adversely affected. Many of our clients' computer systems interface with our systems. If our clients suffer interruptions in their systems, the link to our systems could be severed and sales of the client's products could be slowed or stopped.

Risks Related to the Business Process Outsourcing Industry

If the trend toward outsourcing does not continue, our business could be adversely affected.

Our business could be materially adversely affected if the trend toward outsourcing declines or reverses, or if corporations bring previously outsourced functions back in-house. Particularly during general economic downturns, businesses may bring in-house previously outsourced functions to avoid or delay layoffs.

Our market is subject to rapid technological change and to compete we must continually enhance our systems to comply with evolving standards.

To remain competitive, we must continue to enhance and improve the responsiveness, functionality and features of our services and the underlying network infrastructure. If we are unable to adapt to changing market conditions, client requirements or emerging industry standards, our business could be adversely affected. The internet and eCommerce environments are characterized by rapid technological change, changes in user requirements and preferences, frequent new product and service introductions embodying new technologies and the emergence of new industry standards and practices that could render our technology and systems obsolete. Our success will depend, in part, on our ability to both internally develop and license leading technologies to enhance our existing services and develop new services. We must continue to address the increasingly sophisticated and varied needs of our clients and respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis. The development of proprietary technology involves significant technical and business risks. We may fail to develop new technologies effectively or to adapt our proprietary technology and systems to client requirements or emerging industry standards.

Risks Related to Our Stock

The market price of our common stock may be volatile. You may not be able to sell your shares at or above the price at which you purchased such shares.

The trading price of our common stock may be subject to wide fluctuations in response to quarter-to-quarter fluctuations in operating results, announcements of material adverse events, general conditions in our industry or the public marketplace and other events or factors. In addition, stock markets have experienced extreme price and trading volume volatility in recent years. This volatility has had a substantial effect on the market prices of securities of many technology related companies for reasons frequently unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the market price of our common stock. In addition, if our operating results differ from our announced guidance or the expectations of equity research analysts or investors, the price of our common stock could decrease significantly.

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

As of December 31, 2011, we have an aggregate of 2.2 million stock options outstanding to employees, directors and others with a weighted average exercise price of \$4.56 per share. The shares of common stock that may be issued upon exercise of these options may be resold into the public market. Sales of substantial amounts of common stock in the public market as a result of the exercise of these options, 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.

Our certificate of incorporation, our bylaws, our shareholder rights plan and Delaware law make it difficult for a third party to acquire us, despite the possible benefit to our shareholders.

Provisions of our certificate of incorporation, our bylaws, our shareholder rights plan and Delaware law could make it more difficult for a third party to acquire us, even if doing so would be beneficial to our shareholders. For example, our certificate of incorporation provides for a classified board of directors, meaning that only approximately one-third of our directors may be subject to re-election at each annual shareholder meeting. Our certificate of incorporation also permits our Board of Directors to issue one or more series of preferred stock, which may have rights and preferences superior to those of the common stock. The ability to issue preferred stock could have the effect of delaying or preventing a third party from acquiring us. We have also adopted a shareholder rights plan. These provisions could discourage takeover attempts and could materially adversely affect the price of our stock. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may prohibit large shareholders from consummating a merger with, or acquisition of us. These provisions may prevent a merger or acquisition that would be attractive to shareholders and could limit the price investors would be willing to pay in the future for our common stock.

There are limitations on the liabilities of our directors and executive officers.

Pursuant to our bylaws and under Delaware law, our directors are not liable to us or our shareholders for monetary damages for breach of fiduciary duty, except for liability for breach of a director's duty of loyalty, acts or omissions by a director not in good faith or which involve intentional misconduct or a knowing violation of law, or any transaction in which a director has derived an improper personal benefit.

Item 1B. *Unresolved Staff Comments*

None.

Item 2. *Properties*

Our headquarters are currently located in Plano, Texas, a Dallas suburb. In December 2011, we signed a new lease for approximately 96,000 square feet in Allen, Texas, another Dallas suburb. We are currently in the process of relocating our headquarters to this new Allen facility and expect to complete the move in April 2012.

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In the U.S., we operate a distribution facility in Memphis, Tennessee, with aggregate space of more than 440,000 square feet. We also operate approximately 490,000 square feet of distribution facilities in Southaven, Mississippi. These facilities are located approximately ten miles from the Memphis International Airport. We also manage a distribution facility in Grapevine, Texas with approximately 200,000 square feet.

Internationally, we operate a distribution complex in Liège, Belgium with approximately 200,000 square feet, which contains advanced distribution systems and equipment. We operate a distribution center in Richmond Hill, Ontario, Canada with approximately 34,000 square feet. We also operate a facility in the Philippines with approximately 7,000 square feet to provide primarily technology development and administrative support.

Except for the Grapevine, Texas facility, which we manage on our client's behalf, all of our facilities are leased and the material lease agreements contain one or more renewal options.

We operate customer service centers in our facilities in Tennessee, Texas, Belgium, Canada and the Philippines. Our call center technology permits the automatic routing of calls to available customer service representatives in several of our call centers. In December 2011, we signed a new lease in Dallas, Texas for approximately 78,000 square feet. We are currently in process of relocating our Plano, Texas call center operations to this new Dallas location and expect to complete the move in April 2012.

Item 3. *Legal Proceedings*

We are not party to any legal proceedings other than routine claims and lawsuits arising in the ordinary course of our business. We do not believe such claims and lawsuits, individually or in the aggregate, will have a material adverse effect on our business.

Item 4. *Mine Safety Disclosure*

Not Applicable

PART II

Item 5. Market for Registrant’s Common Equity, Related Shareholder Matters and Issuer Purchases of Equity Securities

Our common stock is listed, and currently trades, on the NASDAQ Capital Market under the symbol “PFSW.” The following table sets forth for the period indicated the high and low sale price for the common stock as reported by NASDAQ:

	Price	
	High	Low
Year Ended December 31, 2010		
First Quarter	\$4.70	\$1.48
Second Quarter	\$5.23	\$2.73
Third Quarter	\$3.57	\$2.21
Fourth Quarter	\$4.19	\$3.05
Year Ended December 31, 2011		
First Quarter	\$5.22	\$2.89
Second Quarter	\$6.72	\$4.15
Third Quarter	\$5.50	\$3.70
Fourth Quarter	\$4.55	\$2.15

As of March 6, 2012, there were approximately 4,600 shareholders, of which approximately 135 were record holders of the common stock.

We have never declared or paid cash dividends on our common stock and do not anticipate the payment of cash dividends on our common stock in the foreseeable future. We are also restricted from paying dividends under our debt agreements without the prior approval of our lenders. The payment of any future cash dividends will be at the discretion of our Board of Directors and will depend upon, among other things, future earnings, operations, capital requirements, the general financial condition of the Company and general business conditions and the approval of our lenders. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations — Liquidity and Capital Resources.”

The following table summarizes information with respect to equity compensation plans under which equity securities of the Company are authorized for issuance as of December 31, 2011:

<u>Plan category (1)</u>	<u>Number of securities to be issued upon exercise of outstanding options and warrants</u>	<u>Weighted-average exercise price of outstanding options and warrants</u>	<u>Number of securities remaining available for future issuance</u>
Equity compensation plans approved by security holders	2,167,852	\$ 4.56	419,042
Equity compensation plans not approved by security holders	—		—
Total	2,167,852		419,042

(1) See Note 5 to the Consolidated Financial Statements for more detailed information regarding the Company’s equity compensation plans.

Item 6. Selected Consolidated Financial Data

None

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

We believe the following discussion and analysis provides information that is relevant to an assessment and understanding of our consolidated results of operations and financial condition. The discussion and analysis should be read in conjunction with the consolidated financial statements and related notes thereto appearing elsewhere in this Form 10-K. This Management's Discussion and Analysis will help you understand:

- The impact of forward looking statements;
- Our financial structure, including our historical financial presentation;
- Our results of operations for the previous two years;
- Certain of our relationships with our subsidiaries;
- Our liquidity and capital resources;
- The impact of seasonality, inflation and recently issued accounting standards on our financial statements; and
- Our critical accounting policies and estimates.

Forward-Looking Information

We have made forward-looking statements in this Report on Form 10-K. 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 the Risk Factors set forth above or elsewhere in this Report on Form 10-K, 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 or product sales of our clients;
- our reliance on our clients' projections, transaction volume or product sales;
- our dependence upon our agreements with International Business Machines Corporation ("IBM") and InfoPrint Solutions Company ("IPS");
- 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 contracts;
- the impact of strategic alliances and acquisitions;
- trends in eCommerce, outsourcing, government regulation, both foreign and domestic, and the market for our services;
- whether we can continue and 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;
- the reliance on third-party 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 dependence upon key personnel;
- 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;
- relationships with, and our guarantees of, certain liabilities and indebtedness of our subsidiaries; and
- taxation on the sale of our products.

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We have based these statements on our current expectations about future events. Although we believe 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. There may be additional risks we do not currently view as material or that are not presently known. In evaluating these statements, you should consider various factors, including the risks set forth in the section entitled "Risk Factors."

Overview

We are an international business process outsourcing provider of end-to-end eCommerce solutions. We provide these solutions to major brand name companies seeking to optimize their supply chain and to enhance their traditional and online business channels and initiatives. We derive our revenues from providing a broad range of services as we process individual business transactions on our clients' behalf using three different seller services financial models: 1) the Enablement model, 2) the Agent (or Flash) model and 3) the Retail model.

We refer to the standard PFSweb seller services financial model as the Enablement model. In this model, our clients own the inventory and are the merchants of record and engage us to provide various business outsourcing services in support of their business operations. We derive our service fee revenues from a broad range of service offerings that include digital marketing, eCommerce technology, 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 infrastructure needs to a single source and to focus on their core competencies. Our distribution services are conducted at warehouses we lease or manage. We currently provide infrastructure and distribution solutions to clients that operate in a range of vertical markets, including technology manufacturing, computer products, cosmetics, fragile goods, contemporary home furnishings, apparel, aviation, telecommunications, consumer electronics and consumer packaged goods, among others.

In this model, we typically charge for our services on a cost-plus basis, a percent of shipped revenue basis or a per-transaction basis, such as a per-minute 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 our second model, the Agent, or Flash, financial model, in which our clients maintain ownership of the product inventory stored at our locations, as in the Enablement 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 on a net basis.

Finally, our Retail model allows us to purchase inventory from the client just as any other client reseller partner. 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. Consequently, in this model, we generate product revenue, as we 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. In this model we recognize product revenue for customer sales. Freight costs billed to customers are reflected as components of product revenue. This business model generally requires significant working capital requirements, for which we have credit available either through credit terms provided by our client or under senior credit facilities.

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In general, we provide the Enablement model through our PFS and Supplies Distributors subsidiaries, the Agent or Flash model through our PFS and Supplies Distributors subsidiaries and the Retail model through our Supplies Distributors subsidiaries and our PFSweb Retail Connect subsidiary.

Growth is a key element to achieving our future goals, including achieving and maintaining sustainable profitability. Growth in our Enablement 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 two primary target markets, online brands and retailers and technology manufacturers, which, by nature, require a longer duration to close but also have the potential to be higher quality and longer duration engagements.

Growth within our Retail model currently is primarily driven by our ability to attract new master distributor arrangements with IPS or other manufacturers and the sales and marketing efforts of the manufacturers and third party sales partners. Ricoh has advised us that it is restructuring its IPS business, which will include certain realignment and operational changes in the sale and distribution of IPS products. We are continuing to evaluate the impact of these changes to our business, though we expect the changes to result in reduced revenues and profitability under our Retail model in 2012.

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

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 master 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 consulting 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.

Monitoring and controlling our available cash balances and our expenses continues to be a primary focus. Our cash and liquidity positions are important components of our financing of both current operations and our targeted growth.

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Results of Operations

Year Ended December 31, 2011 Compared to Year Ended December 31, 2010

The results of operations related to the eCOST.com business unit that was sold in February 2011 have been reported as discontinued operations for both periods presented below. 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).

	2011	2010	Change		% of Total Revenue	
			\$	%	2011	2010
Revenues:						
Product revenue, net	\$162.4	\$174.6	\$(12.2)	(7.0)%	54.4%	63.6%
Service fee revenue	95.4	70.6	24.8	35.0%	31.9%	25.7%
Pass-through revenue	41.0	29.3	11.7	40.0%	13.7%	10.7%
Total net revenues	298.8	274.5	24.3	8.8%	100.0%	100.0%
Cost of Revenues						
Cost of product revenue	150.7	162.5	(11.8)	(7.2)%	92.8%(1)	93.1%
Cost of service fee revenue	71.8	51.1	20.7	40.3%	75.3%(2)	72.4%
Pass-through cost of revenue	41.0	29.3	11.7	40.0%	100.0%(3)	100.0%
Total cost of revenues	263.5	242.9	20.6	8.5%	88.2%	88.5%
Product revenue gross profit	11.7	12.1	(0.4)	(3.5)%	7.2%(1)	6.9%
Service fee gross profit	23.6	19.5	4.1	21.0%	24.7%(2)	27.6%
Pass-through gross profit	—	—	—	—	—	—
Total gross profit	35.3	31.6	3.7	11.6%	11.8%	11.5%
Selling, General and Administrative Expenses	37.5	33.6	3.9	11.7%	12.6%	12.2%
Loss from operations	(2.2)	(2.0)	(0.2)	12.8%	(0.8)%	(0.7)%
Interest expense, net	1.1	0.9	0.2	15.4%	0.3%	0.3%
Loss from continuing operations before income taxes	(3.3)	(2.9)	(0.4)	13.7%	(1.1)%	(1.0)%
Income tax expense, net	0.4	0.5	0.1	(17.4)%	0.1%	0.2%
Loss from continuing operations	(3.7)	(3.4)	(0.3)	9.4%	(1.2)%	(1.2)%
Income (loss) from discontinued operations, net of tax	(0.9)	(4.0)(4)	3.1	(77.8)%	(0.3)%	(0.4)%
Net loss	\$ (4.6)	\$ (7.4)	\$ (2.8)	(38.0)%	(1.5)%	(2.6)%

- (1) Represents the percent of Product revenue, net.
- (2) Represents the percent of Service fee revenue.
- (3) Represents the percent of Pass-through revenue.
- (4) Includes a \$2.8 million goodwill impairment charge.

Product revenue, net. Product revenue decreased \$12.2 million, or 7.0%, in 2011 as compared to the prior year. The decrease was primarily due to the impact of lower sales volume, partially offset by increased unit pricing on certain products and the impact of euro currency conversion rates.

Ricoh has advised Supplies Distributors that it is restructuring its IPS business, which will include certain operational changes in the sale and distribution of IPS products. We expect the changes to result in reduced revenues and profitability for Supplies Distributors in 2012. We currently expect product revenue to be approximately \$120 million to \$130 million in 2012.

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Service fee revenue. The increase in service fee revenue for the year ended December 31, 2011 was primarily due to increased service fees from existing client relationships, along with service fees from new client relationships that began in 2011, partially offset by the impact of terminated clients. The change in service fee revenue, excluding pass-through revenue, is shown below (\$ millions):

Year ended December 31, 2010	\$70.6
New service contract relationships	13.6
Change in existing client service fees, including clients implemented during 2010	16.4
Terminated clients not included in 2011 revenue	(5.2)
Year ended December 31, 2011	<u>\$95.4</u>

The service fee revenue for 2011 includes approximately \$3.2 million of revenue generated from clients who terminated their contractual relationships with us during 2011. Based on historical activity and current projections of existing clients, including new clients signed in 2011, net of the impact from the non-renewal or termination of certain clients, we currently anticipate that 2012 service fee revenue will increase from 2011 service fee revenue levels.

Cost of Product Revenue. Cost of product revenue decreased by \$11.8 million, or 7.2%, to \$150.7 million in 2011, primarily as a result of decreased product sales. The resulting gross profit margin was \$11.7 million or 7.2% of product revenue for the year ended December 31, 2011 and \$12.1 million or 6.9% of product revenue for 2010. The gross profit margin for 2011 and 2010 includes the impact of certain incremental gross margin earned on product sales resulting from certain product price increases and the impact of certain incremental inventory cost reductions.

Cost of Service Fee Revenue. Gross profit as a percentage of service fees was 24.7% in 2011 and 27.6% in 2010. The gross profit percentage decrease is primarily due to a change in the client mix, lower gross margins on certain new and/or high growth clients including certain start up costs, the impact of incremental costs incurred in implementing processes targeted to drive future long-term operating efficiencies and higher than expected costs incurred to fulfill client volumes during the high volume season peak. The margin in the prior year period includes the benefit of certain higher margin incremental project work.

We target to earn an overall average gross profit of 25-30% 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.

Selling, General and Administrative Expenses. Selling, general and administrative expenses were \$37.5 million, or 12.6% of total net revenues in the 2011 period and \$33.6 million, or 12.2% of total net revenues in the prior year. The increase in costs is primarily attributable to increased non-cash stock compensation expense, sales and marketing costs and personnel related expenses as we continue to make investments to support current and future growth. In both 2011 and 2010, we incurred incremental relocation related costs necessary to support our growth. Due to planned facility expansions and relocations, we expect to incur certain incremental relocation related costs into mid-2012. The year ended December 31, 2010 also included the impact of certain executive disability benefit costs that did not occur in 2011.

Income Taxes. We recorded a tax provision associated primarily with state income taxes, our subsidiary Supplies Distributors' Canadian and European operations, and our Philippines operations. A valuation allowance has been provided for the majority of our net deferred tax assets, which are primarily related to our net operating loss carryforwards and certain foreign deferred tax assets. We expect that we will continue to record an income tax provision associated with state income taxes, Supplies Distributors' Canadian and European results and our Philippines operations.

Loss from Discontinued Operations, Net of Tax. Discontinued operations generated losses of approximately \$0.9 million and \$4.0 million in 2011 and 2010, respectively. In February 2011, we sold substantially all of the inventory and certain intangible assets of our eCOST.com business unit for a total aggregate cash purchase price of approximately \$2.3 million. For both 2011 and 2010, we have classified the operating results of this business unit, excluding costs expected to continue to occur in the future, as discontinued operations. A goodwill impairment charge of approximately \$2.8 million was included in the 2010 loss from discontinued operations.

Supplies Distributors and its Subsidiaries

We conduct a portion of our Retail business model operations through Supplies Distributors and its subsidiaries, which act as master distributors of various IPS and other products. We conduct these services through transaction management services agreements under which PFS provides transaction management and fulfillment services to Supplies Distributors and its subsidiaries. In addition to our equity investment in Supplies Distributors, we have also provided Supplies Distributors with a subordinated loan that, as of December 31, 2011, had an outstanding balance of \$3.5 million.

Supplies Distributors paid us dividends of \$0.6 million and \$2.9 million in 2011 and 2010, respectively. Supplies Distributors has received lender approval to pay dividends of approximately \$2.8 million in 2012, but pursuant to the terms of its amended credit agreements, is restricted from paying further cash dividends without the prior approval of its lenders. In addition, no distribution may be made if, after giving effect thereto, Supplies Distributors or its subsidiaries are in noncompliance with its financial covenants under its current facilities.

Liquidity and Capital Resources

During the year ended December 31, 2011, we generated \$4.3 million of cash income from continuing operations before working capital changes, \$2.3 million in proceeds from the February 2011 sale of our eCOST business plus \$1.3 million applicable to a reduction of eCOST inventory prior to the sale. In addition, we generated \$3.4 million in proceeds due to a reduction in net inventories based on the timing of product sell-through and reduced inventory purchasing as a result of reduced IPS product revenue volumes. We also received proceeds from the issuance of common stock of \$2.0 million from the exercise of stock options. These cash inflows were offset by an \$11.5 million increase in accounts receivable resulting from the growth and holiday seasonal peak period billing activity of our services business, partially offset by a reduction in accounts receivable from eCOST customer collections in conjunction with the February 2011 sale of that business.

Our principal sources of cash in the year ended December 31, 2010 were \$7.3 million in proceeds from the issuance of common stock pursuant to a public offering, a \$6.1 million increase in accounts payable, deferred revenue, accrued expenses and other liabilities due to the timing of payments we made for products and services, payment processing and related transactions costs and cash income from continuing operations before working capital changes of \$3.8 million. These cash inflows were offset by a \$3.0 million increase in accounts receivable related to the growth and holiday seasonal peak period billing activity of our services business and timing of product placement and a \$2.7 million increase in inventory due to timing of receipts on certain product shipments

We incurred capital expenditures of \$7.6 million, net of \$4.8 million of property and equipment acquired under debt and capital lease financing, and \$3.8 million, net of \$1.3 million of property and equipment acquired under debt and capital lease financing, in the years ended December 31, 2011 and 2010, respectively, which primarily consist of payments for internally developed software, distribution equipment, leasehold improvements, and furniture and fixtures. Cash flows from the proceeds from debt, net of debt payments and payments on capital leases were \$2.4 million in the year ended December 31, 2011. Payments on capital leases and net payments on debt were \$3.2 million in the aggregate during the year ended December 31, 2010.

Capital expenditures have historically consisted primarily 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 services for the upcoming twelve months, including costs to implement new clients, will be approximately \$17 million to \$20 million, although additional capital expenditures may be necessary to support the infrastructure requirements of new clients. This includes approximately \$7.0 million to \$8.0 million in capital expenditures to ready our new corporate headquarters and call center facility, which are being financed by the landlords through tenant allowances. 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 that we do not obtain the financing or achieve the financial results necessary to support such investments.

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During the year ended December 31, 2011, our working capital decreased to \$20.4 million from \$22.6 million at December 31, 2010, primarily due to our net loss incurred during the year and capital expenditures, partially offset by cash proceeds from our sale of certain intangible assets applicable to the eCOST.com business unit, proceeds from issuance of common stock related to stock option exercises and net proceeds from long-term debt and capital leases and client funding of startup related activity. 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. In conjunction with certain of these alternatives, we may be required to provide certain letters of credit to secure these arrangements. No assurances can be given that 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.

During the past few years, the credit markets and the financial services industry have been experiencing a period of unprecedented turmoil and upheaval characterized by the bankruptcy, failure, collapse or sale of various financial institutions and an unprecedented level of intervention from the United States and foreign governments. While the ultimate outcome of these events cannot be predicted, they may have a material adverse effect on our liquidity, financial condition, results of operations and our ability to renew our credit facilities.

In support of certain debt instruments and leases, as of December 31, 2011, we had \$0.8 million of cash restricted for repayment to lenders. In addition, as described above, we have provided collateralized guarantees to secure the repayment of certain of our subsidiaries' credit facilities. Many of these facilities include both financial and non-financial covenants, and also include cross default provisions applicable to other credit facilities and agreements. These covenants include, among others, minimum levels of net worth, profitability and cash flow (as defined) and the restrictions on the ability of the borrower subsidiaries to advance funds to other borrower subsidiaries. As a result, it is possible for one or more of these borrower subsidiaries to fail to meet their respective covenants even if another borrower subsidiary otherwise has available excess funds which, if not restricted, could be used to cure the default. To the extent we fail to comply with our debt covenants, including the monthly financial covenant requirements and our required level of shareholders' equity 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 and enforcement of payment under our parent guarantee. A requirement to accelerate the repayment of the credit facility obligations may 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 of such obligations. As of December 31, 2011, we were in compliance with all debt covenants. Further, any non-renewal of any of our credit facilities would have a material adverse impact on our business and financial condition. 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.

In the future, we may attempt to acquire other businesses or seek an equity or strategic partner to generate capital or expand our services or capabilities in connection with our efforts to grow our business. Acquisitions involve certain risks and uncertainties and may require additional financing. Therefore, we can give no assurance with respect to whether we will be successful in identifying businesses to acquire or an equity or strategic partner, whether we or they will be able to obtain financing to complete a transaction, or whether we or they will be successful in operating the acquired business.

We receive municipal tax abatements in certain locations. During 2004 we received notice from a municipality that we did not satisfy certain criteria necessary to maintain the abatements. In December 2006 we received notice 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 December 31, 2011, we believe we have adequately accrued for the expected assessment.

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In April 2010, a sales employee of our former subsidiary eCOST.com, was charged with violating various federal criminal statutes in connection with the sales of eCOST products to certain customers, and approximately \$620,000 held in an eCOST deposit account was seized and turned over to the Office of the U.S. Attorney in connection with such activity. We received subpoenas from the Office of the U.S. Attorney requesting information regarding the employee and other matters, and have responded to such subpoenas and are fully cooperating with the Office of the U.S. Attorney. We have commenced our own investigation into the actions of the employee. Neither the Company nor eCOST have been charged with any criminal activity, and we intend to seek the recovery or reimbursement of the funds, which are currently classified as other receivables in the December 31, 2011 financial statements. Based on the information available to date, we are unable to determine the amount of the loss, if any, relating to the seizure of such funds. No assurance can be given, however, that the seizure of such funds, or our inability to recover such funds or any significant portion thereof, or any costs and expenses we may incur in connection with such matter will not have a material adverse effect upon our financial condition or results of operations.

On December 16, 2011, the Company announced a board approved stock repurchase program of up to \$1 million of the outstanding shares of its common stock. As of December 31, 2011 and as of the date of this report, no shares have been purchased under this program. In considering whether to purchase shares under this program, the Company will consider, among other factors, the market price of the shares, the Company's available cash balance and the Company's anticipated cash needs.

Supplies Distributors Financing

To finance their distribution of IPS products, Supplies Distributors and its subsidiaries have short-term credit facilities with IBM Credit LLC ("IBM Credit") and IBM Belgium Financial Services S.A. ("IBM Belgium"). We have provided a collateralized guaranty to secure the repayment of these credit facilities. The asset-based credit facilities provided financing for up to \$25.0 million and up to 10.0 million Euros (approximately \$13.0 million) with IBM Credit and IBM Belgium, respectively. Effective July 1, 2012, our maximum available financing under the IBM Credit facility will reduce from \$25.0 million to \$20.0 million based on our expected future working capital needs. Additionally, as of March 28, 2012, the IBM Credit facility will not have a stated maturity and both parties will have the ability to exit the facility following a 90 day notice period. The IBM Belgium facility expires in June 2012. In conjunction with a reorganization by Ricoh, we will have direct vendor credit terms with Ricoh to finance Supplies Distributors European subsidiary's inventory purchases.

Supplies Distributors also has a loan and security agreement with Wells Fargo Bank, National Association ("Wells Fargo") to provide financing for up to \$25 million of eligible accounts receivables in the United States and Canada. The Wells Fargo facility expires on the earlier of March 2014 or the date on which the parties to the IPS master distributor agreement no longer operate under the terms of such agreement and/or IPS no longer supplies products pursuant to such agreement.

Supplies Distributors' European subsidiary has a factoring agreement with BNP Paribas Fortis Factor ("BNP Paribas") to provide factoring for up to 7.5 million Euros (approximately \$9.7 million at December 31, 2011) of eligible accounts receivables through March 2014.

These credit facilities contain cross default provisions, 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), 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 cash flow from operations, annualized revenue to working capital, net profit after tax to revenue, minimum net worth 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 \$3.5 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 structure and a minimum shareholders' equity of at least \$18.0 million. 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 IPS.

PFS Financing

Our PFS subsidiary has a Loan and Security Agreement (“Agreement”) with Comerica Bank (“Comerica”), which provides for up to \$12.5 million (\$10.0 million during certain non-seasonal peak months) of eligible accounts receivable financing through September 30, 2012. We currently expect to renew this facility prior to its maturity. The Agreement also provides for up to \$2.5 million of eligible equipment financing (“Equipment Advances”). Outstanding Equipment Advances have a final maturity date of April 15, 2015. We entered into this Agreement to supplement our existing cash position, and provide funding for our current and future operations, including our targeted growth. The 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 (including entities directly or indirectly owned by PFSweb), make capital expenditures, make investments and loans, pledge assets, make changes to capital stock ownership structure, as well as financial covenants of a minimum tangible net worth of \$20.0 million, as defined, a minimum earnings before interest and taxes, plus depreciation, amortization and non-cash compensation accruals, if any, as defined, and a minimum liquidity ratio, as defined. The Agreement also limits PFS’ ability to increase the subordinated loan to Supplies Distributors to more than \$5.0 million and permits PFS to advance incremental amounts subject to certain cash inflows to PFS, as defined, to certain of its subsidiaries and/or affiliates. The Agreement is secured by all of the assets of PFS, as well as a guarantee of PFSweb.

Retail Connect Financing

Retail Connect has an asset-based line of credit facility of up to \$7.5 million with Wells Fargo Bank National Association (“Wells Fargo”), which is collateralized by substantially all of Retail Connect’s assets and expires in May 2012. The facility size is expected to be reduced upon renewal prior to its maturity. Borrowings under the facility and letter of credit availability are limited to a percentage of accounts receivable and inventory, up to specified amounts. As of December 31, 2011, Retail Connect had no letters of credit outstanding and \$0.1 million available credit under this facility. The credit facility restricts Retail Connect’s ability to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans, investments and payments to subsidiaries, affiliates and related parties, make investments and loans, pledge assets, make changes to capital stock ownership structure, as well as a minimum tangible net worth for Retail Connect of \$0, as defined. PFSweb has guaranteed all current and future obligations of Retail Connect under this line of credit.

Restricted Net Assets

Certain of our credit facilities contain various financial covenants and include covenants that restrict our ability to incur additional indebtedness, create or permit liens on assets, engage in mergers or consolidations, and place restrictions on the transfer of assets or the payment of dividends between us and our subsidiaries. At December 31, 2011 and 2010, we had restricted net assets of approximately \$20.1 million and \$21.0 million, respectively.

Public Offering

In May 2010, we completed a public offering of our common stock pursuant to which we issued and sold an aggregate of 2.3 million shares of our common stock, par value \$.001 per share, at \$3.50 per share, resulting in net proceeds after deducting offering expenses of approximately \$7.3 million.

Off-Balance Sheet Arrangements

There are no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Inventory Management

In our Retail model, we manage our inventories held for sale by maintaining sufficient quantities of product to achieve high order fill rates while at the same time maximizing inventory turnover rates. Inventory balances will fluctuate as we add new product lines. To reduce the risk of loss due to supplier price reductions, Supplies Distributors' master distributor agreement provides for price protection under which it receives credits if the supplier lowers prices on previously purchased inventory.

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 be at its lowest in the quarter ended March 31 and highest in the quarter ended December 31. We anticipate our product revenue will be highest during 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 that 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 inflation has not had a material effect on our operations.

Impact of Recently Issued Accounting Standards

In June 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2011-05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income*, to make the presentation of items within other comprehensive income ("OCI") more prominent. The new standard will require companies to present items of net income, items of OCI and total comprehensive income in one continuous statement or two separate consecutive statements, and companies will no longer be allowed to present items of OCI in the statement of stockholders' equity. This new standard is effective beginning January 1, 2012. The adoption of this new standard may change the order in which certain financial statements are presented and provide additional detail in those financial statements when applicable, but will not have any other impact on our financial statements.

Critical Accounting Policies and Estimates

Our consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the U.S. These accounting principles require us to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of our financial statements and the reported amounts of revenues and expenses during the reporting period. While we do not believe the reported amounts would be materially different, application of these policies involves the exercise of judgment and the use of assumptions as to future uncertainties and, as a result, actual results could differ from these estimates. If there is a significant unfavorable change to current conditions, it would likely result in a material adverse impact to our business, operating results and financial condition. We evaluate our estimates and assumptions on an ongoing basis. We base our estimates on experience and on various other assumptions that we believe to be reasonable under the circumstances. All of our significant accounting policies are disclosed in the notes to our consolidated financial statements.

We have defined a critical accounting estimate as one that is both important to the portrayal of our financial condition and results of operations and requires us to make difficult, subjective or complex judgments or estimates about matters that are uncertain. During the past three fiscal years, we have not made any material changes in accounting methodology used to establish the critical accounting estimates discussed below. The following represent certain critical accounting policies that require us to exercise our business judgment or make significant estimates. In addition, there are other items within our consolidated financial statements that require estimation but are not deemed critical as defined above.

Product Revenue Recognition

Sales are recognized when the title and risk of loss are passed to the customer, there is persuasive evidence of an arrangement for the sale, delivery has occurred and/or services have been rendered, the sales price is fixed or determinable and collectability is reasonably assured.

Sales are reported net of estimated returns and allowances which are estimated based upon historical return information. Management also considers any other current information and trends in making estimates. If actual sales returns, allowances and discounts are greater than estimated by management, additional expense may be incurred.

Cost of Service Fee Revenue

Our service fee revenue primarily relates to our distribution services and order management/customer care services. Distribution services relate primarily to inventory management, product receiving, warehousing and fulfillment (i.e., picking, packing and shipping product on our clients' behalf). Order management/customer care services relate primarily to taking customer orders for our clients' products via various channels such as telephone call-center, electronic or facsimile. These services also entail addressing customer questions related to orders, as well as cross-selling/up-selling activities.

Our cost of service fee revenue represents the cost to provide the services described above, primarily compensation and related expenses and other fixed and variable expenses directly related to providing the services. These include certain occupancy and information technology costs and depreciation and amortization expenses. Certain of these costs are allocated from general and administrative expenses. For these allocations, we estimate the amount of direct expenses based on client-specific information, such as the number of transactions processed. We believe our allocation methodology is reasonable, however a change in assumptions would result in a different gross profit in our statement of operations, yet no change to the resulting net income or loss.

Allowance for Doubtful Accounts

The determination of the collectability of amounts due from our customers requires us to use estimates and make judgments regarding future events and trends, including monitoring our customers' payment history and current credit worthiness to determine that collectability is reasonably assured, as well as consideration of the overall business climate in which our clients and customers operate. Inherently, these uncertainties require us to make frequent judgments and estimates regarding our clients and customers' ability to pay amounts due us to determine the appropriate amount of valuation allowances required for doubtful accounts. Provisions for doubtful accounts are recorded when it becomes evident the client or customer will not make the required payments at either contractual due dates or in the future.

In our Retail model, we also maintain an allowance for uncollectible vendor receivables, which arise from inventory returns to vendors, vendor rebates, price protections and other promotions. We determine the sufficiency of the vendor receivable allowance based upon various factors, including payment history. Amounts received from vendors may vary from amounts recorded because of potential non-compliance with certain elements of vendor programs. If our estimated allowances for uncollectible accounts or vendor receivables subsequently prove insufficient, additional allowance maybe required.

Allowances for doubtful accounts totaled \$0.7 million and \$0.8 million at December 31, 2011 and 2010, respectively. We believe our allowances for doubtful accounts are adequate to cover anticipated losses under current conditions; however, uncertainties regarding changes in the financial condition of our clients and customers, either adverse or positive, could impact the amount and timing of any additional provisions for doubtful accounts that may be required.

Inventory Reserves

Inventories (merchandise, held for resale, all of which are finished goods) are stated at the lower of weighted average cost or market. Supplies Distributors and its subsidiaries assume responsibility for slow-moving inventory under certain master distributor agreements, subject to certain termination rights, but have the right to return product rendered obsolete by engineering changes, as defined. We review inventories for impairment on a periodic basis, but

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at a minimum, annually. Recoverability of the inventory on hand is measured by comparisons of the carrying value to the fair value of the inventory. This requires us to record provisions and maintain reserves for excess or obsolete inventory. If write-downs of inventories are necessary, the cost basis of that inventory is adjusted. To determine these reserve amounts, we regularly review inventory quantities on hand and compare them to estimates of future product demand and market conditions. These estimates and forecasts inherently include uncertainties and require us to make judgments regarding potential outcomes. At December 31, 2011 and 2010, our allowance for slow moving inventory was \$1.6 million at each year-end. We believe our reserves are adequate to cover anticipated losses under current conditions. Significant or unanticipated changes to our estimates and forecasts, either adverse or positive, could impact the amount and timing of any additional provisions for excess or obsolete inventory that may be required.

Income Taxes

The liability method is used for determining our income taxes, under which current and deferred tax liabilities and assets are recorded in accordance with enacted tax laws and rates. Under this method, the amounts of deferred tax liabilities and assets at the end of each period are determined using the tax rate expected to be in effect when taxes are actually paid or recovered. Valuation allowances are established to reduce deferred tax assets when it is more likely than not that some portion or all of the deferred tax assets will not be realized. In determining the need for valuation allowances, we have considered and made judgments and estimates regarding estimated future taxable income. These estimates and judgments include some degree of uncertainty and changes in these estimates and assumptions could require us to adjust the valuation allowances for our deferred tax assets. The ultimate realization of our deferred tax assets depends on the generation of sufficient taxable income in the applicable taxing jurisdictions. Although we believe our estimates and judgments are reasonable, actual results may differ, which could be material.

As we operate in multiple countries, we are subject to the jurisdiction of multiple domestic and foreign tax authorities. Determination of taxable income in any jurisdiction requires the interpretation of the related tax laws and regulations and the use of estimates and assumptions regarding significant future events such as the amount, timing and character of deductions, permissible revenue recognition methods under the tax law and the sources and character of income and tax credits. Changes in tax laws, regulations, foreign currency exchange restrictions or our level of operations or profitability in each taxing jurisdiction could have an impact on the amount of income taxes that we provide during any given year.

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Item 8. Financial Statements and Supplementary Data

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Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders
PFSweb, Inc.:

We have audited the accompanying consolidated balance sheets of PFSweb, Inc. (a Delaware corporation) and subsidiaries as of December 31, 2011 and 2010, and the related consolidated statements of operations, shareholders' equity and comprehensive loss, and cash flows for the years then ended. Our audits of the basic consolidated financial statements included the financial statement schedules listed in the index appearing under Item 15(a) (1). These financial statements and the financial statement schedules are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and financial statement schedules based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of PFSweb, Inc. and subsidiaries as of December 31, 2011 and 2010, and the results of their operations and their cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the related financial statement schedules, when considered in relation to the basic financial statements taken as a whole, present fairly, in all material respects, the information set forth therein.

/s/ GRANT THORNTON LLP

Dallas, Texas
March 30, 2012

PFSWEB, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands, except share data)

	December 31, 2011	December 31, 2010
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 17,695	\$ 18,430
Restricted cash	827	1,853
Accounts receivable, net of allowance for doubtful accounts of \$663 and \$754 at December 31, 2011 and 2010, respectively	52,679	41,438
Inventories, net of reserves of \$1,555 and \$1,561 at December 31, 2011 and 2010, respectively	30,487	35,161
Assets of discontinued operations	—	2,776
Other receivables	11,915	14,539
Prepaid expenses and other current assets	4,697	3,580
Total current assets	118,300	117,777
PROPERTY AND EQUIPMENT, net	14,945	9,124
ASSETS OF DISCONTINUED OPERATIONS	—	1,126
OTHER ASSETS	3,127	2,203
Total assets	<u>\$ 136,372</u>	<u>\$ 130,230</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Current portion of long-term debt and capital lease obligations	\$ 23,939	\$ 18,320
Trade accounts payable	48,544	55,692
Deferred revenue	6,766	5,254
Accrued expenses	18,657	15,870
Total current liabilities	97,906	95,136
LONG-TERM DEBT AND CAPITAL LEASE OBLIGATIONS, less current portion	3,583	2,136
OTHER LIABILITIES	6,809	3,608
Total liabilities	<u>108,298</u>	<u>100,880</u>
COMMITMENTS AND CONTINGENCIES		
SHAREHOLDERS' EQUITY:		
Preferred stock, \$1.00 par value; 1,000,000 shares authorized; none issued and outstanding	—	—
Common stock, \$0.001 par value; 35,000,000 shares authorized; 12,782,907 and 12,255,064 shares issued at December 31, 2011 and 2010, respectively; and 12,764,546 and 12,236,703 outstanding at December 31, 2011 and 2010, respectively	13	12
Additional paid-in capital	104,645	101,229
Accumulated deficit	(77,898)	(73,332)
Accumulated other comprehensive income	1,399	1,526
Treasury stock at cost, 18,361 shares	(85)	(85)
Total shareholders' equity	<u>28,074</u>	<u>29,350</u>
Total liabilities and shareholders' equity	<u>\$ 136,372</u>	<u>\$ 130,230</u>

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

PFSWEB, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31
(In thousands, except per share data)

	<u>2011</u>	<u>2010</u>
REVENUES:		
Product revenue, net	\$162,447	\$174,613
Service fee revenue	95,345	70,636
Pass-through revenue	40,974	29,267
Total revenues	<u>298,766</u>	<u>274,516</u>
COSTS OF REVENUES:		
Cost of product revenue	150,738	162,485
Cost of service fee revenue	71,751	51,144
Cost of pass-through revenue	40,974	29,267
Total costs of revenues	<u>263,463</u>	<u>242,896</u>
Gross profit	35,303	31,620
SELLING, GENERAL AND ADMINISTRATIVE EXPENSES, including stock based compensation expense of \$1,402 and \$809 in the years ended December 31, 2011 and 2010, respectively	37,512	33,611
Loss from operations	(2,209)	(1,991)
INTEREST EXPENSE, net	1,085	940
Loss from continuing operations before income taxes	(3,294)	(2,931)
INCOME TAX EXPENSE	380	463
LOSS FROM CONTINUING OPERATIONS	(3,674)	(3,394)
LOSS FROM DISCONTINUED OPERATIONS, NET OF TAX	(892)	(3,975)
NET LOSS	<u>\$ (4,566)</u>	<u>\$ (7,369)</u>
LOSS PER SHARE FROM CONTINUING OPERATIONS:		
Basic	<u>\$ (0.29)</u>	<u>\$ (0.30)</u>
Diluted	<u>\$ (0.29)</u>	<u>\$ (0.30)</u>
LOSS PER SHARE FROM DISCONTINUED OPERATIONS:		
Basic	<u>\$ (0.07)</u>	<u>\$ (0.35)</u>
Diluted	<u>\$ (0.07)</u>	<u>\$ (0.35)</u>
NET LOSS PER SHARE:		
Basic	<u>\$ (0.36)</u>	<u>\$ (0.65)</u>
Diluted	<u>\$ (0.36)</u>	<u>\$ (0.65)</u>
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING:		
Basic	<u>12,574</u>	<u>11,310</u>
Diluted	<u>12,574</u>	<u>11,310</u>

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

PFSWEB, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY AND
COMPREHENSIVE LOSS
(In thousands, except share data)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Treasury Stock		Total Shareholders' Equity	Comprehensive Loss
	Shares	Amount				Shares	Amount		
Balance, December 31, 2009	9,952,164	\$ 10	\$ 93,152	\$ (65,963)	\$ 2,239	18,361	\$ (85)	\$ 29,353	
Net loss	—	—	—	(7,369)	—	—	—	(7,369)	\$ (7,369)
Stock-based compensation expense	—	—	809	—	—	—	—	809	
Employee stock purchase plan	2,900	—	4	—	—	—	—	4	
Issuance of common stock	2,300,000	2	7,264	—	—	—	—	7,266	
Other comprehensive income— foreign currency translation adjustment	—	—	—	—	(713)	—	—	(713)	(713)
Comprehensive loss	—	—	—	—	(713)	—	—	(713)	\$ (8,082)
Balance, December 31, 2010	12,255,064	\$ 12	\$ 101,229	\$ (73,332)	\$ 1,526	18,361	\$ (85)	\$ 29,350	
Net loss	—	—	—	(4,566)	—	—	—	(4,566)	\$ (4,566)
Stock-based compensation expense	—	—	1,402	—	—	—	—	1,402	
Issuance of common stock	527,843	1	2,014	—	—	—	—	2,015	
Other comprehensive loss— foreign currency translation adjustment	—	—	—	—	(127)	—	—	(127)	(127)
Comprehensive loss	—	—	—	—	(127)	—	—	(127)	\$ (4,693)
Balance, December 31, 2011	<u>12,782,907</u>	<u>\$ 13</u>	<u>\$ 104,645</u>	<u>\$ (77,898)</u>	<u>\$ 1,399</u>	<u>18,361</u>	<u>\$ (85)</u>	<u>\$ 28,074</u>	

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

PFSWEB, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
FOR THE YEARS ENDED DECEMBER 31
(In thousands)

	<u>2011</u>	<u>2010</u>
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (4,566)	\$ (7,369)
Loss from discontinued operations	(892)	(3,975)
Loss from continuing operations	(3,674)	(3,394)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	6,344	6,060
Provision for doubtful accounts	(11)	156
Provision for excess and obsolete inventory	187	233
Deferred income taxes	70	(33)
Stock-based compensation expense	1,402	809
Changes in operating assets and liabilities:		
Restricted cash	185	35
Accounts receivable	(11,500)	(2,984)
Inventories, net	3,394	(2,709)
Prepaid expenses, other receivables and other assets	989	(1,545)
Accounts payable, deferred revenue, accrued expenses and other liabilities	(106)	6,128
Net cash provided by (used in) continuing operating activities	(2,720)	2,756
Net cash provided by discontinued operating activities	1,875	715
Net cash provided by (used in) operating activities	<u>(845)</u>	<u>3,471</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(7,550)	(3,774)
Proceeds from sale of eCOST subsidiary	2,327	—
Net cash used in investing activities	<u>(5,223)</u>	<u>(3,774)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net proceeds from issuance of common stock	2,015	7,270
Decrease in restricted cash	841	208
Payments on capital lease obligations	(1,110)	(1,215)
Proceeds from (payments on) debt, net	3,535	(1,987)
Net cash provided by financing activities	<u>5,281</u>	<u>4,276</u>
EFFECT OF EXCHANGE RATES ON CASH AND CASH EQUIVALENTS	52	(355)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(735)	3,618
CASH AND CASH EQUIVALENTS, beginning of year	18,430	14,812
CASH AND CASH EQUIVALENTS, end of year	<u>\$ 17,695</u>	<u>\$18,430</u>
SUPPLEMENTAL CASH FLOW INFORMATION		
Non-cash investing and financing activities:		
Property and equipment acquired under debt and capital leases	<u>\$ 4,801</u>	<u>\$ 1,258</u>

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

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Overview

PFSweb, Inc. and its subsidiaries, including Supplies Distributors, Inc., and PFSweb Retail Connect, Inc., 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.; and “PFSweb” refers to PFSweb, Inc. and its subsidiaries excluding Supplies Distributors and Retail Connect. In connection with the sale of certain of the assets of eCOST.com, Inc. (“eCOST”) described below, the name of eCOST was changed to PFSweb Retail Connect, Inc. in March 2011.

PFSweb Overview

PFSweb is an international business process outsourcing provider of end-to-end eCommerce solutions to major brand name companies seeking to optimize their supply chain and to enhance their traditional and online business channels and initiatives in the United States, Canada, and Europe. PFSweb offers a broad range of service offerings that include digital marketing, eCommerce technologies, order management, customer care, logistics and fulfillment, financial management and professional consulting

Supplies Distributors Overview

Supplies Distributors, PFSweb and InfoPrint Solutions Company (“IPS”), a wholly-owned subsidiary of Ricoh Company Limited (“RicoH”), have entered into master distributor agreements under which Supplies Distributors acts as a master distributor of various products, primarily IPS product.

Supplies Distributors has obtained certain financing (see Notes 3 and 4) that allows it to fund the working capital requirements for the sale of primarily IPS 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 IPS’s sales force and product demand generation activities for its sale of IPS products. Supplies Distributors sells its products in the United States, Canada and Europe.

All of the agreements between PFSweb and Supplies Distributors were made in the context of a related party relationship and were negotiated in the overall context of PFSweb’s and Supplies Distributors’ arrangement with IPS. 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.

eCOST Overview

Until February 2011, the Company operated eCOST primarily as a multi-category online discount retailer of new, “close-out” and recertified brand-name merchandise, which sold products primarily to customers in the United States. In February 2011 the Company sold substantially all of the inventory and certain intangible assets of the eCOST discount retailer business unit for a cash purchase price of \$2.3 million (before expenses of approximately \$0.2 million) and the assumption by the purchaser of certain limited liabilities of eCOST. The purchase price represented approximately \$1 million for inventory and the balance for the intangible assets. In connection with the closing of this business unit, the Company incurred exit costs of approximately \$0.4 million related to employee termination costs, excess property and equipment and certain contract termination costs. The Company also recorded approximately \$0.3 million in early exit costs associated with an eCOST facility. In December 2010, the Company recorded a non-cash goodwill impairment charge of approximately \$2.8 million as a result of this sale. For all periods presented, the Company has reported the operating results of the eCOST discount retailer business unit, excluding costs expected to continue to occur in the future, as discontinued operations (see Note 12). The

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

remaining assets and business operations of eCOST are conducted under the name PFSweb Retail Connect and will continue to provide certain services, primarily under a product ownership based model, to certain of the Company's client relationships on an ongoing basis.

2. Significant Accounting Policies

Principles of Consolidation

All intercompany accounts and transactions have been eliminated in consolidation.

Investment in Affiliates

Priority Fulfillment Services, Inc. ("PFS"), a wholly-owned subsidiary of PFSweb, has made advances to Supplies Distributors that are evidenced by a Subordinated Demand Note (the "Subordinated Note"). Under the terms of certain of the Company's debt facilities, the outstanding balance of the Subordinated Note cannot be increased to more than \$5.0 million or decreased to less than \$3.5 million without prior approval of certain of the Company's lenders (see Notes 3 and 4). As of December 31, 2011 and 2010, the outstanding balance of the Subordinated Note was \$3.5 million and \$4.3 million, respectively. The Subordinate Note is eliminated in the Company's consolidated financial statements.

PFS has also made advances to Retail Connect, which aggregated \$11.1 million as of both December 31, 2011 and 2010. Certain terms of the Company's debt facilities provide that the total advances to Retail Connect may not be less than \$2.0 million without prior approval of Retail Connect's lender, if needed. PFS has received the approval of its lender to advance incremental amounts to certain of its subsidiaries and/or affiliates, including Retail Connect, if needed, subject to certain cash inflows to PFS, as defined. PFSweb, Inc. has also advanced to Retail Connect an additional \$7.9 million and \$7.4 million as of December 31, 2011 and 2010, respectively. As of December 31, 2011, PFSweb, Inc. has approximately \$5.9 million available to be advanced to Retail Connect and/or other affiliates. All of these advances are eliminated upon consolidation.

Use of Estimates

The preparation of consolidated financial statements and related disclosures in conformity with generally accepted accounting principles 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 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 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. 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 consolidated financial statements are fairly stated in accordance with generally accepted accounting principles in the United States of America, and provide a fair presentation of the Company's financial position and results of operations.

Revenue and Cost Recognition

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.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

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 master distributor agreements (see Note 6), Supplies Distributors bills IPS for reimbursements of certain expenses, including: pass-through customer marketing programs, including rebates and coop funds; certain freight costs; direct costs incurred in passing on any price decreases offered by IPS 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 includes these reimbursable amounts as they are incurred with a corresponding reduction in either inventory or cost of product revenue. Supplies Distributors also reflects pass through customer marketing programs as a reduction of both product revenue and cost of product revenue.

The Company's service fee revenue primarily relates to its (1) distribution services, (2) order management/customer care services and (3) the reimbursement of out-of-pocket and third-party expenses. The Company typically charges its service fee revenue on a cost-plus basis, a percent of shipped revenue basis or a per transaction basis, such as a per item basis for fulfillment services or a per minute basis for web-enabled customer contact center services. Additional fees are billed for other services.

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 via various channels such as telephone call-center, electronic or facsimile. 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.

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.

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 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 and are 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.

The Company primarily performs its services under one to three-year contracts that can generally be terminated by either party. 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. The Company defers the fees received, and the related costs, and amortizes them over the life of the contract. The amortization of deferred revenue is included as a component of service fee revenue. The amortization of deferred implementation

PFSWEB, INC. AND SUBSIDIARIES**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)**

costs is included as a cost of service fee revenue. To the extent implementation costs for non-technology infrastructure and development exceed the fees received, the excess costs are expensed as incurred. The following summarizes the deferred implementation revenues and costs, excluding technology and development costs that are included in property and equipment (in thousands):

	<u>December 31,</u> <u>2011</u>	<u>December 31,</u> <u>2010</u>
Deferred implementation revenues		
Current	\$ 6,749	\$ 4,487
Non-current	5,907	3,258
	<u>\$ 12,656</u>	<u>\$ 7,745</u>
Deferred implementation costs		
Current	\$ 1,969	\$ 1,515
Non-current	1,904	1,076
	<u>\$ 3,873</u>	<u>\$ 2,591</u>

Current and non-current deferred implementation costs, excluding technology and development costs, are a component of prepaid expenses and other assets, respectively. Current and non-current deferred implementation revenues, which may precede the timing of when the related implementation costs are incurred, and thus deferred, are a component of deferred revenue and other liabilities, respectively.

Concentration of Business and Credit Risk

The Company's service fee revenue is generated under contractual service fee relationships with multiple client relationships. One product revenue customer represented 9% and 11% of the Company's consolidated total net revenue during the years ended December 31, 2011 and 2010, respectively. No client or customer represented over 10% of the Company's accounts receivable during either 2011 or 2010. A summary of the customer and client concentrations is as follows:

	<u>December 31,</u> <u>2011</u>	<u>December 31,</u> <u>2010</u>
Product Revenue (as a percentage of Product Revenue):		
Customer 1	9%	10%
Customer 2	16%	17%
Service Fee Revenue (as a percentage of Service Fee Revenue):		
Client 1	16%	8%
Client 2	15%	8%

The Company currently anticipates that one or more of these clients, and other clients, will reduce the level of services or terminate their relationship with the Company.

PFSweb 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 Ricoh, International Business Machines Corporation ("IBM") and IPS and is dependent upon the continuation of such arrangements. These arrangements, which are critical to the Company's ongoing operations, include Supplies Distributors' master distributor agreements and certain of Supplies Distributors' working capital financing agreements. Substantially all of Supplies Distributors' revenue is generated by its sale of product purchased from IPS. Supplies Distributors also relies upon IPS'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 IPS business affiliates.

Ricoh has advised Supplies Distributors that it is restructuring its IPS business that will include certain operational changes in the sale and distribution of IPS products. The changes are expected to result in reduced revenues and profitability for Supplies Distributors in 2012.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

Cash and Cash Equivalents

Cash equivalents are defined as short-term highly liquid investments with original maturities, when acquired, of three months or less.

Restricted Cash

Restricted cash includes the following items (in thousands):

	December 31, 2011	December 31, 2010
Customer remittances	\$ 689	\$ 1,076
Bond financing (see Note 4)	138	777
Total restricted cash	<u>\$ 827</u>	<u>\$ 1,853</u>

In conjunction with certain of its financing agreements, Supplies Distributors has granted to its lenders a security interest in certain customer remittances received in specified bank accounts (see Note 4). At December 31, 2011 and 2010, these bank accounts held \$0.6 million and \$0.9 million, respectively, which was restricted and can only be used to reduce the outstanding debt.

Other Receivables

Other receivables include \$9.7 million and \$11.3 million as of December 31, 2011 and 2010, respectively, primarily for amounts due from IPS and IBM for costs incurred by the Company under the master distributor agreements (see Note 6). In addition, other receivables include \$1.6 million and \$2.5 million as of December 31, 2011 and 2010, respectively, applicable to value added tax receivables.

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 IPS master distributor agreements, subject to certain termination rights, but has the right to return product rendered obsolete by engineering changes, as defined (see Note 6). In the event PFSweb, Supplies Distributors and IPS terminate the master distributor agreements, the agreements provide for the parties to mutually agree on a plan of disposition of Supplies Distributors' then existing inventory.

Supplies Distributors' inventories include merchandise in-transit that has not been received by the Company but that has been shipped and invoiced by Supplies Distributors' vendors. The corresponding payable for inventories in-transit is included in accounts payable in the accompanying consolidated financial statements.

The Company reviews inventory for impairment on a periodic basis, but at a minimum, annually. Recoverability of the inventory on hand is measured by comparison of the carrying value of the inventory to the fair value of the inventory. The allowance for slow moving inventory was \$1.6 million as of both December 31, 2011 and 2010.

Property and Equipment

The components of property and equipment as of December 31, 2011 and 2010 are as follows (in thousands):

	December 31, 2011	December 31, 2010	Depreciable Life
Purchased and capitalized software costs	\$ 26,875	\$ 22,478	3-5 years
Furniture and fixtures	20,473	19,036	2-10 years

PFSWEB, INC. AND SUBSIDIARIES**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)**

Computer equipment	11,114	9,894	3-5 years
Leasehold improvements	8,926	7,217	3-10 years
Other	1,732	901	3-5 years
	<u>69,120</u>	<u>59,526</u>	
Less-accumulated depreciation and amortization	<u>(54,175)</u>	<u>(50,402)</u>	
Property and equipment, net	<u>\$ 14,945</u>	<u>\$ 9,124</u>	

The Company makes judgments and estimates in conjunction with the carrying value of these assets, including amounts to be capitalized, depreciation and amortization methods and useful lives. Additionally, the Company reviews long-lived assets for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable. The Company records impairment losses, if any, in the period in which the Company determines the carrying amount is not recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future net cash flows expected to be generated by the asset. This may require the Company to make judgments regarding long-term forecasts of future revenues and costs related to the assets subject to review. During 2011 and 2010, no impairment of property and equipment was identified or recorded.

Property and equipment are stated at cost and are depreciated using the straight-line method over the estimated useful lives of the respective assets. Capitalized implementation costs are depreciated over the respective client contract periods. Leasehold improvements are amortized over the shorter of the useful life of the related asset or the remaining lease term. Depreciation and amortization expense related to property and equipment, excluding capital leases and amounts included in discontinued operations, during 2011 and 2010 was \$5.2 million and \$4.6 million, respectively.

The Company's property held under capital leases amount to approximately \$3.4 million and \$1.5 million, net of accumulated amortization of approximately \$1.6 million and \$2.8 million, at December 31, 2011 and 2010, respectively. Depreciation and amortization expense related to capital leases during 2011 and 2010 was \$1.1 million and \$1.5 million, respectively.

Foreign Currency Translation and Transactions

For the Company's Canadian and European operations, the local currency is the functional currency. All assets and liabilities are translated at exchange rates in effect at the end of the period, and income and expense items are translated at the average exchange rates for the period.

The Company includes currency gains and losses on short-term intercompany advances in the determination of net income and loss. Currency gains and losses, including transaction gains and losses and those on short-term intercompany advances, included in net loss were a currency net loss of approximately \$46,000 and \$0.1 million in the years ended December 31, 2011 and 2010, respectively. The Company reports gains and losses on intercompany foreign currency transactions that are of a long-term investment nature as a separate component of shareholders' equity.

Impact of Recently Issued Accounting Standards

In June 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2011-05, *Comprehensive Income (Topic 220): Presentation of Comprehensive Income*, to make the presentation of items within other comprehensive income ("OCI") more prominent. The new standard will require companies to present items of net income, items of OCI and total comprehensive income in one continuous statement or two separate consecutive statements, and companies will no longer be allowed to present items of OCI in the statement of stockholders' equity. This new standard is effective for the Company beginning January 1, 2012. The adoption of this new standard may change the order in which certain financial statements are presented and provide additional detail in those financial statements when applicable, but will not have any other impact on the Company's financial statements

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

Income Taxes

For federal income tax purposes, tax years that remain subject to examination include years 2007 through 2011. However, the utilization of net operating loss (“NOL”) carryforwards that arose prior to 2007 remain subject to examination through the years such carryforwards are utilized. For Europe, tax years that remain subject to examination include years 2008 to 2011. However, the utilization of NOL carryforwards that arose prior to 2008 remain subject to examination through the years such carryforwards are utilized. For Canada, tax years that remain subject to examination include years 2004 to 2011, depending on the subsidiary. For state income tax purposes, the tax years that remain subject to examination include years 2006 to 2011, depending upon the jurisdiction in which the Company files tax returns. The Company and its subsidiaries have various income tax returns in the process of examination or administrative appeals. The Company does not expect these examinations will result in unrecognized tax benefits.

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. Valuation allowances are established when necessary to reduce deferred tax assets to the amount more likely than not to be realized.

The Company recognizes interest and penalties related to certain tax positions in income tax expense.

Self Insurance

The Company is self-insured for medical insurance benefits up to certain stop-loss limits. Such costs are accrued based on known claims and an estimate of incurred, but not reported (“IBNR”) claims. IBNR claims are estimated using historical lag information and other data provided by claims administrators.

Fair Value of Financial Instruments

The carrying value of the Company’s financial instruments, which include cash and cash equivalents, accounts receivable, accounts payable and debt and capital lease obligations, approximate their fair values based on short terms to maturity or current market prices and interest rates.

Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity (net assets) of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. Comprehensive income (loss) consists of net income (loss) and foreign currency translation adjustments.

Net Loss Per Common Share

Basic and diluted net loss per share are computed by dividing net loss by the weighted-average number of common shares outstanding for the reporting period. Stock options not included in the calculation of diluted net loss per share for the years ended December 31, 2011 and 2010, were 2.2 million and 2.3 million, respectively, as the effect would be anti-dilutive.

Cash Paid For Interest and Taxes During Year

The Company made payments for interest of approximately \$1.0 million and income taxes of approximately \$0.4 million during each of the years ended December 31, 2011 and 2010 (see Notes 3, 4 and 8).

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

3. Vendor Financing

Outstanding obligations under vendor financing arrangements consist of the following (in thousands):

	December 31, 2011	December 31, 2010
Inventory and working capital financing agreements:		
United States	\$ 18,119	\$ 16,472
Europe	9,143	11,318
Total	<u>\$ 27,262</u>	<u>\$ 27,790</u>

Inventory and Working Capital Financing Agreement, United States

Supplies Distributors has a short-term credit facility with IBM Credit LLC (“IBM Credit”) to finance its distribution of IPS products in the United States, providing financing for eligible IPS inventory and certain receivables up to \$25.0 million through its expiration in March 2012. 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 as accounts payable in the consolidated balance sheets. As of December 31, 2011, Supplies Distributors had \$1.1 million of available credit under this facility. The credit facility contains cross default provisions, various restrictions upon the ability of Supplies Distributors to, among others, 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, 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 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 \$3.5 million and the Company is required to maintain a minimum shareholders’ equity of \$18.0 million. Borrowings under the credit facility accrue interest, after a defined free financing period, at prime rate plus 0.5% (3.75% as of both December 31, 2011 and 2010). The facility also includes a monthly service fee.

On March 28, 2012, Supplies Distributors entered into an amended credit facility with IBM Credit, which, effective July 1, 2012, will reduce the maximum available financing under the facility from \$25.0 million to \$20.0 million based on the expected future working capital needs of the Company. Additionally, as of March 28, 2012, the IBM Credit facility will not have a stated maturity and both parties will have the ability to exit the facility following a 90 day notice period.

Inventory and Working Capital Financing Agreement, Europe

Supplies Distributors’ European subsidiary has a short-term credit facility with IBM Belgium Financial Services S.A. (“IBM Belgium”) to finance its distribution of IPS products in Europe. The asset-based credit facility with IBM Belgium provides up to 16.0 million Euros (approximately \$20.7 million as of December 31, 2011) in inventory financing and cash advances based on eligible inventory and accounts receivable through its expiration in March 2012. Given the structure of this facility, and as outstanding inventory financing balances are repaid within twelve months, the Company has classified the outstanding inventory financing amounts under this facility as accounts payable in the consolidated balance sheets. As of December 31, 2011, Supplies Distributors’ European subsidiaries had 3.1 million Euros (approximately \$4.0 million at December 31, 2011) of available credit under this facility. The credit facility contains cross default provisions, various restrictions upon the ability of Supplies Distributors and its European subsidiary to, among others, 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, 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 certain of the assets of Supplies Distributors’ European subsidiary, as well as collateralized guaranties of Supplies Distributors and PFSweb. Additionally, PFS is required to maintain a minimum Subordinated Note receivable balance from Supplies Distributors of \$3.5 million and the Company is required to maintain a minimum shareholders’ equity of \$18.0 million. Borrowings under the credit facility accrue interest at Euribor plus 1.82% for cash advances, and, after a defined free financing period, at Euribor plus 4.13% for inventory financings. As of December 31, 2011 there were \$0.1 million of cash advances and the interest rate was 5.3% on the \$9.1 million of outstanding inventory financings. As of December 31, 2010 the interest rate was 4.9%. Supplies Distributors’ European subsidiary pays a monthly service fee on the commitment.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

Effective March 28, 2012, the maximum borrowings available under the IBM Belgium credit facility was reduced to 10.0 million Euros (approximately \$13.0 million) based on the expected future working capital needs of Supplies Distributors' European subsidiary and the maturity date was extended until June 30, 2012. In conjunction with a reorganization by Ricoh, the Company will have direct vendor credit terms with Ricoh to finance Supplies Distributors European subsidiary's inventory purchases.

4. Debt and Capital Lease Obligations:

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

	December 31, 2011	December 31, 2010
Loan and security agreements, United States:		
Supplies Distributors	\$ 7,245	\$ 7,220
PFS	12,044	6,000
Credit facility—Retail Connect	—	—
Factoring agreement, Europe	2,373	2,302
Taxable revenue bonds	800	1,600
Master lease agreements	3,886	2,660
Other	1,174	674
Total	27,522	20,456
Less current portion of long-term debt	23,939	18,320
Long-term debt, less current portion	<u>\$ 3,583</u>	<u>\$ 2,136</u>

Loan and Security Agreement – Supplies Distributors

Supplies Distributors has a loan and security agreement with Wells Fargo Bank, National Association (“Wells Fargo”) to provide financing for up to \$25 million of eligible accounts receivable in the United States and Canada. As of December 31, 2011, Supplies Distributors had \$0.8 million of available credit under this agreement. The Wells Fargo facility expires on the earlier of March 2014 or the date on which the parties to the IPS master distributor agreement (see Note 6) no longer operate under the terms of such agreement and/or IPS no longer supplies products pursuant to such agreement. Borrowings under the Wells Fargo facility accrue interest at prime rate plus 0.25% to 0.75% (3.75% as of December 31, 2011) or Eurodollar rate plus 2.5% to 3.0%, dependent on excess availability and subject to a minimum of 3.0%, as defined. The interest rate as of December 31, 2011 was 3.75% for \$5.2 million and 3.02% for \$2.0 million of outstanding borrowings. As of December 31, 2010, the interest rate was 3.75% for \$7.2 million of outstanding borrowings. This agreement 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, as well as financial covenants, such as minimum net worth, as defined, and is secured by all of the assets of Supplies Distributors, as well as a collateralized guarantee of PFSweb. Additionally, PFS is required to maintain a Subordinated Note receivable balance from Supplies Distributors of no less than \$3.5 million and may not maintain restricted cash of more than \$5.0 million, and is restricted with regard to transactions with related parties, indebtedness and changes to capital stock ownership structure. Supplies Distributors has entered into blocked account agreements with its banks and Wells Fargo pursuant to which a security interest was granted to Wells Fargo for all U.S. and Canadian customer remittances received in specified bank accounts. At December 31, 2011 and 2010, these bank accounts held \$0.6 million and \$0.8 million, respectively, which was restricted for payment to Wells Fargo.

Loan and Security Agreement – PFSweb

PFS has a Loan and Security Agreement (“Comerica Agreement”) with Comerica Bank (“Comerica”). The Comerica Agreement provides for up to \$12.5 million (\$10.0 million during certain non-seasonal peak months) of eligible accounts receivable financing (“Working Capital Advances”) through September 2012. The Comerica Agreement also provides for up to \$2.5 million of eligible equipment purchases (“Equipment Advances”) through

PFSWEB, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

October 2012, with principal payments due through April 2015. As of December 31, 2011, PFS had \$1.4 million of available credit under the Working Capital Advance portion of this facility and \$1.4 million of available Equipment Advances. Borrowings under the Working Capital Advance portion of this Comerica Agreement accrue interest at prime rate plus 2% (5.25% at both December 31, 2011 and 2010), while the Equipment Advances accrue interest at prime rate plus 2.25%. The Comerica Agreement contains cross default provisions, various restrictions upon PFS' ability 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.), make capital expenditures, make investments and loans, pledge assets, make changes to capital stock ownership structure, as well as financial covenants of a minimum tangible net worth of \$20 million, as defined, a minimum earnings before interest and taxes, plus depreciation, amortization and non-cash compensation accruals, if any, as defined, and a minimum liquidity ratio, as defined. The Comerica Agreement restricts the amount of the Subordinated Note receivable from Supplies Distributors to a maximum of \$5.0 million. Comerica has provided approval for PFS to advance incremental amounts subject to certain financial covenants, as defined, to certain of its subsidiaries and/or affiliates, if needed. The Comerica Agreement is secured by all of the assets of PFS, as well as a guarantee of PFSweb, Inc.

Credit Facility – Retail Connect

Retail Connect has an asset-based line of credit facility of up to \$7.5 million from Wells Fargo through May 2012, which is collateralized by substantially all of Retail Connect's assets. Borrowings under the facility are limited to a percentage of eligible accounts receivable and inventory, up to a specified amount. Outstanding borrowings under the facility bear interest at prime rate plus 1% or Eurodollar rate plus 3.5%. There were no outstanding borrowings as of December 31, 2011 or 2010. As of December 31, 2011, Retail Connect had no letters of credit outstanding and \$0.1 million available credit under this facility. In connection with the line of credit, Retail Connect entered into a cash management arrangement whereby Retail Connect's operating accounts are considered restricted and swept and used to repay outstanding amounts under the line of credit, if any. The credit facility restricts Retail Connect's ability to, among other things, merge, consolidate, sell assets, incur indebtedness, make loans, investments and payments to subsidiaries, affiliates and related parties (including entities directly or indirectly owned by PFSweb, Inc.), make investments and loans, pledge assets, make changes to capital stock ownership structure, and requires a minimum tangible net worth for Retail Connect of \$0, as defined. PFSweb has guaranteed all current and future obligations of Retail Connect under this line of credit.

Factoring Agreement

Supplies Distributors' European subsidiary has a factoring agreement with BNP Paribas Fortis Factor ("BNP Paribas") that provides factoring for up to 7.5 million Euros (approximately \$9.7 million at December 31, 2011) of eligible accounts receivables through March 2014. This factoring agreement is accounted for as a secured borrowing. As of December 31, 2011, Supplies Distributors' European subsidiary had approximately 0.9 million Euros (approximately \$1.2 million) of available credit under this agreement. Borrowings accrue interest at Euribor plus 0.7% (1.7% at December 31, 2011).

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 monthly 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. At December 31, 2011 and 2010, the Company had restricted net assets of approximately \$20.1 million and \$21.0 million, respectively. As of December 31, 2011, the Company was in compliance with all debt covenants.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

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.

Debt and Capital Lease Maturities

The Company's aggregate maturities of debt subsequent to December 31, 2011 are as follows (in thousands):

Fiscal year ended December 31,	
2012	\$22,569
2013	1,059
2014	428
2015	136
Thereafter	—
Total	<u>\$24,192</u>

The following is a schedule of the Company's future minimum lease payments under the capital leases, together with the present value of the net minimum lease payments as of December 31, 2011 (in thousands):

Fiscal year ended December 31,	
2012	\$ 1,495
2013	1,315
2014	575
2015	90
2016	67
Thereafter	—
Total minimum lease payments	\$ 3,542
Less amount representing interest at rates ranging from 4.5% to 10.5%	<u>(212)</u>
Present value of net minimum lease payments	3,330
Less: Current portion	<u>(1,370)</u>
Long-term capital lease obligations	<u>\$ 1,960</u>

5. Stock and Stock Options**Preferred Stock Purchase Rights**

On June 8, 2000, and as amended, the Company's Board of Directors declared a dividend distribution of one preferred stock purchase right (a "Right") for each share of the Company's common stock outstanding on July 6, 2000 and each share of common stock issued thereafter. Each Right entitles the registered shareholders to purchase from the Company one one-thousandth of a share of preferred stock at an exercise price of \$314.90, subject to adjustment. The Rights are not currently exercisable, but would become exercisable if certain events occurred relating to a person or group acquiring or attempting to acquire 23 percent or more of the Company's outstanding shares of common stock. The Rights expire on July 6, 2015, unless redeemed, exchanged or extended by the Company.

Stock Options and Stock Option Plans

The Company recognizes compensation cost for all share-based payments based on the grant date fair value. Compensation cost is recognized on a straight-line basis, net of estimated forfeitures, over the requisite service period of each award.

Stock-based compensation charged against income was \$1.4 million and \$0.8 million for the years ended December 31, 2011 and 2010, respectively. As of December 31, 2011, there was \$2.3 million of total unrecognized compensation costs related to unvested stock options, which is expected to be recognized over a weighted average period of approximately 1.5 years.

PFSWEB, INC. AND SUBSIDIARIES**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)**

As of December 31, 2011, the Company had the following share-based compensation plans:

PFSweb Plan Options

The Company has an Employee Stock and Incentive Plan and an Outside Director Stock Option and Retainer Plan, under which an aggregate of 3,192,341 shares of common stock have been authorized for issuance (the “Stock Options Plans”) and an outstanding stock option agreement under which 7,446 shares were originally authorized for issuance. The Stock Option Plans provide for the granting of incentive awards in the form of stock options to directors, executive management, key employees, and outside consultants of the Company. The rights to purchase shares under the employee stock option agreements typically vest over a three-year period, one-twelfth each quarter. Stock options must be exercised within 10 years from the date of grant. Stock options are generally issued such that the exercise price is equal to the market value of the Company’s common stock at the date of grant.

As of December 31, 2011, there were 419,042 shares available for future grants under the Stock Option Plans.

The following table summarizes stock option activity under the Stock Option Plans:

	<u>Shares</u>	<u>Price Per Share</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted Average Remaining Contractual Life (in years)</u>	<u>Aggregate Intrinsic Value (in millions)</u>
Outstanding, December 31, 2010	2,193,673	\$1.01—\$13.91	\$ 4.28		
Granted	663,000	\$ 4.59—\$ 5.00	\$ 4.96		
Exercised	(452,222)	\$ 1.01—\$4.89	\$ 3.74		
Canceled	(236,599)	\$1.01—\$12.08	\$ 4.73		
Outstanding, December 31, 2011	<u>2,167,852</u>	\$1.01—\$13.91	\$ 4.56		
Exercisable, December 31, 2011	<u>1,356,147</u>	\$1.01—\$13.91	\$ 4.63	6.2	\$ 0.6
Exercisable and expected to vest, December 31, 2011	<u>2,071,509</u>	\$1.01—\$13.91	\$ 4.57	5.1	\$ 0.6

The weighted average fair value per share of options granted during the years ended December 31, 2011 and 2010 was \$3.55 and \$2.82, respectively. The total intrinsic value of options exercised under the Stock Option Plans was \$0.6 million during the year ended December 31, 2011.

PFSweb Non-plan Options

Prior to the Company’s initial public offering, certain of the Company’s employees were holders of stock options of the Company’s former parent company, Daisytek International Corporation (“Daisytek”), issued under Daisytek’s stock option plans.

In connection with the completion of the Company’s spin-off from Daisytek on July 6, 2000 (the “Spin-off”), all outstanding Daisytek stock options were replaced with substitute stock options. Daisytek options held by PFSweb employees were replaced (at the option holder’s election made prior to the Spin-off) with either options to acquire shares of PFSweb common stock or options to acquire shares of both Daisytek common stock and PFSweb common stock (that may be exercised separately) (the “Unstapled Options”). Options held by Daisytek employees were replaced (at the option holder’s election made prior to the Spin-off) with either options to acquire shares of Daisytek common stock or Unstapled Options.

As a result of the stock option replacement process described above, in conjunction with the Spin-off, PFSweb stock options (the “Non-plan Options”) were issued to PFSweb and Daisytek officers, directors and employees. These options were issued as one-time grants and were not issued under the Stock Option Plans. The terms and provisions of the Non-plan Options are substantially the same as options issued under the Stock Option Plans.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

The following table summarizes stock option activity under the Non-plan Options:

	Shares	Price Per Share	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in millions)
Outstanding, December 31, 2010	88,719	\$ 4.28	\$ 4.28		
Granted	—	\$ —	\$ —		
Exercised	(75,621)	\$ 4.28	\$ 4.28		
Canceled	(13,098)	\$ 4.28	\$ 4.28		
Outstanding, December 31, 2011	<u>—</u>				

The total intrinsic value of Non-plan Options exercised during the year ended December 31, 2011 was \$0.3 million.

Fair Value

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following assumptions used for grants of options under the Stock Option Plans:

	Year Ended December 31, 2011	Year Ended December 31, 2010
Expected dividend yield	—	—
Expected stock price volatility	82% - 83%	82% - 84%
Weighted average stock price volatility	84%	83%
Risk-free interest rate	1.2% - 2.6%	1.7% - 2.9%
Expected life of options (years)	6	6

The Black-Scholes option valuation model requires the input of highly subjective assumptions, including the expected life of the stock-based award and stock-price volatility. The assumptions listed above represent management's best estimates, but these estimates involve inherent uncertainties and the application of management judgment. As a result, if other assumptions had been used, the Company's recorded and pro forma stock-based compensation expense could have been different. In addition, the Company is required to estimate the expected forfeiture rate and only recognize expense for those shares expected to vest. If the Company's actual forfeiture rate is materially different from its estimate, the share-based compensation expense could be materially different. The expected life of options has been computed using the simplified method.

6. Master Distributor Agreements

Supplies Distributors, PFSweb and IPS have entered into master distributor agreements under which Supplies Distributors acts as a master distributor of various products, primarily IPS product, and PFSweb provides transaction management and fulfillment services to Supplies Distributors. The master distributor agreements are subject to periodic renewals, the next of which is in March 2012. Under the master distributor agreements, IPS sells product to Supplies Distributors and reimburses Supplies Distributors for certain freight costs, direct costs incurred in passing on any price decreases offered by IPS 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 other certain expenses as defined. Supplies Distributors can return to IPS product rendered obsolete by IPS engineering changes after customer demand ends. IPS determines when a product is obsolete. IPS and Supplies Distributors also have agreements under which IPS reimburses or collects from Supplies Distributors amounts calculated in certain inventory cost adjustments.

Supplies Distributors passes through to customers marketing programs specified by IPS and administers, along with a party performing product demand generation for the IPS products, such programs according to IPS guidelines.

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

7. Supplies Distributors

Pursuant to a credit agreement, Supplies Distributors is restricted from making any distributions to PFSweb if, after giving affect thereto, Supplies Distributors' would be in noncompliance with its financial covenants. Under the terms of its amended credit agreements, Supplies Distributors is restricted from paying annual cash dividends without the prior approval of its lenders (see Notes 3 and 4). Supplies Distributors has received lender approval to pay approximately \$2.8 million of dividends in 2012. Supplies Distributors paid dividends to PFSweb of \$0.6 million and \$2.9 million in 2011 and 2010, respectively.

8. Income Taxes

The consolidated income (loss) from continuing operations before income taxes, by domestic and foreign entities, is as follows (in thousands):

	Year Ended December 31, 2011	Year Ended December 31, 2010
Domestic	\$ (3,057)	\$ (4,402)
Foreign	(237)	1,471
Total	<u>\$ (3,294)</u>	<u>\$ (2,931)</u>

A reconciliation of the difference between the expected income tax expense from continuing operations at the U.S. federal statutory corporate tax rate of 34%, and the Company's effective tax rate is as follows (in thousands):

	Year Ended December 31, 2011	Year Ended December 31, 2010
Income tax benefit computed at statutory rate	\$ (1,120)	\$ (997)
Foreign dividends received	637	893
Items not deductible for tax purposes	275	462
Change in valuation reserve	(265)	(123)
State taxes	168	106
Impact of foreign taxation	119	4
Other	566	118
Provision for income taxes	<u>\$ 380</u>	<u>\$ 463</u>

Current and deferred income tax expense (benefit) is summarized as follows (in thousands):

	Year Ended December 31, 2011	Year Ended December 31, 2010
Current		
Domestic	\$ —	\$ —
State	165	45
Foreign	145	451
Total current	<u>310</u>	<u>496</u>
Deferred		
Domestic	—	—
State	—	15
Foreign	70	(48)
Total deferred	<u>70</u>	<u>(33)</u>
Total	<u>\$ 380</u>	<u>\$ 463</u>

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

The components of the deferred tax asset (liability) are as follows (in thousands):

	December 31, 2011	December 31, 2010
Deferred tax assets:		
Allowance for doubtful accounts	\$ 723	\$ 757
Inventory reserve	556	630
Property and equipment	—	1,336
Net operating loss carryforwards	20,026	19,569
Other	2,420	1,476
	<u>23,725</u>	<u>23,768</u>
Less — Valuation allowance	22,938	23,203
Total deferred tax asset	<u>787</u>	<u>565</u>
Deferred tax liabilities:		
Property and equipment	(446)	—
Intangible assets	—	(108)
Other	—	(48)
Total deferred tax liabilities	<u>(446)</u>	<u>(156)</u>
Deferred tax assets, net	<u>\$ 341</u>	<u>\$ 409</u>

Management believes that PFSweb has not established a sufficient history of earnings, on a stand-alone basis, to support the more likely than not realization of certain deferred tax assets in excess of existing taxable temporary differences. A valuation allowance has been provided for the majority of these net deferred income tax assets as of December 31, 2011 and 2010. The remaining net deferred tax assets at both December 31, 2011 and 2010 primarily relate to the Company's European operations. At December 31, 2011, net operating loss carryforwards relate to taxable losses of PFSweb's European subsidiary totaling approximately \$4.8 million, PFSweb's Canadian subsidiary totaling approximately \$6.0 million and PFSweb's U.S. subsidiaries totaling approximately \$49.3 million that expire at various dates from 2012 through 2031. The U.S. NOL carryforward includes approximately \$4.6 million relating to tax benefits of stock option exercises and, if utilized, will be recorded against additional paid-in-capital upon utilization rather than as an adjustment to income tax expense from continuing operations. The U.S. NOL also includes approximately \$20.4 million of NOL acquired in 2006, which is subject to annual limits of \$1.2 million under IRS Section 382.

The Company evaluates its tax positions for potential liabilities associated with unrecognized tax benefits. As of December 31, 2011 and 2010, no unrecognized tax benefits, penalties or interest were identified or recorded. The Company does not expect to record unrecognized tax benefits in the next twelve months.

9. Commitments and Contingencies

The Company leases facilities, warehouse and office space and transportation and other equipment under operating leases expiring in various years through December 31, 2022. In most cases, management expects that, in the normal course of business, leases will be renewed or replaced by other similar leases. The Company's facility leases generally contain one or more renewal options.

Minimum future annual rental payments under non-cancelable operating leases having original terms in excess of one year are as follows (in thousands):

Fiscal year ended December 31,	Operating Lease Payments
2012	\$ 7,248
2013	6,650
2014	5,261
2015	3,901
2016	2,908
Thereafter	<u>16,618</u>
Total	<u>\$ 42,586</u>

Minimum rental payments under operating leases are recognized on a straight-line basis over the term of the lease including any periods of free rent. Any differences between cash rental payments made and straight-line rent expense is recorded as deferred rent on the accompanying consolidated balance sheets. Total rental expense under operating leases approximated \$7.5 million and \$7.9 million for the years ended December 31, 2011 and 2010, respectively. Certain landlord required deposits are secured by letters of credit.

PFSWEB, INC. AND SUBSIDIARIES**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)**

The Company receives municipal tax abatements in certain locations. During 2004 the Company received notice from a municipality that it did not satisfy certain criteria necessary to maintain the abatements. In December 2006 the Company received notice 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 December 31, 2011, the Company believes it has adequately accrued for the expected assessment.

In April 2010, a sales employee of eCOST was charged with violating various federal criminal statutes in connection with the sales of eCOST products to certain customers, and approximately \$620,000 held in an eCOST deposit account was seized and turned over to the Office of the U.S. Attorney in connection with such activity. The Company received subpoenas from the Office of the U.S. Attorney requesting information regarding the employee and other matters, and the Company has responded to the subpoenas and is fully cooperating with the Office of the U.S. Attorney. The Company has commenced its own investigation into the actions of the employee. Neither the Company nor eCOST have been charged with any criminal activity, and the Company intends to seek the recovery or reimbursement of the funds which are currently classified as other receivables on the December 31, 2011 financial statements. Based on the information available to date, the Company is unable to determine the amount of the loss, if any, relating to the seizure of such funds. No assurance can be given, however, that the seizure of such funds, or the inability of the Company to recover such funds or any significant portion thereof, or any costs and expenses incurred by the Company in connection with this matter, will not have a material adverse effect upon the Company's financial condition or results of operations.

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 alleging infringement by PFS of the patents, trademarks and other intellectual property rights of third parties.

10. Segment and Geographic Information

The Company is currently organized into two primary operating segments, which generally align with the corporate organization structure. In the first segment, PFSweb is an international provider of various business process outsourcing 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.

	Year Ended December 31, 2011	Year Ended December 31, 2010
Revenues (in thousands):		
PFSweb	\$ 142,822	\$ 106,552
Business and Retail Connect	162,447	174,613
Eliminations	(6,503)	(6,649)
	<u>\$ 298,766</u>	<u>\$ 274,516</u>
Income (loss) from operations (in thousands):		
PFSweb	\$ (5,413)	\$ (5,442)
Business and Retail Connect	3,204	3,451
Eliminations	—	—
	<u>\$ (2,209)</u>	<u>\$ (1,991)</u>
	Year Ended December 31, 2011	Year Ended December 31, 2010
Depreciation and amortization (in thousands):		
PFSweb	\$ 6,318	\$ 6,032
Business and Retail Connect	26	28
Eliminations	—	—
	<u>\$ 6,344</u>	<u>\$ 6,060</u>

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

	December 31, 2011	December 31, 2010
Capital expenditures (in thousands):		
PFSweb	\$ 7,464	\$ 3,774
Business and Retail Connect	86	—
Eliminations	—	—
	<u>\$ 7,550</u>	<u>\$ 3,774</u>
Assets (in thousands):		
PFSweb	\$ 83,097	\$ 62,617
Business and Retail Connect	66,740	73,992
eCOST	—	8,183
Eliminations	(13,465)	(14,562)
	<u>\$ 136,372</u>	<u>\$ 130,230</u>

Geographic areas in which the Company operates include the United States, Europe (primarily Belgium), and Canada. The following is geographic information by area. Revenues are attributed based on the Company's domicile.

	Year Ended December 31, 2011	Year Ended December 31, 2010
Revenues (in thousands):		
United States	\$ 215,027	\$ 194,791
Europe	79,602	77,758
Canada	5,787	5,439
Inter-segment eliminations	(1,650)	(3,472)
	<u>\$ 298,766</u>	<u>\$ 274,516</u>
Other long-lived assets (in thousands):		
United States	\$ 15,480	\$ 11,525
Europe	2,273	765
Canada	319	163
	<u>\$ 18,072</u>	<u>\$ 12,453</u>

11. Employee Savings Plan

The Company has a defined contribution employee savings plan under Section 401(k) of the Internal Revenue Code. Substantially all full-time and part-time U.S. employees are eligible to participate in the plan. The Company, at its discretion, may match employee contributions to the plan and also make an additional matching contribution in the form of profit sharing in recognition of the Company's performance. The Company contributed approximately \$0.1 million during the year ended December 31, 2011, to match an approved percentage of employee contributions. No matching contributions were made in the year ended December 31, 2010.

12. Discontinued Operations

In February 2011, the Company sold certain assets of eCOST to a third party for a total aggregate cash purchase price of approximately \$2.3 million (before expenses of approximately \$0.2 million). Accordingly, the accompanying consolidated financial statements reflect the related operating results of the eCOST segment as discontinued operations for all periods presented.

Summarized financial information in the accompanying consolidated statements of operations for the discontinued eCOST operations is as follows (in thousands):

PFSWEB, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS – (continued)

	Twelve Months Ended December 31,	
	2011	2010
Product revenue, net	\$6,909	\$69,172
Expenses	7,792	70,327
Goodwill and intangible asset impairment	—	2,792
Loss before provision for income taxes	(883)	(3,947)
Provision (benefit) for income taxes	(9)	28
Discontinued operations, net of income taxes	<u>\$ (892)</u>	<u>\$ (3,975)</u>

Summarized financial information in the accompanying consolidated balance sheets for the discontinued eCOST operations is as follows (in thousands):

	December 31, 2010
Inventories, net	\$ 2,776
Identifiable intangibles	316
Goodwill	810
Assets of discontinued operations	<u>\$ 3,902</u>

At December 31, 2010, the amount of allowance for slow moving inventory included in discontinued operations was \$0.2 million. At December 31, 2011 the Company had recorded approximately \$0.5 million of accrued liabilities related to the discontinued operations.

The original eCOST acquisition resulted in a purchase price in excess of the fair value of net identifiable assets acquired and liabilities assumed. This excess purchase price was allocated to goodwill. Goodwill, which is not deductible for tax purposes, is not amortized rather, it is subject to an annual impairment test, using a fair-value-based approach.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure

None.

Item 9A. CONTROLS AND PROCEDURES.

Evaluation of 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 (the “Exchange Act”). As of December 31, 2011, 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 the December 31, 2011, there was no change in internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Management’s Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) under the Exchange Act. Our internal control over financial reporting is designed, under the supervision of our principle executive and principle financial officers, and effected by our Board of Directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States of America (GAAP). Our internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and Board of Directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

We conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2011. This evaluation was based on the framework in “Internal Control—Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Also, projections of any evaluation of the effectiveness of internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Based on our evaluation under the framework in *Internal Control—Integrated Framework*, our Chief Executive Officer and Chief Financial Officer concluded that internal control over financial reporting was effective as of December 31, 2011.

This annual report does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. Management’s report was not subject to attestation by our independent registered public accounting firm pursuant to temporary rules of the Securities and Exchange Commission that permit us to provide only management’s report in this annual report.

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Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers of the Registrant

Reference is made to the information to be set forth in the section entitled “Board of Directors” and “Committees of the Board” in the definitive proxy statement in connection with our Annual Meeting of Shareholders (the “Proxy Statement”), which section is incorporated herein by reference. Our Proxy Statement will be filed with the Securities and Exchange Commission not later than 120 days after the last day of our fiscal year ended December 31, 2011.

Item 11. Executive Compensation

Information required by Part III, Item 11, will be included in the section entitled “Executive Compensation” of our Proxy Statement relating to our annual meeting of shareholders and is incorporated herein by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters

Information required by Part III, Item 12, will be included in the Sections entitled “Election of Directors” and “Security Ownership of Certain Beneficial Owners and Management” of our Proxy Statement relating to our annual meeting of shareholders and is incorporated herein by reference.

The following table summarizes information with respect to equity compensation plans under which equity securities of the Company are authorized for issuance as of December 31, 2011:

<u>Plan category (1)</u>	<u>Number of securities to be issued upon exercise of outstanding options and warrants</u>	<u>Weighted-average exercise price of outstanding options and warrants</u>	<u>Number of securities remaining available for future issuance</u>
Equity compensation plans approved by security holders	2,167,852	\$ 4.56	419,042
Equity compensation plans not approved by security holders	—		—
Total	2,167,852		419,042

(1) See Note 5 to the Consolidated Financial Statements for more detailed information regarding the Company’s equity compensation plans.

Item 13. Certain Relationship and Related Transactions

Information regarding certain of our relationships and related transactions will be included in the section entitled “Certain Relationship and Related Transactions” of our Proxy Statement relating to our annual meeting of shareholders and is incorporated herein by reference.

Item 14. Principal Accountant Fees and Services

Information required by Part III, Item 14, will be included in the section entitled “Ratification of Appointment of Independent Auditors” of our Proxy Statement relating to our annual meeting of shareholders and is incorporated herein by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

(a) *The following documents are filed as part of this report:*

1. *Financial Statements*

PFSweb, Inc. and Subsidiaries

Report of Independent Registered Public Accounting Firm

Consolidated Balance Sheets

Consolidated Statements of Operations

Consolidated Statements of Shareholders' Equity and Comprehensive Loss

Consolidated Statements of Cash Flows

Notes to Consolidated Financial Statements

Financial Statement Schedules

Schedule I – Condensed Financial Information of Registrant

Schedule II – Valuation and Qualifying Accounts

All other schedules are omitted because the required information is not present in amounts sufficient to require submission of the schedule or because the information required is included in the financial statements or notes thereto.

2. *Exhibits*

<u>Exhibit Number</u>	<u>Description of Exhibits</u>
3.1 (1)	Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.1.1 (20)	Certificate of Amendment to Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.1.2 (32)	Certificate of Amendment to Certificate of Incorporation of PFSweb, Inc.
3.1.3 (36)	Certificate of Amendment to Amended and Restated Certificate of Incorporation of PFSweb, Inc.
3.2 (1)	Amended and Restated Bylaws
3.2.1 (26)	Amendment to the Amended and Restated By-Laws of PFSweb, Inc.
2.2.2 (39)	Amendment to the Amended and Restated By-Laws of PFSweb, Inc.
4.1 (30)	Rights Agreement, dated as of June 8, 2000, between the Company and ChaseMellon Shareholder Services, LLC
4.1 (31)	Amendment No. 1 to Rights Agreement, dated as of May 30, 2008 between the Company and Mellon Investor Services LLC, as successor to ChaseMellon Shareholder Services, L.L.C., as rights agent.
4.1 (38)	Amendment No. 2 to Rights Agreement, dated as of May 24, 2010 between the Company and Mellon Investor Services LLC, as successor to ChaseMellon Shareholder Services, L.L.C., as rights agent.
4.1 (39)	Amendment No. 3 to Rights Agreement, dated as of July 2, 2010 between the Company and Mellon Investor Services LLC, as successor to ChaseMellon Shareholder Services, L.L.C., as rights agent.
10.1 (18)	Amendment 3 to Loan and Security Agreement.
10.2 (18)	Amendment 6 to Agreement for Inventory Financing.
10.3 (18)	Amendment 1 to First Amended and Restated Loan and Security Agreement.
10.4 (16)	Amendment 5 to Amended and Restated Platinum Plan Agreement.
10.5 (16)	Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
10.6 (16)	Amendment No. 5 to Agreement for Inventory Financing.
10.7 (1)	Industrial Lease Agreement between Shelby Drive Corporation and Priority Fulfillment Services, Inc.
10.8 (1)	Lease Contract between Transports Weerts and Priority Fulfillment Services Europe B.V.

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10.9 (2)	Form of Change of Control Agreement between the Company and each of its executive officers
10.10 (4)	Ninth Amendment to Lease Agreement by and between AGBRI ATRIUM. L.P., and Priority Fulfillment Services, Inc.
10.11 (5)	Agreement for Inventory Financing by and among Business Supplies Distributors Holdings, LLC, Supplies Distributors, Inc., Priority Fulfillment Services, Inc., PFSweb, Inc., Inventory Financing Partners, LLC and IBM Credit Corporation
10.12 (5)	Amended and Restated Collateralized Guaranty by and between Priority Fulfillment Services, Inc. and IBM Credit Corporation
10.13 (5)	Amended and Restated Guaranty to IBM Credit Corporation by PFSweb, Inc.
10.14 (5)	Amended and Restated Platinum Plan Agreement (with Invoice Discounting) by and among Supplies Distributors, S.A., Business Supplies Distributors Europe B.V., PFSweb B.V., and IBM Belgium Financial Services S.A.
10.15 (5)	Amended and Restated Guaranty to IBM Belgium Financial Services S.A. by PFSweb, Inc.
10.16 (5)	Subordinated Demand Note by and between Supplies Distributors, Inc. and Priority Fulfillment Services, Inc.
10.17 (5)	Notes Payable Subordination Agreement between Congress Financial Corporation (Southwest) and Priority Fulfillment Services, Inc.
10.18 (5)	Guarantee in favor of Congress Financial Corporation (Southwest) by Business Supplies Distributors Holdings, LLC, Priority Fulfillment Services, Inc. and PFSweb, Inc.
10.19 (5)	General Security Agreement by Priority Fulfillment Services, Inc. in favor of Congress Financial Corporation (Southwest).
10.20 (5)	Inducement Letter by Priority Fulfillment Services, Inc. and PFSweb, Inc. in favor of Congress Financial Corporation (Southwest).
10.21 (6)	Form of Executive Severance Agreement between the Company and each of its executive officers.
10.21.1 (33)	Form of Amendment to Executive Severance Agreement.
10.21.2 (33)	Form of Amendment to Change in Control Severance Agreement.
10.21.3 (39)	Severance, Nondisclosure, Nonsolicitation and Noncompete Agreement dated July 2, 2010 between the Company and Cynthia Almond.
10.22 (7)	Amendment to Agreement for Inventory Financing by and among Business Supplies Distributors Holdings, LLC, Supplies Distributors, Inc., Priority Fulfillment Services, Inc., PFSweb, Inc., Inventory Financing Partners, LLC and IBM Credit Corporation
10.23 (7)	Amendment to Amended and Restated Platinum Plan Agreement (with Invoice Discounting) by and among Supplies Distributors, S.A., Business Supplies Distributors Europe B.V., PFSweb B.V., and IBM Belgium Financial Services S.A.
10.24 (7)	Amendment to Factoring agreement dated March 29, 2002 between Supplies Distributors S.A. and Fortis Commercial Finance N.V.
10.25 (8)	Unconditional Guaranty of PFSweb, Inc. to Comerica Bank – California
10.26 (8)	Security Agreement of PFSweb, Inc. to Comerica Bank – California
10.27 (8)	Intellectual Property Security Agreement between Priority Fulfillment Services, Inc. and Comerica Bank – California
10.28 (8)	Amendment 2 to Amended and Restated Platinum Plan Agreement (with Invoice Discounting) by and among Supplies Distributors, S.A., Business Supplies Distributors B.V., PFSweb B.V., and IBM Belgium Financial Services S.A.
10.29 (8)	Amendment to Agreement for Inventory Financing by and among Business Supplies Distributors Holdings, LLC, Supplies Distributors, Inc., Priority Fulfillment Services, Inc., PFSweb, Inc., and IBM Credit LLC

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- 10.30 (9) Amendment to factoring agreement dated April 30, 2003 between Supplies Distributors S.A. and Fortis Commercial Finance N.V.
- 10.31 (9) Loan and Security Agreement by and between Congress Financial Corporation (Southwest), as Lender and Supplies Distributors, Inc., as Borrower dated March 29, 2002.
- 10.32 (9) General Security Agreement – Business Supplies Distributors Holdings, LLC in favor of Congress Financial Corporation (Southwest)
- 10.33 (9) Stock Pledge Agreement between Supplies Distributors, Inc. and Congress Financial Corporation (Southwest)
- 10.34 (9) First Amendment to General Security Agreement by Priority Fulfillment Services, Inc. in favor of Congress Financial Corporation (Southwest)
- 10.35 (12) Industrial Lease Agreement between New York Life Insurance Company and Daisytek, Inc.
- 10.36 (12) First Amendment to Industrial Lease Agreement between New York Life Insurance Company, Daisytek, Inc. and Priority Fulfillment Services, Inc.
- 10.37 (12) Second Amendment to Industrial Lease Agreement between ProLogis North Carolina Limited Partnership and Priority Fulfillment Services, Inc.
- 10.38 (12) Modification, Ratification and Extension of Lease between Shelby Drive Corporation and Priority Fulfillment Services, Inc.
- 10.39 (13) Amendment to Agreement for Inventory Financing by and among Business Supplies Distributors Holdings, LLC, Supplies Distributors, Inc., Priority Fulfillment Services, Inc., PFSweb, Inc., and IBM Credit LLC
- 10.40 (13) Amendment 4 to Amended and Restated Platinum Plan Agreement (with Invoice Discounting) by and among Supplies Distributors, S.A., Business Supplies Distributors B.V., PFSweb B.V., and IBM Belgium Financial Services S.A.
- 10.41 (13) First Amendment to Loan and Security Agreement by and between Congress Financial Corporation (Southwest), as Lender and Supplies Distributors, Inc., as Borrower.
- 10.42 (13) Form of Modification to Executive Severance Agreement.
- 10.43 (14) Industrial Lease Agreement by and between Industrial Developments International, Inc. and Priority Fulfillment Services, Inc.
- 10.44 (14) Guaranty by PFSweb, Inc. in favor of Industrial Developments International, Inc.
- 10.45 (14) Lease between Fleet National Bank and Priority Fulfillment Services, Inc.
- 10.46 (14) Guaranty by PFSweb, Inc. in favor of Fleet National Bank
- 10.47 (14) Amendment No. 3 to Lease dated as of March 3, 1999 between Fleet National Bank and Priority Fulfillment Services, Inc.
- 10.48 (15) Loan Agreement between Mississippi Business Finance Corporation and Priority Fulfillment Services, Inc. dated as of November 1, 2004
- 10.49 (15) Reimbursement Agreement between Priority Fulfillment Services, Inc. and Comerica Bank
- 10.50 (15) First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.51 (15) Remarketing Agreement between Priority Fulfillment Services, Inc. and Comerica Securities
- 10.52 (20) Amendment to factoring agreement dated December 12, 2005 between Supplies Distributors S.A. and Fortis Commercial Finance N.V.
- 10.53 (21) Amendment 7 to Agreement for Inventory Financing.
- 10.54 (21) Amendment 6 to Amended and Restated Platinum Plan Agreement.
- 10.55 (21) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
- 10.56 (21) Second Amendment to Loan and Security Agreement by and between eCOST.com, Inc. and Wachovia Capital Finance Corporation (Western).
- 10.57 (21) Amendment 4 to Loan and Security Agreement.
- 10.58 (21) Guaranty by PFSweb, Inc., in favor of Wachovia Capital Finance Corporation (Western).

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- 10.59 (21) Second Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.60 (23) Tenth Amendment to Lease Agreement by and between Plano Atrium, LLC and Priority Fulfillment Services, Inc.
- 10.61 (24) Amendment 8 to Agreement for Inventory Financing.
- 10.62 (24) Fourth Amendment to the Loan and Security Agreement by and between eCOST.com, Inc. and Wachovia Capital Finance Corporation (Western).
- 10.63 (24) Amendment 5 to Loan and Security Agreement.
- 10.64 (24) Amendment 7 to Amended and Restated Platinum Plan Agreement.
- 10.65 (24) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
- 10.66 (25) Fifth Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.67 (27) Second Amendment to Industrial Lease Agreement by and between Industrial Property Fund VI, LLC and Priority Fulfillment Services, Inc.
- 10.68 (29) Amendment 9 to Agreement for Inventory Financing.
- 10.69 (29) Amendment 8 to Amended and Restated Platinum Plan Agreement.
- 10.70 (29) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
- 10.71 (29) Sixth Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.72 (34) Sixth Amendment to Loan and Security Agreement dated January 6, 2009 between Wachovia Bank and Supplies Distributors, Inc.
- 10.73 (34) Fifth Amendment to Loan and Security Agreement dated January 6, 2009 between Wachovia Bank and eCOST.com Inc.
- 10.74 (35) Amendment 10 to Agreement for Inventory Financing.
- 10.75 (35) Amendment 9 to Amended and Restated Platinum Plan Agreement.
- 10.76 (35) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
- 10.77 (35) Seventh Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.78 (36) Amended and Restated 2005 Employee Stock and Incentive Plan of PFSweb, Inc.
- 10.79 (36) Amended and Restated Non-Employee Director Stock Option and Retainer Plan of PFSweb, Inc.
- 10.80 (37) Eighth Amended and Restated Notes Payable Subordination Agreement by and between Priority Fulfillment Services, Inc., Supplies Distributors, Inc. and IBM Credit Corporation.
- 10.81 (37) Amendment 11 to Agreement for Inventory Financing.
- 10.82 (37) Amendment 10 to Amended and Restated Platinum Plan Agreement.
- 10.83 (37) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule.
- 10.84 (37) Eighth Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment Services, Inc.
- 10.85 (40) Asset Purchase Agreement by and between eCOST.com., PC Mall, Inc. and Mall Acquisition 3, Inc. dated as of February 17, 2011.
- 10.86 (41) Consent and Lien release dated as of February 17, 2011, by and between Wells Fargo Bank, National Association and eCOST.com, Inc.
- 10.87 (42) Factoring Agreement by and between BNP Paribus Fortis Factor and Supplies Distributors, S.A.

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- 10.88 (42) Amendment 12 to Agreement for Inventory Financing
- 10.89 (42) Amendment 11 to Amended and Restated Platinum Plan Agreement
- 10.90 (42) Agreement for IBM Global Financing Platinum Plan Invoice Discounting Schedule
- 10.91 (42) Ninth Amendment to First Amended and Restated Loan and Security Agreement by and between Comerica Bank and Priority Fulfillment services, Inc.
- 10.92 (42) 2011 Management Bonus Plan
- 10.93 (42) Seventh Amendment to Loan and Security Agreement dated January 6, 2009 between Wells Fargo Bank and Supplies Distributors, Inc.
- 10.94 (43) Seventh Amendment to Loan and Security Agreement dated January 6, 2009 by and between Wells Fargo Bank, National Association and PFSweb Retail Connect, Inc.
- 10.95 (44) Tenth Amendment to First Amended and Restated Loan and Security Agreement dated November 10, 2011 by and between Priority Fulfillment Services, Inc., and Comerica Bank
- 10.96 (45) Lease agreement by and between Binyan Realty LP and Priority Fulfillment Services, Inc.
- 10.97 (45) Lease Guaranty by PFSweb, Inc. in favor of Binyan Realty LP
- 10.98 (45) Lease Agreement dated December 8, 2011, between CCI-Millennium, L.P. and Priority Fulfillment Services, Inc.
- 10.99 (45) Guaranty of PFSweb, Inc. to CCI-Millennium, L.P.
- 10.100 (45) Eleventh Amendment to First Amended and Restated Loan and Security Agreement by and between Priority Fulfillment Services, Inc., and Comerica Bank
- 10.101 (45) Amendment 13 to Agreement for Inventory Financing
- 21 (45) Subsidiary Listing
- 23.1 (45) Consent of GRANT THORNTON, LLP, Independent Registered Public Accounting Firm
- 31.1 (45) Certifications of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350
- 31.2 (45) Certifications of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350
- 32.1 (45) Certifications Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

- (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 March 31, 2001
- (3) Incorporated by reference from PFSweb, Inc. Form 10-Q/A for the quarterly period ended September 30, 2001
- (4) Incorporated by reference from PFSweb, Inc. Form 10-K for the transition period ended December 31, 2001
- (5) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2002
- (6) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended June 30, 2002
- (7) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2002
- (8) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2003
- (9) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended June 30, 2003
- (10) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended September 30, 2003
- (11) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on November 10, 2003
- (12) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2003
- (13) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2004
- (14) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended September 30, 2004
- (15) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2004.

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- (16) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2005.
- (17) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on June 14, 2005.
- (18) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended June 30, 2005.
- (19) Incorporated by reference from PFSweb, Inc. Current Report on Form 8-K filed on November 30, 2005.
- (20) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2005.
- (21) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2006.
- (22) Incorporated by reference from PFSweb, Inc. Current Report on Form 8-K filed on June 2, 2006.
- (23) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended September 30, 2006.
- (24) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2006.
- (25) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2007.
- (26) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on November 13, 2007.
- (27) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2007.
- (28) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on May 2, 2008.
- (29) Incorporated by reference from PFSweb, Inc. Form 10-Q for the quarterly period ended March 31, 2008.
- (30) Incorporated by reference from PFSweb, Inc. Registration Statement on Form 8-A filed on June 14, 2000.
- (31) Incorporated by reference from PFSweb, Inc. Report on Form 8K filed on May 30, 2008.
- (32) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on June 2, 2008.
- (33) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on January 6, 2009.
- (34) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on January 9, 2009.
- (35) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on May 15, 2009.
- (36) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on August 14, 2009.
- (37) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on May 17, 2010.
- (38) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on May 25, 2010.
- (39) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on July 2, 2010.
- (40) Incorporated by reference from PFSweb, Inc. Report on Form 8-K filed on February 23, 2011.
- (41) Incorporated by reference from PFSweb, Inc. Form 10-K for the year ended December 31, 2010.
- (42) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on May 16, 2011
- (43) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on August 15, 2011.
- (44) Incorporated by reference from PFSweb, Inc. Form 10-Q filed on November 14, 2011.
- (45) Filed herewith.

PFSWEB, INC. AND SUBSIDIARIES
CONDENSED FINANCIAL INFORMATION OF REGISTRANT
BALANCE SHEETS – PARENT COMPANY ONLY
(In thousands)

	December 31, 2011	December 31, 2010
ASSETS:		
Cash and cash equivalents	\$ 5,876	\$ 5,006
Receivable from subsidiaries	6,043	5,394
Receivable from PFSweb Retail Connect, Inc.	7,900	7,400
Investment in subsidiaries	8,255	11,550
Total assets	<u>\$ 28,074</u>	<u>\$ 29,350</u>
LIABILITIES:		
Total liabilities	<u>\$ —</u>	<u>\$ —</u>
SHAREHOLDERS' EQUITY:		
Preferred stock	—	—
Common stock	13	12
Additional paid-in capital	104,645	101,229
Accumulated deficit	(77,898)	(73,332)
Accumulated other comprehensive income	1,399	1,526
Treasury stock	(85)	(85)
Total shareholders' equity	<u>28,074</u>	<u>29,350</u>
Total liabilities and shareholders' equity	<u>\$ 28,074</u>	<u>\$ 29,350</u>

The condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto.

PFSWEB, INC. AND SUBSIDIARIES
CONDENSED FINANCIAL INFORMATION OF REGISTRANT
STATEMENTS OF OPERATIONS – PARENT COMPANY ONLY
FOR THE YEARS ENDED DECEMBER 31
(In thousands)

	<u>2011</u>	<u>2010</u>
EQUITY IN NET LOSS OF CONSOLIDATED SUBSIDIARIES	<u>\$(4,566)</u>	<u>\$(7,369)</u>
NET LOSS	<u>\$(4,566)</u>	<u>\$(7,369)</u>

The condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto.

PFSWEB, INC. AND SUBSIDIARIES
CONDENSED FINANCIAL INFORMATION OF REGISTRANT
STATEMENTS OF CASH FLOWS – PARENT COMPANY ONLY
FOR THE YEARS ENDED DECEMBER 31
(In thousands)

	<u>2011</u>	<u>2010</u>
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$(4,566)	\$(7,369)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Equity in net loss of consolidated subsidiaries	4,566	7,369
Net cash provided by operating activities	<u>—</u>	<u>—</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from issuance of common stock	2,015	7,270
Increase in receivable from PFSweb Retail Connect, Inc.	(500)	(2,450)
Increase (decrease) in receivable from subsidiaries, net	(645)	(6)
Net cash provided by (used in) financing activities	<u>870</u>	<u>4,814</u>
EFFECT OF EXCHANGE RATES ON CASH AND CASH EQUIVALENTS	<u>—</u>	<u>10</u>
NET INCREASE (DECREASE) IN CASH	870	4,824
CASH AND CASH EQUIVALENTS, beginning of period	5,006	182
CASH AND CASH EQUIVALENTS, end of period	<u>\$ 5,876</u>	<u>\$ 5,006</u>

The condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto.

PFSWEB, INC. AND SUBSIDIARIES
VALUATION AND QUALIFYING ACCOUNTS
FOR THE YEARS ENDED DECEMBER 31
(Amounts in thousands)

	<u>Balance at Beginning of Period</u>	<u>Additions</u>		<u>Deductions</u>	<u>Balance at End of Period</u>
		<u>Charges to Cost and Expenses</u>	<u>Charges to Other Accounts</u>		
Year Ended December 31, 2010:					
Allowance for doubtful accounts	\$ 973	156	—	(375)	\$ 754
Year Ended December 31, 2011:					
Allowance for doubtful accounts	\$ 754	(11)	—	(80)	\$ 663

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

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

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Mark C. Layton</u> Mark C. Layton	Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)	March 30, 2012
<u>/s/ Thomas J. Madden</u> Thomas J. Madden	Executive Vice President and Chief Financial and Accounting Officer (Principal Financial and Accounting Officer)	March 30, 2012
<u>/s/ Neil Jacobs</u> Dr. Neil Jacobs	Director	March 30, 2012
<u>/s/ Timothy M. Murray</u> Timothy M. Murray	Director	March 30, 2012
<u>/s/ James F. Reilly</u> James F. Reilly	Director	March 30, 2012
<u>/s/ David I. Beatson</u> David I. Beatson	Director	March 30, 2012

**RENAISSANCE TOWER
OFFICE LEASE AGREEMENT**

This Lease Agreement (this "**Lease**") is made as of the Effective Date between **BINYAN REALTY LP**, a Delaware limited partnership (hereinafter called "**Landlord**"), and **PRIORITY FULFILLMENT SERVICES, INC.**, a Delaware corporation (hereinafter called "**Tenant**"). This Lease consists of this paragraph, the Basic Lease Provisions, the Supplemental Lease Provisions and each exhibit, rider and schedule attached to the Basic Lease Provisions and Supplemental Lease Provisions. Each capitalized term used, but not defined, in the Supplemental Lease Provisions shall have the meaning assigned to such term in the Basic Lease Provisions.

BASIC LEASE PROVISIONS

1. **Building:**

a. Name: The "**Building**" is the structure commonly known as Renaissance Tower located at 1201 Elm Street, Dallas, Texas 75270 and is located on the land more particularly described in **Exhibit A** attached to the Supplemental Lease Provisions (the "**Land**").

b. Agreed Rentable Area of the Building: 1,735,285 square feet.

c. The Building, the Land, the parking garage located on the Land and serving the Building (the "**Garage**") and all improvements and appurtenances to the Building, the Garage and the Land are referred to collectively in this Lease as the "**Property**".

2. **Premises:**

a. The "**Premises**" shall consist of all leasable space on the 3rd and 4th floors of the Building and that portion of the 5th floor of the Building, as more particularly identified on **Exhibit B** attached to the Supplemental Lease Provisions.¹ If the Premises include, now or hereafter, one or more floors in their entirety, all corridors and restroom facilities located on such full floor(s) shall be considered part of the Premises.

b. Agreed Rentable Area of the Premises: 78,060 square feet.

3. "**Basic Rent**" (See Article 2, Supplemental Lease Provisions):

<u>Rental Period</u>	<u>Rate Per Square Foot of Agreed Rentable Area</u>	<u>Basic Annual Rent</u>	<u>Basic Monthly Rent</u>
Lease Months 1–36	\$ 13.25	\$ 1,034,295.00	\$ 86,191.25
Lease Months 37–60	\$ 14.25	\$ 1,112,355.00	\$ 92,696.25
Lease Months 61–66	\$ 0.00	\$ 0.00	\$ 0.00
Lease Months 67–84	\$ 15.25	\$ 1,190,415.00	\$ 99,201.25
Lease Months 85–108	\$ 16.25	\$ 1,268,475.00	\$ 105,706.25
Lease Months 109–126	\$ 17.25	\$ 1,346,535.00	\$ 112,211.25

"**Monthly Anniversary of the Commencement Date**" shall mean the numeric day of any calendar month that is the same numeric day as the Commencement Date. The first "**Lease Month**" shall commence on the Commencement Date and end on the last day of the month in which the day before the first Monthly Anniversary of the Commencement Date occurs. Each other "**Lease Month**" shall commence on the first day of the month and end on and include the last day of the same month. Each "**Lease Year**" shall be twelve (12) Lease Months. If the Commencement Date occurs on a day other than the first day of a

¹ Subject to adjustment as provided in Section A.5 of Rider 2 hereto.

calendar month, the first Lease Month shall include the period from the first Monthly Anniversary of the Commencement Date to the last day of the month in which such monthly anniversary date occurs and Tenant shall pay Basic Monthly Rent and Additional Rent (at the rates in effect on the Commencement Date) for such extended period. The Basic Annual Rent and Basic Monthly Rent shall be increased at such time as the Premises are expanded in accordance with the terms of this Lease or by the mutual written agreement of Landlord and Tenant.

4. **“Tenant’s Pro Rata Share Percentage”**: The Agreed Rentable Area of the Premises divided by the Agreed Rentable Area of the Building, expressed in a percentage. As of the Commencement Date, Tenant’s Pro Rata Share Percentage shall be 4.4984%.

5. **“Tenant’s Operating Expense Stop”**: Tenant’s Operating Expense Stop shall be equal to actual Operating Expenses for the calendar year 2012 (the **“Base Year”**), grossed up in accordance with subsection 2.202 of the Supplemental Lease Provisions.

6. **“Tenant’s Pro Rata Share of Electrical Expenses”**: Tenant’s Pro Rata Share of Electrical Expenses shall be equal to the Electrical Expenses (as defined in the Supplemental Lease Provisions) for the applicable period of time, multiplied by Tenant’s Pro Rata Share Percentage.

7. **“Tenant’s Real Estate Taxes Stop”**: Tenant’s Real Estate Taxes Stop shall be equal to actual Real Estate Taxes for the Base Year; provided, however, that if Real Estate Taxes assessed for the Base Year do not reflect an assessment attributable to a 95% occupied building, then Tenant’s Real Estate Taxes Stop amount shall be adjusted upward to reflect an amount equal to reflect such assessment, as reasonably determined by Landlord.

8. **“Term”**: The Term of this Lease shall be equal to 126 Lease Months; provided, however, if the Commencement Date is a day other than the first day of a calendar month, the first Lease Month shall be in excess of a full calendar month as provided in item 3 of these Basic Lease Provisions.

9. **“Commencement Date”**: April 1, 2012.

10. **“Expiration Date”**: September 30, 2022.

11. **“Security Deposit”**: \$86,191.25.

11A. **“Prepaid Rent”**: \$86,191.25.

12. **“Broker”**: Cushman & Wakefield of Texas, Inc.

13. **“Permitted Use”**: As a call center (including related training rooms) and for general and administrative offices and uses ancillary thereto (provided such ancillary uses are consistent with the character of first class multi-tenant office buildings in the Dallas central business district), subject to Section 4.101 of the Supplemental Lease Provisions.

14. All payments shall be made payable to Landlord and sent to Landlord at P.O. Box 3085, Hicksville, NY 11802-3085 or to such other place and/or person or entity as Landlord may designate from time to time. All payments shall be in the form of check or in such other form as shall be mutually acceptable to Landlord and Tenant, provided that payment by check shall not be deemed made if the check is not duly honored with good funds.

15. Parking: See Exhibit E attached to the Supplemental Lease Provisions.

16. Addresses for notices due under this Lease (see Article 14, Supplemental Lease Provisions):

LANDLORD:
1201 Elm Street
Suite 2550
Dallas, TX 75270
Attention: Property Manager

TENANT:
Priority Fulfillment Services, Inc.
500 North Central Expressway
Plano, TX 75074
Attention: Chief Financial Officer

Renaissance Tower/ Priority Fulfillment Services, Inc.

and
c/o The Moinian Group
530 Fifth Avenue, Suite 1800
New York, NY 10036
Attention: Harry Dreizen, Esq.

with a copy to:
Wolff & Samson PC
One Boland Drive
West Orange, New Jersey 07052
Attention: Morris Bienenfeld, Esq.

with a copy to:
Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202
Attention: Wayne F. Malecha

17. **“Effective Date”**: The date of Landlord’s execution and delivery of this Lease to Tenant as inserted by Landlord below Landlord’s signature on the signature page hereof.

18. **Guarantor**: **PFSweb, Inc.**, a Delaware corporation

Renaissance Tower/ Priority Fulfillment Services, Inc.

**LIST OF EXHIBITS AND RIDERS
TO
SUPPLEMENTAL LEASE PROVISIONS**

Exhibit A	Land Legal Description
Exhibit B	Floor Plan
Exhibit C	Work Letter
Exhibit D	Commencement Date Memorandum
Exhibit E	Parking Agreement
Exhibit F	Rules and Regulations
Exhibit G	SNDA
Exhibit H	Janitorial Specifications
Exhibit I	Location of Emergency Generator
Rider 1	Renewal Option
Rider 2	Expansion Option
Rider 3	Right of Refusal
Rider 4	Termination Option
Rider 5	Contraction Option

Renaissance Tower/ Priority Fulfillment Services, Inc.

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SUPPLEMENTAL LEASE PROVISIONS
ARTICLE 1 — TERM AND POSSESSION

SECTION 1.1 LEASE OF PREMISES.

1.101 Lease of Premises.

In consideration of the mutual covenants herein and subject to all the terms and conditions of this Lease, Landlord hereby leases, demises and lets to Tenant and Tenant hereby leases and takes from Landlord, the Premises (herein so called) as defined in Item 2 of the Basic Lease Provisions.

1.102 Agreed Rentable Area.

The agreed rentable area of the Premises is hereby stipulated to be the “**Agreed Rentable Area**” of the Premises set forth in Item 2b of the Basic Lease Provisions. The agreed rentable area of the Building is hereby stipulated to be the “**Agreed Rentable Area**” of the Building set forth in Item 1b of the Basic Lease Provisions, irrespective of whether the same should be more or less as a result of minor variations resulting from actual construction or repair of the Building. For purposes of computing the Agreed Rentable Area in connection with any expansion of the Premises pursuant to Rider 2 or any contraction pursuant to Rider 5, the term “**Agreed Rentable Area**” shall mean the rentable square footage, on either a single tenancy floor or a floor to be occupied by more than one tenant, that is determined by measuring and computing the rentable area on each type of floor in accordance with the Standard Method for Measuring Floor Area in Office Buildings promulgated by Building Owners and Managers Association International (ANSI/BOMA Z65.1-1996) (“**BOMA**”), with an add-on factor for single tenant floors of 5% and an add-on factor for multi-tenant floors equal to the greater of (i) 15%, or (ii) the lesser of the Building’s then-standard modified multi-tenant factor or the multi-tenant add-on factor as determined in accordance with BOMA.

1.103 Initial Term and Commencement.

The initial term of this Lease shall be the period of time specified in Item 8 of the Basic Lease Provisions. The initial term shall commence on the Commencement Date (herein so called) set forth in Item 9 of the Basic Lease Provisions and, unless sooner terminated pursuant to the terms of this Lease, the initial term of this Lease shall expire, without notice to Tenant, on the Expiration Date (herein so called) set forth in Item 10 of the Basic Lease Provisions.

SECTION 1.2 DELIVERY OF PREMISES; COMPLETION OF WORK.

1.201 Delivery.

Upon the Effective Date, Landlord shall deliver possession of the Premises to Tenant, and Tenant shall thereafter have the right to access the Premises prior to the Commencement Date for the sole purpose of constructing improvements and installing Tenant’s fixtures, furniture, equipment and cabling in accordance with the Work Letter attached hereto as **Exhibit C**. Such access shall be subject to all terms and conditions of the Lease except that no Basic Rent or Additional Rent shall be payable prior to the Commencement Date, provided that in no event shall Tenant be permitted to occupy or access the Premises prior to the Commencement Date for any purpose other than as set forth in the preceding sentence. Tenant hereby accepts delivery of the Premises in their “as-is” condition for all purposes, subject only to Landlord’s completion of its obligations under the Work Letter (provided that the foregoing shall not relieve Landlord from any of its express repair or maintenance obligations under this Lease). Tenant acknowledges that Tenant has inspected the Premises and, subject only to Landlord’s completion of its obligations under the Work Letter, Tenant hereby accepts the Premises (including the suitability of the Premises for the Permitted Use) for all purposes. Tenant hereby acknowledges and agrees that Landlord shall not be required to make any modifications or alterations to the Common Areas (hereinafter defined), provided that the foregoing shall not relieve Landlord from any of its express repair and maintenance obligations under this Lease. **TENANT HEREBY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS LEASE, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, BY LANDLORD REGARDING THE PREMISES, THE BUILDING OR THE PROPERTY INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF SUITABILITY OF THE PREMISES FOR THE PERMITTED USE.**

Renaissance Tower/ Priority Fulfillment Services, Inc.

1.202 Commencement Date Memorandum.

Promptly following the Commencement Date, Landlord and Tenant shall complete and execute a "Commencement Date Memorandum" (herein so called) in the form attached hereto as **Exhibit D**. If Tenant fails or refuses to execute a completed Commencement Date Memorandum within fifteen (15) days after the Commencement Date Memorandum is delivered to Tenant, the Commencement Date and Expiration Date shall be deemed to be the dates for same set forth in Commencement Date Memorandum as prepared by Landlord.

SECTION 1.3 REDELIVERY OF THE PREMISES.

1.301 Obligation to Deliver.

Upon the expiration or earlier termination of this Lease or upon the exercise by Landlord of its right to re-enter the Premises without terminating this Lease and subject to Tenant's remaining obligations under this Section, Tenant shall immediately deliver to Landlord the Premises in vacant, broom clean, good condition and with all maintenance and repairs required under this Lease to be performed by Tenant completed (ordinary wear and tear and damage caused by condemnation or casualty excepted), together with all keys and parking and access cards or devices (it being understood that each parking card or device not returned to Landlord shall be treated as lost and Tenant shall pay Landlord an amount reasonably determined in accordance with **Exhibit E** attached to these Supplemental Lease Provisions). Tenant shall, upon the expiration or earlier termination of this Lease or of Tenant's right of possession, at the sole expense of Tenant, remove from the Premises (i) any equipment, appliances, machinery, trade fixtures, furnishings and personalty installed or placed in the Premises by or on behalf of Tenant, and (ii) at Tenant's option, but without obligation of removal, any above-Building standard fixtures, equipment and improvements, such as a raised flooring system, UPS systems, backup generators, supplemental HVAC units, and any other fixtures and equipment installed by or at the direction of Tenant. Notwithstanding any other provision hereof, Tenant shall not be required to remove any alterations, improvements, cable trays, signs conduit, cabling or wiring from the Premises upon Lease termination or expiration. All removals and work described above shall be accomplished in a good and workmanlike manner and shall be conducted in a fashion so as not to damage the Premises or the Building or any portion thereof or the plumbing, electrical lines or other utilities serving the Building. Tenant shall, at its expense, promptly repair any damage caused by any such removal or work. If Tenant fails to deliver the Premises in the condition aforesaid, then Landlord may restore the Premises to such a condition at Tenant's expense (not to exceed the actual, reasonable out-of-pocket cost to Landlord of performing such work). All property required to be removed pursuant to this Section not removed within the time period required hereunder shall thereupon be conclusively presumed to have been abandoned by Tenant and Landlord may, at its option, take over possession of such property and either (x) declare the same to be the property of Landlord by written notice to Tenant at the address provided herein or at such other address which Tenant provides to Landlord in accordance with the provisions of Article 14 below or (y) at the sole cost and expense of Tenant (not to exceed the actual, reasonable out-of-pocket cost to Landlord), remove and store and/or dispose of the same or any part thereof in any manner that Landlord shall choose without incurring liability to Tenant or any other person.

1.302 Failure to Deliver.

Intentionally omitted.

SECTION 1.4 HOLDING OVER.

In the event Tenant or any party under Tenant claiming rights to this Lease, retains possession of the Premises after the expiration or earlier termination of this Lease or the termination of Tenant's right of possession hereunder, such possession shall constitute and be construed as a tenancy at will only, subject, however, to all of the terms, provisions, covenants and agreements on the part of Tenant hereunder; such parties shall be subject to immediate eviction and removal and Tenant or any such party shall pay Landlord

Renaissance Tower/ Priority Fulfillment Services, Inc.

as rent for the period of such holdover an amount equal to one and one-half (1-1/2) times the Basic Annual Rent in effect immediately preceding expiration or termination, as applicable, prorated on a daily basis, together with all Additional Rent (as hereinafter defined) which would have otherwise been due and payable by Tenant if such period of holdover had occurred during the Term. Tenant shall also pay any and all actual damages sustained by Landlord as a result of such holdover; provided, however, that except for the payment of holdover rent as set forth in this Section 1.4, Tenant shall not, during the first thirty (30) days after the expiration or earlier termination of this Lease or of Tenant's right of possession hereunder, be liable for or obligated to pay any actual damages as a result of such holdover. The rent during such holdover period shall be payable to Landlord from time to time on demand; provided, however, if no demand is made during a particular month, holdover rent accruing during such month shall be paid in accordance with the provisions of Article 2. Tenant will vacate the Premises and deliver same to Landlord immediately upon Tenant's receipt of notice from Landlord to so vacate. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend the term of this Lease; no payments of money by Tenant to Landlord after the expiration or earlier termination of this Lease shall reinstate, continue or extend the term of this Lease; and no extension of this Lease after the expiration or earlier termination thereof shall be valid unless and until the same shall be reduced to writing and signed by both Landlord and Tenant. In addition, Tenant agrees that Landlord shall be entitled to the payment of its actual, reasonable out-of-pocket legal fees in the event that Landlord prevails in a forcible detainer action brought by Landlord.

ARTICLE 2 — RENT

SECTION 2.1 BASIC RENT.

Tenant shall pay as annual rent for the Premises the applicable Basic Annual Rent shown in Item 3 of the Basic Lease Provisions. The Basic Annual Rent shall be payable in monthly installments equal to the applicable Basic Monthly Rent shown in Item 3 of the Basic Lease Provisions in advance, without demand, offset or deduction other than as expressly set forth in this Lease, which monthly installments shall commence on the Commencement Date and shall continue on the first (1st) day of each calendar month thereafter; provided that Tenant shall deliver the Prepaid Rent to Landlord simultaneously with Tenant's execution and delivery of this Lease. The Prepaid Rent shall be applied to Tenant's first Basic Monthly Rent payment coming due under this Lease. If the Commencement Date occurs on a day other than the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, the Basic Monthly Rent for such partial month shall be prorated.

SECTION 2.2 ADDITIONAL RENT.

2.201 Definitions.

For purposes of this Lease, the following definitions shall apply:

(a) "**Additional Rent**", for a particular calendar year, shall equal the sum of (i) Tenant's Pro Rata Share of Electrical Expenses for such calendar year plus (ii) Tenant's Pro Rata Share Percentage multiplied by the amount by which Real Estate Taxes (as hereinafter defined) for such year exceeds Tenant's Real Estate Taxes Stop (as set forth in Item 7 of the Basic Lease Provisions) plus (iii) Tenant's Pro Rata Share Percentage multiplied by the amount by which Operating Expenses (as hereinafter defined) for such calendar year exceed Tenant's Operating Expense Stop (as set forth in Item 5 of the Basic Lease Provisions) plus (iv) Tenant's Pro Rata Share Percentage multiplied by Additional Pass Through Costs (as hereinafter defined) for such calendar year. Tenant shall not be entitled to any credit in Rent if Operating Expenses for any calendar year are less than Tenant's Operating Expense Stop or Real Estate Taxes for any calendar year are less than Tenant's Real Estate Taxes Stop.

(b) "**Operating Expenses**" shall mean all of the costs and expenses Landlord incurs, pays or becomes obligated to pay in connection with operating, maintaining, insuring and managing the Property for a particular calendar year or portion thereof as determined by Landlord in accordance with generally accepted accounting principles, including, but not limited to, the following: (i) insurance premiums

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("Insurance Premiums"); (ii) water, sewer and other utility charges ("Utility Expenses"); (iii) service, testing and other charges incurred in the operation and maintenance of the elevators and the plumbing, fire sprinkler, security, heating, ventilation and air conditioning system; (iv) cleaning and other janitorial services inclusive of window cleaning; (v) tools and supplies costs; (vi) repair costs; (vii) costs of landscaping, including landscape maintenance and sprinkler maintenance costs and rental and supply costs in connection therewith; (viii) security and alarm services; (ix) license, permit and inspection fees; (x) management fees; (xi) wages and related benefits payable to employees, including taxes and insurance relating thereto; (xii) accounting services; (xiii) legal services, unless incurred in connection with tenant defaults or lease negotiations; (xiv) trash removal; (xv) garage and parking maintenance, repair and operating costs; and (xvi) the charges assessed against Landlord and /or the Property pursuant to any contractual covenants or recorded declaration of covenants or the covenants, conditions and restrictions of any other similar instrument affecting the Property. Notwithstanding any contrary provision in subsection 2.201 of the Supplemental Lease Provisions or any other provisions of this Lease, "Operating Expenses" shall not include any of the following: fines, late fees, or penalties levied by any governmental or quasi-governmental agency and any awards of damages against the Landlord; Real Estate Taxes or other taxes payable by Landlord, including income, capital stock, estate, inheritance, franchise or excess profits taxes (provided that sales taxes shall be included in Operating Expenses); Additional Pass Through Costs; any of those Utility Expenses which constitute Electrical Expenses; costs which are paid by insurance proceeds (or which would have been paid by insurance proceeds had Landlord maintained the insurance required to be maintained by Landlord under this Lease) or costs which are paid by condemnation awards received by Landlord or as a direct reimbursement by a Building tenant (other than as a shared operating expense or as a direct payment in lieu of a shared operating expense); costs of capital improvements which are not treatable as expenses under generally accepted accounting principles; expenses incurred in leasing or procuring or attempting to procure new tenants, including advertising expenses or leasing commissions paid to agents of Landlord or other brokers; depreciation of the Building or Landlord's personal property at the Building or any other improvements to the Property; interest, late fees and other charges on debt or amortization payments on any mortgage or deed of trust; costs for repairs or maintenance that are reimbursed directly by others, including reimbursement made on warranty claims; costs for renovating or otherwise improving, decorating, painting or redecorating space for tenants or other occupants of the Building or any other vacant leasable space; expenses relating to the sale, financing or refinancing of the Building; costs relating to disputes between Landlord and a specific tenant of the Building; costs of removal or disposal of Hazardous Materials in the Property that were not caused by the actions of Tenant, its agents, employees, contractors, subtenants, assignees or invitees; rent payable under any ground lease pertaining to the Land on which the Building is located; salaries or other compensation paid to executive employees above the grade of Senior Real Estate Manager; costs in connection with services, items or other benefits of a type which are not standard for the Building and which are not available to Tenant, but which are provided to another tenant of the Building with or without a specific charge therefor by Landlord; the annual fee for any property management services for the Property to the extent it exceeds three percent (3%) of the aggregate annual gross revenue for the Property; compensation paid to employees of Landlord who are not employed solely in connection with the Property, to the extent of the pro rata portion of such compensation attributable to the portion of such employees' duties that are unrelated to the Property; compensation paid by Landlord to clerks, attendants or other persons in commercial concessions other than the parking facilities associated with the Building (such as a snack bar, restaurant or newsstand); payments to any affiliate of Landlord for services, goods, supplies or other materials constituting Operating Expenses to the extent that such payments are in excess of that which would have been paid had the services, goods, supplies or materials been provided by unaffiliated third parties of similar skill, competence and experience; the costs incurred related to maintaining Landlord's existence, either as a corporation, partnership or other entity, or with respect to the operation of the business of the entity which constitutes Landlord, including without limitation partnership or corporate accounting and legal matters; costs of correcting defects in the construction of the Building (including latent defects); costs incurred with respect to purchasing investment-grade paintings, sculptures or other works of art for display at the Property; costs of installing, operating or maintaining any specialty service operated by Landlord, such as but not limited to an observatory, beacon, public broadcasting facility, heliport, or luncheon or recreational club (but expressly excluding a health or fitness club or facility); contributions to Operating Expense reserves; costs of repairs, replacements, alterations or improvements necessary to make the Property comply with

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applicable Law effective as of the Effective Date; costs of repairs, replacements, alterations and/or improvements, the need for which arises out of the gross negligence or willful misconduct of Landlord, its employees or agents; any bad debt loss, rent loss, or reserves for bad debts or rent loss; cash contributions for charitable or political purposes; or costs associated with the operation of the “Crystal Court”.

(c) “**Electrical Expenses**” shall mean all Utility Expenses incurred in the form of charges for electrical current supplied to the Property.

(d) “**Real Estate Taxes**” shall mean (i) all real estate taxes and other taxes or assessments which are levied with respect to the Property or any portion thereof for each calendar year, (ii) any tax, surcharge or assessment which shall be levied as a supplement to or in lieu of real estate taxes, (iii) the costs and expenses of a consultant, if any, or of contesting the validity or amount of such real estate or other taxes and (iv) any rental, excise, sales, transaction, privilege or other tax or levy, however denominated, imposed upon or measured by the rental reserved hereunder or on Landlord’s business of leasing the Premises (including without limitation any franchise or gross margins tax payable by Landlord which is attributable to rent or other revenue derived from the Property); provided, however, that if Real Estate Taxes assessed for the Base Year or any other Lease Year during the Term do not reflect an assessment attributable to a 95% occupied building, then Real Estate Taxes shall be adjusted upward to reflect an amount equal to reflect such assessment, as reasonably determined by Landlord. Notwithstanding any contrary provision in subsection 2.201 of the Supplemental Lease Provisions or any other provisions of this Lease, “**Real Estate Taxes**” shall not include (1) income tax, excise tax or inheritance tax, gift tax, transfer tax or estate tax, (2) interest or penalties imposed upon Landlord for late payment of Real Estate Taxes, or (3) special assessments and separately assessed Real Estate Taxes relating to the expansion or renovation of the Project or from a tenant’s improvements.

(e) “**Additional Pass Through Costs**” shall mean the following costs and expenses incurred by Landlord from and after the Commencement Date:

(i) subject to the limitations of clause (ii) following, the cost of any improvement made to the Property by Landlord that is required under any governmental Law or regulation which was not promulgated, or which was promulgated but was not applicable to the Building, as of the Effective Date, amortized over a reasonable period of time within the guidelines set forth first by generally accepted accounting principles, consistently applied (“**GAAP**”), and if not applicable, in accordance with sound real estate accounting principles consistently applied, together with an amount equal to interest at the average rate of the prime rate of interest per annum charged by the nation’s thirty (30) largest banks as published in The Wall Street Journal on the date the applicable expense is incurred plus three hundred basis points (the “**Amortization Rate**”) on the unamortized balance thereof; (ii) the cost of any improvement made to the Common Areas of the Property that is required under interpretations or regulations issued after the Commencement Date under, or amendments made after the Commencement Date to, the provisions of Tex. Rev. Civ. Stat. Ann. art. 9102, the provisions of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12101-12213, or any other applicable law, statute, ordinance, order, rule, regulation or other Law relating to access to the Property by disabled individuals (collectively, the “**Disability Acts**”), amortized over a reasonable period of time within the guidelines set forth first by GAAP, and if not applicable, in accordance with sound real estate accounting principles consistently applied, together with an amount equal to interest at the Amortization Rate on the unamortized balance thereof; and (iii) the cost of any labor-saving or energy-saving device or other equipment installed in the Building (provided Landlord reasonably anticipates that the installation thereof will reduce Operating Expenses), amortized over a reasonable period of time within the guidelines set forth first by GAAP, and if not applicable, in accordance with sound real estate accounting principles consistently applied, together with an amount equal to interest at the Amortization Rate on the unamortized balance thereof.

2.202 Gross-Up.

Operating Expenses and Electrical Expenses for the Base Year and all other Lease Years during the Term shall be grossed up to include all Operating Expenses and Electrical Expenses (as applicable) which Landlord would have incurred, paid or been obligated to pay during such year if the Building had been one hundred percent (100%) occupied. When any Building systems are under warranty during the Base Year such that a service contract is not required for such system, such adjustment for the Base Year shall also include the cost that would have been incurred for such service contract in the absence of the applicable warranty.

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2.203 Payment Obligation.

Commencing with the Commencement Date and continuing until the expiration of this Lease, Tenant shall pay to Landlord the Additional Rent, in monthly installments as hereinafter provided. By December 1 of each calendar year during the term of this Lease (or as soon thereafter as is reasonably possible), Landlord shall give Tenant written notice of Landlord's estimate of Additional Rent for the following calendar year. Tenant shall pay to Landlord on the Commencement Date and on the first day of each month thereafter the amount of the applicable monthly installment of Additional Rent, provided, however, if the applicable installment covers a partial month, then such installment shall be prorated on a daily basis. Within ninety (90) days after the end of (i) each calendar year and (ii) the Expiration Date or as soon thereafter as is reasonably possible, Landlord shall prepare and deliver to Tenant a statement showing Tenant's actual Additional Rent for the applicable calendar year together with a reasonably detailed breakout of Real Estate Taxes, Electrical Expenses and major items of Operating Expenses, provided that with respect to the calendar year in which the Expiration Date occurs, (x) that calendar year shall be deemed to have commenced on January 1 of that year and ended on the Expiration Date (the "**Final Calendar Year**") and (y) Landlord shall have the right to reasonably estimate the actual Additional Rent allocable to the Final Calendar Year but which are not determinable within such ninety day period. If Tenant's total monthly payments of Additional Rent for the applicable year are less than Tenant's actual Additional Rent, then Tenant shall pay to Landlord the amount of such underpayment. If Tenant's total monthly payments of Additional Rent for the applicable year are more than Tenant's actual Additional Rent, then Landlord shall credit against the next Rent payment or payments due from Tenant the amount of such overpayment, provided, however, with respect to the Final Calendar Year, Landlord shall pay to Tenant the amount of such excess payments, less any amounts then owed to Landlord, within thirty (30) days of determination. Unless Tenant takes written exception to any item within one hundred twenty (120) days after the furnishing of an annual statement, such statement shall be considered as final and accepted by Tenant. During the Term, any amount due Landlord as shown on any such statement shall be paid by Tenant by the date on which its next Basic Monthly Rent payment is due (provided that if Tenant receives Landlord's statement less than thirty (30) days before such payment is due, then Tenant's payment shall be due on the date on which the following Basic Monthly Rent payment is due). Following the expiration or earlier termination of this Lease, any amount due Landlord as shown on any such statement shall be paid by Tenant within thirty (30) days after it is furnished to Tenant (which obligation shall survive the expiration or the earlier termination of this Lease). For purposes of calculating Additional Rent, the maximum increase in the amount of Controllable Operating Expenses (defined below) that may be included in calculating Additional Rent for each calendar year after 2012 shall be limited to 6% per calendar year on a cumulative basis; for example, the maximum amount of Controllable Operating Expenses that may be included in the calculation of Additional Rent for each calendar year after 2012 shall equal the product of the Controllable Operating Expenses for the calendar year 2012 and the following percentages for the following calendar years: 106% for 2013, 112% for 2014, 118% for 2015, etc. The term "**Controllable Operating Expenses**" shall mean all items of Operating Expenses (adjusted as provided in subsection 2.202) that are within the reasonable control of Landlord, but shall specifically exclude Utility Expenses, insurance costs and costs incurred because of force majeure. Any invoice or statement provided to Tenant reflecting Additional Rent or other amounts due under this Lease shall include a breakout of any sales tax included in the amounts set forth in such invoice or statement.

Tenant shall have the right to perform, no more than once in any calendar year, an annual audit on Landlord's books and records which reflect Additional Rent to verify Landlord's calculation of actual Additional Rent for the prior calendar year, provided that (i) such audit shall be requested, if at all, within one hundred eighty (180) days after the receipt of the annual statement of actual Additional Rent from Landlord, (ii) such audit shall be performed during Landlord's normal business hours, at the place in Dallas, Texas where Landlord maintains its records (or if such records are not maintained in Dallas, Texas, then Landlord shall deliver the appropriate records to the Building's management office) and only after Landlord has received thirty (30) days prior written notice, (iii) such audit shall be conducted by a certified public accountant or real estate services firm reasonably acceptable to Landlord, which accountant or firm

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shall not perform the audit on a contingency fee basis, (iv) the auditor's report reflecting the results of such audit shall be promptly delivered to Landlord, (v) such audit and/or inspection shall commence promptly after Landlord makes such books and records available to Tenant's auditor and thereafter proceed reasonably to conclusion, (vi) such audit and/or inspection shall not unreasonably interfere with the conduct of Landlord's business, (vii) both Tenant and the accounting firm conducting the audit and/or inspection shall execute a confidentiality agreement for the benefit of Landlord, in the form reasonably requested by Landlord, prior to the commencement of the audit or inspection, and (viii) in no event shall Tenant be permitted to audit or review Landlord's other leases or agreements with other Building tenants or occupants. This paragraph shall not be construed to limit or abate Tenant's obligation to pay the Additional Rent when due as set forth in this Lease. If such audit conducted by Tenant discloses that Tenant has overpaid Additional Rent, then, after review of such audit by Landlord or by accountants selected by Landlord, any overpayment shall be refunded to Tenant (provided that if Tenant is then in default in the payment of any Rent, such overpayment shall be applied against any amount Tenant owes as a result of such default) within thirty (30) days after the verification of the audit (such verification to be completed within sixty (60) days after Landlord's receipt of Tenant's audit report). Failure by Tenant to contest or dispute the allocation of Additional Rent within one hundred eighty (180) days of the date any annual statement for Additional Rent is submitted to Tenant (a) shall be deemed a waiver of the applicable audit or dispute right and any right to contest the Additional Rent for the applicable calendar year; and (b) shall be deemed acceptance of the Additional Rent charges as submitted to and reviewed by Tenant. The foregoing provisions shall survive termination or expiration of this Lease. Tenant shall not be entitled to conduct such an audit if Tenant is in monetary default under this Lease beyond the expiration of any applicable notice and cure period. If the audit proves that Landlord's calculation of Operating Expenses for the calendar year under inspection was overstated by more than five percent (5%), then, after verification, Landlord shall pay Tenant's actual reasonable out-of-pocket audit and inspection fees (but specifically excluding any travel and lodging expenses) applicable to the review of said calendar year statement within thirty (30) days after receipt of Tenant's invoice therefor.

2.204 Billing Disputes.

If there exists any dispute as to (i) the amount of Additional Rent, (ii) whether a particular expense is properly included in Additional Rent or (iii) Landlord's calculation of Additional Rent (each an "**Additional Rent Dispute**"), the events, errors, acts or omissions giving rise to such Additional Rent Dispute shall not constitute a breach or default by Landlord under this Lease and even if a judgment resolving the Additional Rent Dispute is entered against Landlord, this Lease shall remain in full force and effect and Landlord shall not be liable for any consequential damages resulting from the event, error, act or omission giving rise to such Additional Rent Dispute. Notwithstanding the existence of an Additional Rent Dispute, Tenant shall pay timely the amount of Additional Rent which is in dispute and will continue to make all subsequent payments of Additional Rent as and when required under this Lease, provided that the payment of such disputed amount and other amounts shall be without prejudice to Tenant's position. If an Additional Rent Dispute is resolved in favor of Tenant, Landlord shall forthwith pay to Tenant the amount of Tenant's overpayment of Additional Rent, together with interest from the time of such overpayment at the annual rate of ten percent (10%) and attorneys' fees in accordance with Section 15.18. If an Additional Rent Dispute is resolved in favor of Landlord, Tenant shall forthwith pay to Landlord attorneys' fees in accordance with Section 15.18.

2.205 Revisions in Estimated Additional Rent.

If Real Estate Taxes, Insurance Premiums, Utility Expenses or Additional Pass Through Costs increase during a calendar year or if the number of square feet of rentable area in the Premises increases, Landlord may reasonably revise the estimated Additional Rent during such year by giving Tenant no less than thirty (30) days written notice to that effect and thereafter Tenant shall pay to Landlord, in each of the remaining months of such year, an additional amount equal to the amount of such increase in the estimated Additional Rent divided by the number of months remaining in such year.

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2.206 Real Estate Tax Protest.

Tenant waives all rights pursuant to applicable Law to protest appraised values or receive notice of reappraisal regarding the Property (including Landlord's personalty), irrespective of whether Landlord contests same.

SECTION 2.3 RENT DEFINED AND NO OFFSETS.

Basic Annual Rent, Additional Rent and all other sums (whether or not expressly designated as rent) required to be paid to Landlord by Tenant under this Lease (including, without limitation, any sums payable to Landlord under any addendum, exhibit, rider or schedule attached hereto) shall constitute rent and are sometimes collectively referred to as "**Rent**". Each payment of Rent shall be paid by Tenant when due, without prior demand therefor and without deduction or setoff except as expressly set forth in this Lease.

SECTION 2.4 LATE CHARGES.

If any installment of Basic Annual Rent or Additional Rent or any other payment of Rent under this Lease shall not be paid when due, a "**Late Charge**" of four cents (\$.04) per dollar so overdue may be charged by Landlord to defray Landlord's administrative expense incident to the handling of such overdue payments. Each Late Charge shall be payable on demand. Notwithstanding the foregoing, Landlord shall not impose a Late Charge against Tenant for the first time in any Lease Year Tenant fails to pay any amount when due under this Lease, provided such amount is paid within five (5) days after notice from Landlord that the same is overdue.

ARTICLE 3 — SECURITY DEPOSIT

Tenant will pay Landlord on the date this Lease is executed by Tenant the Security Deposit set forth in Item 11 of the Basic Lease Provisions as security for the performance of the terms hereof by Tenant. Landlord shall deposit the Security Deposit into a segregated money market or savings account with a national banking association or a bank chartered with the Texas Department of Banking, but Tenant shall not be entitled to interest thereon. Landlord may not commingle such Security Deposit with any other funds of Landlord. The Security Deposit shall not be considered an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. If Tenant defaults beyond any applicable notice and cure periods with respect to any provision of this Lease, Landlord may, but shall not be required to, from time to time, without prejudice to any other remedy, use, apply or retain all or any part of this Security Deposit for the payment of any Rent or any other sum in default or for the payment of any other actual, reasonable out-of-pocket amount which Landlord may spend or become obligated to spend by reason of Tenant's default or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default, including, without limitation, actual and reasonable out-of-pocket costs and actual and reasonable attorneys' fees incurred by Landlord to recover possession of the Premises. If Landlord ever uses, applies or retains all or any portion of the Security Deposit pursuant to the preceding sentence, Tenant will, within ten (10) days after receipt of a written demand from Landlord, deliver to Landlord an amount which will increase the balance of the Security Deposit to its original level. The Security Deposit, or so much thereof, if any, as shall not have been applied by Landlord in accordance with the terms of this Article 3, shall be returned to Tenant within sixty (60) days after the Expiration Date. Tenant agrees that it will not assign or encumber or attempt to assign or encumber the monies deposited herein as the Security Deposit and that Landlord and its successors and assigns shall not be bound by any such actual or attempted assignment or encumbrance. Regardless of any assignment of this Lease by Tenant, Landlord may return the Security Deposit to the original Tenant, in the absence of evidence satisfactory to Landlord of an assignment of the right to receive the Security Deposit or any part of the balance thereof. To the fullest extent permitted by applicable law, Tenant agrees that the provisions of this Article 3 shall supersede and replace all statutory rights under applicable law regarding the retention, application or return of security deposits.

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SECTION 4.1 USE OF PREMISES.

4.101 General.

The Premises shall, subject to the remaining provisions of this Section, be used solely for the Permitted Use (herein so called) specified in Item 13 of the Basic Lease Provisions. Without in any way limiting the foregoing, Tenant will not use, occupy or permit the use or occupancy of the Premises for any purpose (and the Permitted Use shall not include any use) which is forbidden by or in violation of any Law, ordinance or governmental or municipal regulation, order, or certificate of occupancy (including any use which would create a population density within the Premises which is in excess of one person per 75 square feet of usable area), or which may be dangerous to life, limb or property; or permit the maintenance of any public or private nuisance; or do or permit any other thing which disturbs the quiet enjoyment of any other tenant of the Property; or keep any substance or carry on or permit any operation which emits unreasonable offensive odors or conditions from the Premises; or commit or permit any waste in or upon the Premises; or sell, purchase or give away, or permit the sale, purchase or gift of food in any form by or to any of Tenant's agents or employees or other parties in the Premises except through vending machines in employee lunch or rest areas within the Premises for use by Tenant's employees only; or use any apparatus which makes undue noise or set up vibrations in the Building; or permit anything to be done which would increase the fire and extended coverage insurance rate on the Building or Building contents (excluding any such increase resulting solely from use of the Premises for the Permitted Use) and, if there is any increase in such rate by reason of acts of Tenant (in addition to any such increase, if any, resulting solely from the use of the Premises for the Permitted Use), then Tenant agrees to pay such increase upon demand therefor by Landlord. Payment by Tenant of any such rate increase shall not be a waiver of Tenant's duty to comply herewith. Tenant shall keep the Premises reasonably neat and clean at all times.

4.102 Hazardous and Toxic Materials.

(a) For purposes of this Lease, hazardous or toxic materials shall mean asbestos containing materials ("ACM") and all other materials, substances, wastes and chemicals classified as hazardous or toxic substances, materials, wastes or chemicals under then-current applicable Laws or that are subject to any right-to-know laws or requirements.

(b) Neither Tenant nor any of its contractors nor any of their respective employees, agents or contractors shall knowingly incorporate into, or use or otherwise place or dispose of any hazardous or toxic materials at or on the Premises or the Property except for Tenant's use and storage of cleaning and office supplies used in the ordinary course of Tenant's business and then only if (i) such materials are in small quantities, properly labeled and contained, (ii) such materials are handled and disposed of in accordance with the accepted industry standards for safety, storage, use and disposal, (iii) notice of and a copy of the current material safety data sheet is provided to Landlord for each such hazardous or toxic material and (iv) such materials are used, transported, stored, handled and disposed of in accordance with all applicable Laws. Upon reasonable advance notice to Tenant, and so long as same is done in a manner as to minimize any unreasonable interference with Tenant's normal business operations in the Premises, Landlord shall have the right to periodically inspect, take samples for testing and otherwise investigate the Premises for the presence of hazardous or toxic materials. Tenant shall have the right to have a representative present at all times Landlord or its employees, agents, contractors or representatives are present in the Premises for such purposes, and Landlord, at its sole cost and expense, shall promptly repair and restore any damage caused by the acts or omissions of Landlord or its employees, agents, contractors or representatives while present in the Premises. Landlord shall not knowingly dispose of any hazardous or toxic materials on the Property and shall otherwise deal with all hazardous or toxic materials at the Property in a manner that will not materially and adversely affect Tenant's access, use or occupancy of the Premises. If Landlord or Tenant ever has knowledge of the presence of hazardous or toxic materials on the Property that affect the Premises, the party having knowledge shall notify the other party thereof in writing promptly after obtaining such knowledge. Landlord has notified Tenant of the existence of ACM encapsulated in existing pipe chases running through the Premises, and Tenant shall not permit its employees, agents or contractors to disturb such existing materials.

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(c) If Tenant or its employees, agents or contractors ever violate the provisions of paragraph (b) of this subsection 4.102 or otherwise contaminate the Premises or the Property with hazardous or toxic materials, then Tenant shall clean-up, remove and dispose of the material causing the violation, in compliance with all applicable Laws and then prevalent industry practice and standards and shall repair any damage to the Premises or Building within such period of time as may be reasonable under the circumstances after written notice by Landlord. Tenant shall notify Landlord of its method, time and procedure for any clean-up or removal and Landlord shall have the right to require reasonable changes in such method, time or procedure or to require the same to be done after normal business hours. Tenant's obligations under this subsection 4.102(c) shall survive the termination of this Lease. Tenant represents to Landlord that, except as has been disclosed to Landlord, Tenant has never been cited for or convicted of any hazardous or toxic materials violations under applicable Laws.

(d) To the extent such action is required by applicable Law, Landlord shall be responsible for the removal or remediation of any hazardous or toxic materials (i) located in any portion of the Premises prior to Landlord's delivery thereof to Tenant, or (ii) located in the Common Areas, Garage, Service Areas or Service Corridors to the extent the presence or release thereof was not necessitated by the conduct of any Tenant Party. Landlord has not, to its current, actual knowledge, received any written notice of the existence of hazardous or toxic materials currently located in, on or under the Land or the Building in violation of any applicable Law. Notwithstanding the foregoing representation, Landlord's compliance with the first sentence of this Section 4.102(d) shall be Landlord's sole obligation with respect to any remediation requirements and Tenant's sole remedy therefor.

SECTION 4.2 PERMITS.

If any governmental license, certificate or permit shall be required for occupancy of the Premises or the proper and lawful conduct of Tenant's business in the Premises or any part thereof, Tenant, at its expense, shall procure and thereafter maintain such license, certificate or permit. Additionally, if any alterations or improvements made to the Premises by Tenant or Tenant's use of the Premises require any modification or amendment of any certificate of occupancy for the Building or the issuance of any other permit of any nature whatsoever, Tenant shall, at its expense, take all actions to procure any such modification or amendment or additional permit.

SECTION 4.3 COMPLIANCE WITH LAWS.

4.301 Tenant's Compliance Obligation.

(a) Tenant shall comply with all laws, statutes, ordinances, orders, permits and regulations of governmental and quasi-governmental authorities exercising jurisdiction (each a "**Law**" and collectively "**Laws**") affecting (i) Tenant's use and occupancy of the Premises, (ii) any improvements constructed within the Building by Tenant or by a party other than Landlord on behalf of Tenant and (iii) any equipment installed within the Building by Tenant or installed by a party other than Landlord on behalf of Tenant, provided, however, Tenant's compliance obligations with respect to the Disability Acts shall be governed by paragraph (b) following.

(b) Tenant, at Tenant's expense, shall be responsible for the compliance of the Premises with all requirements of and regulations issued under the Disability Acts for each of the following: (i) alterations or improvements to any portion of the Premises; (ii) obligations or complaints arising under or out of Title I of the Americans With Disabilities Act or Tenant's employer-employee obligations; (iii) obligations or complaints arising under or out of the conduct or operations of Tenant's business, including any obligations or requirements for barrier removal to customers or invitees as a commercial facility or as a public accommodation (as defined in the Disability Acts); and (iv) any change in the nature of Tenant's business, or its employees, or Tenant's business operations that triggers an obligation under the Disability Acts.

(c) If any Law with which Tenant is required to comply pursuant to this Lease is violated, Tenant shall promptly take such corrective action as is necessary to cause compliance.

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4.302 Landlord's Compliance Obligation.

(a) Except for Laws with which Tenant is required to comply under subsection 4.301, Landlord shall be responsible for compliance with all Laws (including, without limitation, environmental laws) relating to the Property.

(b) Landlord shall be responsible for the compliance of the Common Areas with the Disability Act requirements that are in effect on the Commencement Date or are hereinafter imposed to the extent and at the times required under the Disability Acts. Without limitation of the foregoing, Landlord's compliance obligation shall expressly include maintaining the path of travel to the Premises in compliance with the Disabilities Act and other applicable Laws.

(c) If any Law with which Landlord is required to comply pursuant to this Lease is violated, Landlord shall promptly take such corrective action as is necessary to cause compliance.

SECTION 4.4 RULES AND REGULATIONS.

Tenant will comply with such rules and regulations (the "**Rules and Regulations**") generally applying to tenants in the Building as may be adopted from time to time by Landlord acting reasonably for the management, safety, care and cleanliness of, and the preservation of good order and protection of property in, the Premises and the Building and at the Property. All such Rules and Regulations are hereby made a part hereof. The Rules and Regulations in effect on the date hereof are attached hereto as **Exhibit F** attached hereto. All changes and amendments to the Rules and Regulations sent by Landlord to Tenant in writing and conforming to the foregoing standards shall be carried out and observed by Tenant. Landlord hereby reserves all rights necessary to implement and enforce the Rules and Regulations and each and every provision of this Lease. Landlord shall enforce the Rules and Regulations in a reasonably nondiscriminatory manner, taking prevailing circumstances into account.

SECTION 4.5 ACCESS.

Without being deemed guilty of an eviction of Tenant and without abatement of Rent, Landlord and its authorized agents shall have the right to enter the Premises, upon reasonable notice, to inspect the Premises, to show the Premises to prospective lenders, purchasers or, during the last twelve (12) months of the Term, prospective tenants and to fulfill Landlord's obligations or exercise its rights (including without limitation Landlord's Reserved Right [as hereinafter defined]) under this Lease. Landlord shall use reasonable efforts to coordinate any access pursuant to this Section with Tenant in order to minimize any interference with Tenant's use of the Premises. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises and any other loss occasioned thereby, except that such waiver shall not apply to the extent resulting from Landlord's gross negligence or willful misconduct. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock the doors to and within the Premises, excluding Tenant's vaults, safes and any other secured areas designated and reasonably approved by Landlord. Landlord shall have the right to use any and all means which Landlord may deem proper to enter the Premises in an emergency without liability therefor. Other than in the event of an emergency, Tenant shall have the right to have a representative present at all times Landlord or any of its employees, agents, contractors or representatives are present in the Premises.

SECTION 4.6 QUIET POSSESSION.

So long as this Lease is in full force and effect and Tenant's right of possession has not been terminated, Landlord covenants that Tenant shall have the quiet possession of the Premises for the entire term hereof, subject to all of the provisions of this Lease and all deeds of trust, mortgages, security agreements, Laws and restrictive covenants which now or hereafter affect the Property.

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SECTION 5.1 SERVICES TO BE PROVIDED.

Landlord agrees to furnish or cause to be furnished to the Premises, the utilities and services described in subsections 5.101 through 5.108 below, subject to all other provisions of this Lease. Unless otherwise expressly provided herein, all such services shall be provided in a manner substantially consistent with such services provided in other comparable Class “A” multi-tenant office buildings of similar size and quality in the general vicinity of the Building.

5.101 Elevator Service.

Landlord shall provide automatic passenger elevator to service the Premises at all times, subject to Landlord’s reasonable procedures for use outside of Standard Building Hours so long as such procedures shall not deprive Tenant of commercially reasonable access to and egress from the Premises twenty four (24) hours per day, seven (7) days per week (except in cases of emergency). Other than in the event of an emergency, Landlord agrees that there shall at all times be a minimum of two (2) passenger elevators servicing the Premises outside of Standard Building Hours and (ii) a minimum of four (4) passenger elevators servicing the Premises during Standard Building Hours. Additionally, Landlord shall provide automatic freight elevator service (in addition to passenger elevator service) to the Premises during Standard Building Hours, with such freight elevator service to be available at other times upon reasonable prior notice to Landlord and subject to the Building’s Rules and Regulations regarding the use thereof. The term “**Standard Building Hours**” shall mean 7:00 a.m. to 6:00 p.m. (Dallas, Texas time) Monday through Friday (excluding Building Holidays), and 8:00 a.m. to 1:00 p.m. (Dallas, Texas time) on Saturdays (excluding Building Holidays). The term “**Building Holidays**” shall mean New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day. Subject to applicable events of emergency and events of casualty or condemnation, and further subject to Tenant’s compliance with Building security procedures and Rules and Regulations, Tenant shall be permitted access to the Premises on a 24 hour, 7 day per week basis.

5.102 Heat and Air Conditioning.

Except for Lease Holidays, Landlord shall, each day during all Lease HVAC Hours, ventilate the Premises and furnish heat or air conditioning (collectively, “**HVAC Services**”), at such temperatures and in such amounts as is customary in buildings of comparable size, quality and in the general vicinity of the Building, with such adjustments as Landlord reasonably deems necessary for the comfortable occupancy of the Premises (but not less than 68 degrees Fahrenheit dry bulb and not more than 76 degrees Fahrenheit dry bulb when, for cooling purposes, outside temperatures are not more than 102 degrees Fahrenheit dry bulb, and when, for heating purposes, outside temperatures are not less than 10 degrees Fahrenheit dry bulb) and with ventilation at all times not less than that required by ASHRAE 62.1-2004 (but only to the extent the duct work then serving the Premises is sufficient to enable Landlord to meet this standard given the population density within the Premises), subject to events of force majeure and any Laws relating to, among other things, energy conservation. The term “**Lease Holidays**” shall mean New Year’s Day and Christmas Day. The term “**Lease HVAC Hours**” shall mean (i) 24 hour service for the portion of the Premises located on the 4th floor of the Building, and (ii) from 6:00 a.m. to 11:59 p.m. for the remainder of the Premises. Notwithstanding anything herein to the contrary, with respect to the portion of the Premises located on the 4th floor of the Building between the hours of 12:01 a.m. to 6:00 a.m., the permissible temperature range for HVAC Services provided above shall not require Landlord to cool such space below 80 degrees Fahrenheit dry bulb nor heat such space above 65 degrees Fahrenheit dry bulb.

5.103 Electricity.

Landlord shall furnish to the Premises electrical service of not less than 5 watts per rentable square foot of connected load, consisting of 2 watts per rentable square foot for lighting (277 volt) and 3 watts per rentable square foot convenience outlet service (120 volt); provided, however, Tenant shall be solely responsible for the costs of electrical consumption (without duplication) (i) by equipment which requires a voltage other than 120 volts single phase (excluding Building standard overhead lighting), (ii) in excess of that currently supplied to the Premises, or (iii) by any single piece of equipment in excess of 0.5 kilowatts

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at rated capacity (such consumption is herein referred to as “**Excess Consumption**” and the costs of Excess Consumption are herein referred to as “**Excess Consumption Costs**”). Without in any way limiting Tenant’s responsibility for Excess Consumption Costs, Tenant shall not (i) without the express prior written consent of Landlord (which consent shall not be unreasonably withheld, conditioned or delayed), install or use or permit the installation or use of any computer or electronic data processing equipment or any other electrical equipment which (singly) consumes more than 0.5 kilowatts at rated capacity or requires a voltage other than 120 volts single phase or otherwise has high electrical consumption or (ii) use electric current in excess of the capacity of the feeders or lines to the Building or the risers or wiring installation of the Building or the Premises. Landlord may determine Excess Consumption by a survey performed by a reputable consultant or by an additional separate meter in the Premises (provided that Tenant shall have the right to dispute such determination of Excess Consumption). If such survey reveals that there has been Excess Consumption at the Premises, Tenant shall be responsible for (i) the actual, reasonable out-of-pocket cost of any such survey performed by Landlord, and (ii) if Landlord installs a meter to measure Excess Consumption, all actual, reasonable out-of-pocket costs associated with such separate metering including, but not limited to, the cost of installing, maintaining, repairing and reading the separate metering devices and subpanels. Excess Consumption Costs shall be billed to Tenant at the bulk or wholesale rate charged to Landlord for the entire Building without markup or surcharge, but Tenant shall additionally be responsible for a 10% administrative fee and a monthly meter reading fee of \$25 per meter (which fees shall be included in Excess Consumption Costs). All Excess Consumption Costs shall be due and payable by Tenant within thirty (30) days after receipt of Landlord’s invoice for same. Following any determination that Excess Consumption is occurring at the Premises, Tenant may elect to modify its usage or equipment in the Premises such that Excess Consumption is no longer occurring at the Premises, in which event Tenant shall not be charged for any further such Excess Consumption following confirmation by Landlord.

5.104 Water.

Landlord shall furnish water to those points of supply provided for the general use of Building tenants, for drinking, cleaning and lavatory purposes only.

5.105 Janitorial Services.

Landlord shall provide janitorial services to the Premises comparable to that provided in other Class “A” multi-tenant office buildings of similar size and quality in the general vicinity of the Building, provided the Premises are used for the Permitted Use only and further provided Tenant complies with subsection 6.201 below. Such janitorial services shall include cleaning of the exterior surface of the Building’s perimeter windows twice per year and cleaning of the interior surface of the Building’s perimeter windows once per year. Landlord currently provides janitorial services in accordance with the janitorial specifications for the Building attached as **Exhibit H** hereto.

5.106 Common Areas.

Landlord shall maintain and repair the Common Areas (hereinafter defined) in a manner reasonably comparable to that provided in other Class “A” multi-tenant office buildings of similar size and quality in the general vicinity of the Building.

5.107 Bulbs and Ballasts.

Landlord shall provide Building standard bulbs and ballasts as necessary in the Premises. Any light bulbs and/or tubes and ballast which are used in the in any lighting in the Premises which are not the same as those light bulbs and/or tubes and ballast which are provided by Landlord to all other tenants of the Building, shall be replaced by Landlord upon Tenant’s request therefor, but shall be obtained by Tenant at Tenant’s sole cost.

5.108 Security Services.

Landlord shall provide, on a 24 hours per day, 7 days per week basis, manned security services in a manner substantially consistent with such services provided in other comparable Class “A” multi-tenant office buildings of similar size and quality in the general vicinity of the Building. Landlord has delivered to Tenant a general description of such current Building security services and same are acceptable to Tenant.

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Tenant acknowledges and agrees that such security services may not ensure the prevention of injury, theft or damage to Tenant or Tenant's partners, officers, employees, invitees, agents or contractors or their property.

SECTION 5.2 ADDITIONAL SERVICES.

Landlord may impose a reasonable charge for any utilities and services, including without limitation, air conditioning, electrical current and water, provided by Landlord by reason of any use of the HVAC Services at any time other than the Lease HVAC Hours or by reason of any use of services beyond the levels or quantities that Landlord agrees herein to furnish or because of special electrical, cooling or ventilating needs created by Tenant's computer, telecommunications or other equipment. During the first two Lease Years, Landlord agrees to offer Tenant a reduced rate of \$50.00 per hour per floor (or portion thereof) for Tenant's use of HVAC Services outside of the Lease HVAC Hours; thereafter, such rate shall be subject to increases in proportion to any increases in Landlord's cost of electricity over the current rate of \$0.06 per kilowatt hour. In no event will Landlord be required to provide any additional services if Tenant is in breach beyond applicable notice and cure periods of its obligation to pay any Rent hereunder as and when due and payable. Landlord shall invoice Tenant for any charges for any additional services, and Tenant shall pay same by the date on which its next Basic Monthly Rent payment is due (provided that if Tenant receives Landlord's invoice less than thirty (30) days before such payment is due, then Tenant's payment for such charges shall be due on the date on which the following Basic Monthly Rent payment is due).

SECTION 5.3 TENANT'S OBLIGATION.

Tenant agrees to cooperate at all times with Landlord and to abide by all regulations and requirements which Landlord reasonably prescribes for the use of the above utilities and services.

SECTION 5.4 SERVICE INTERRUPTION.

5.401 Service Failure.

Landlord shall not be liable for and, except as provided in subsection 5.402 below, Tenant shall not be entitled to any abatement or reduction of rent by reason of Landlord's failure to maintain temperature or electrical constancy levels or to furnish any of the foregoing services when such failure is caused by accident, breakage, repairs, strikes, lockouts or other labor disturbance or labor dispute of any character, governmental regulation, moratorium or other governmental action, inability to obtain electricity, water or fuel, or by any cause, nor shall any such failure or results or effects thereof be construed as an eviction (constructive or actual) of Tenant or as a breach of any implied warranty of suitability or habitability, or relieve Tenant from the obligation to perform any covenant or agreement herein and in no event shall Landlord be liable for damage to persons or property (including, without limitation, business interruption) or be in default hereunder, as a result of any such uncontrollable event or results or effects thereof.

5.402 Limited Right to Abatement of Rent.

If any portion of the Premises is rendered Untenantable because (i) Landlord fails to deliver any service as required under subsection 5.101 through 5.104 above, (ii) Tenant's access to the Premises is prevented or severely impaired, or (iii) any voice or data cabling serving the Premises is severed or otherwise compromised by the gross negligence or willful misconduct of Landlord or its employees, agents or contractors (such failure, lack of access or impairment of cabling, an "**Interruption**") for any reason for any period (other than a reconstruction period pursuant to Section 7.1 or Article 8 below, in which event the terms of such provisions shall control) exceeding five (5) consecutive days after written notice by Tenant to Landlord thereof, and provided such failure or lack of access is not caused by the act or omission of any Tenant Party, Tenant shall be entitled to a fair partial abatement of Basic Rent and Additional Rent for any portion of the Premises affected by such Interruption from the expiration of such five (5) consecutive day period until such service or access is restored. In addition, if any Interruption shall result in the Premises being rendered Untenantable for ten (10) non-consecutive days in any given thirty (30) day period, then even if no abatement would be available under the preceding sentence, Tenant shall be entitled

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to a fair partial abatement of Basic Rent and Additional Rent for any portion of the Premises affected by such Interruption for each day the Premises or any portion thereof is so rendered Untenantable. For purposes of this subsection 5.402, the term “**Untenantable**” shall mean that the Interruption renders the Premises unfit for reasonable occupancy for the use permitted hereunder so that Tenant is not reasonably able to occupy the Premises for the purposes necessary to the operation of its business.

SECTION 5.5 SUPPLEMENTAL HVAC.

Subject to Landlord’s reasonable approval, Tenant shall be permitted to install self-contained units for HVAC and humidity control (not to exceed five tons of cooling per floor) (“**Supplemental Systems**”) for areas that require supplemental cooling. The cost of the electricity to run such Supplemental Systems will constitute Excess Consumption as set forth in Section 5.103. In addition, Landlord shall make available to Tenant chilled water (for heat rejection purposes only) if required for any such Supplemental Systems, at the Building’s standard charge for same (to be paid by Tenant in accordance with Section 5.2 above).

ARTICLE 6 — MAINTENANCE, REPAIRS, ALTERATIONS AND IMPROVEMENTS

SECTION 6.1 LANDLORD’S OBLIGATION TO MAINTAIN AND REPAIR.

Landlord shall (subject to Section 7.1, Section 7.4, Section 7.5, Article 8 below and Landlord’s rights under Section 2.2 above and except for ordinary wear and tear) maintain and repair the exterior walls and windows, roof and load bearing elements and other structural elements of the Building and the Building’s mechanical, electrical, plumbing and heating, ventilation and air conditioning (“**HVAC**”) system, and fire/life safety systems, Common Area restrooms and Common Areas in a manner substantially equivalent to that provided in other comparable Class “A” multi-tenant office buildings of similar size and quality in the general vicinity of the Building. Except for load bearing elements of the Building and the existing components of the Building systems located within the Premises, Landlord shall not be required to maintain or repair any portion of the Premises.

SECTION 6.2 TENANT’S OBLIGATION TO MAINTAIN AND REPAIR.

6.201 Tenant’s Obligation.

Subject to Sections 6.1, 7.1, 7.4 and 7.6 and Article 8 of this Lease, Tenant shall, at Tenant’s sole cost and expense, (i) maintain and keep the interior of the Premises (including, but not limited to, all fixtures (other than those that are a part of base building systems), walls, ceilings, floors, doors, windows [except replacement of exterior plate glass], appliances and equipment which are part of the Premises) in good repair and condition, (ii) repair or replace any damage or injury done to the Building or any other part of the Property caused by Tenant, Tenant’s agents, employees, licensees, invitees or visitors or resulting from a breach of its obligations under this Section 6.2 and (iii) indemnify and hold Landlord harmless from, and reimburse Landlord for and with respect to, any and all costs, expenses (including actual, reasonable attorneys’ fees), claims and causes of action arising from or incurred by and/or asserted in connection with such maintenance, repairs, replacements, damage or injury. All maintenance, repairs and replacements performed by or on behalf of Tenant shall be performed in a good and workmanlike manner and in accordance with the standards applicable to alterations or improvements performed by Tenant. Tenant shall continue to pay Rent, without abatement, during any period that maintenance, repairs or replacements are performed or required to be performed by Tenant under this Section 6.2. Notwithstanding anything herein to the contrary, Tenant shall have no obligation to perform any maintenance or repairs necessitated by the gross negligence or willful misconduct of Landlord or its employees, agents, contractors or representatives.

6.202 Rights of Landlord.

Landlord shall have the same rights with respect to maintenance, repairs and/or replacements performed by Tenant as Landlord has with respect to Installations performed by Tenant under subsection 6.303 below. In the event Tenant fails, in the reasonable judgment of Landlord, to maintain the Premises in good order,

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condition and repair, or otherwise satisfy its maintenance, repair and replacement obligations under subsection 6.201 above or subsection 6.203 below, Landlord shall have the right to deliver notice of Landlord's intention to perform such work on Tenant's behalf and at Tenant's expense, and unless Tenant shall commence such work within thirty (30) days of Landlord's delivery of such notice, and thereafter prosecute such work with commercially reasonable diligence, Landlord shall have the right to perform such maintenance, repairs and replacements at Tenant's expense (provided that Landlord shall be entitled to perform any such work without prior notice to Tenant in the event of an emergency). Tenant shall pay to Landlord on demand the actual, reasonable out-of-pocket amount of any such cost or expense incurred by Landlord, together with interest thereon at the rate specified in Section 15.10 below from the date of demand until paid and an administrative fee equal to ten percent (10%) of the costs incurred by Landlord.

6.203 Tenant Service Equipment.

Tenant shall maintain and repair all supplemental HVAC units, data and phone cabling, and any and all other installations and equipment installed in the Premises, above the acoustical ceiling tiles of the Premises or elsewhere in the Building (such equipment and installations collectively referred to as the "Tenant Service Equipment"), which Tenant Service Equipment is installed by or on behalf of Tenant and services only the Premises. Tenant shall notify Landlord prior to performing any repair, maintenance or replacement of the Tenant Service Equipment and the same shall be performed in accordance with the standards and conditions applicable to maintenance, repairs and replacements performed by Tenant pursuant to subsection 6.201 above. Landlord shall have no liability for any repair, maintenance or replacement cost incurred in connection with the Tenant Service Equipment unless same shall be damaged due to the gross negligence or intentional misconduct of Landlord or its employees, agents contractors or representatives. Subject to Tenant's right and option (without obligation of removal) to remove Tenant Service Equipment pursuant to Section 1.301 above, all Tenant Service Equipment shall become property of the Landlord at the expiration or earlier termination of the Lease. All removals shall be accomplished in accordance with the standards for removals under Section 1.301 hereof. Unless caused by or resulting from the gross negligence or intentional misconduct of Landlord or its employees, agents contractors or representatives, Tenant shall indemnify and hold Landlord harmless from, and reimburse Landlord for and with respect to, any and all costs, expenses (including actual, reasonable attorneys' fees), claims and causes of action arising from or incurred by and/or asserted in connection with the (i) maintenance, repair, replacement of the Tenant Service Equipment and (ii) any damage or injury arising out of or resulting from or in connection with the Tenant Service Equipment.

SECTION 6.3 IMPROVEMENTS AND ALTERATIONS.

6.301 Landlord's Construction Obligation.

Excluding Landlord's maintenance, repair and restoration obligations set forth elsewhere in this Lease, Landlord's sole construction obligation under this Lease is as set forth in the Work Letter, if any (provided that the foregoing shall not relieve Landlord from any of its express repair or maintenance obligations under this Lease).

6.302 Alteration of Building.

LANDLORD HEREBY RESERVES THE RIGHT AND AT ALL TIMES SHALL HAVE THE RIGHT TO REPAIR, CHANGE, REDECORATE, ALTER, IMPROVE, MODIFY, RENOVATE, ENCLOSE OR MAKE ADDITIONS TO ANY PART OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, STRUCTURAL ELEMENTS AND LOAD BEARING ELEMENTS WITHIN THE PREMISES) AND TO ENCLOSE AND/OR CHANGE THE ARRANGEMENT AND/OR LOCATION OF DRIVEWAYS OR PARKING AREAS OR LANDSCAPING OR OTHER COMMON AREAS OF THE PROPERTY, ALL WITHOUT BEING HELD GUILTY OF AN ACTUAL OR CONSTRUCTIVE EVICTION OF TENANT OR BREACH OF THE IMPLIED WARRANTY OF SUITABILITY AND WITHOUT AN ABATEMENT OF RENT (THE "RESERVED RIGHT"). WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE FOREGOING, LANDLORD'S RESERVED RIGHT SHALL INCLUDE, BUT NOT BE LIMITED TO THE RIGHT TO DO ANY OF THE FOLLOWING: (i) erect and construct scaffolding, pipe, conduit and other structures on and within and outside of the Premises where reasonably required by the

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nature of the changes, alterations, improvements, modifications, renovations and/or additions being performed, (ii) perform within and outside of the Premises all work and other activities associated with such changes, alterations, improvements, modifications, renovations and/or additions being performed, (iii) repair, change, renovate, remodel, alter, improve, modify or make additions to the arrangement, appearance, location and/or size of entrances or passageways, doors and doorways, corridors, elevators, elevator lobbies, stairs, toilets or other Common Areas or Service Areas, (iv) temporarily close any Common Area and/or temporarily suspend Building services and facilities in connection with any repairs, changes, alterations, modifications, renovations or additions to any part of the Building, (v) repair, change, alter or improve plumbing, pipes and conduits located in the Building, including without limitation, those located within the Premises, the Common Areas, the Service Corridors or the Service Areas (hereinafter defined) of the Building and (vi) repair, change, modify, alter, improve, renovate or make additions to the Building central heating, ventilation, air conditioning, electrical, mechanical or plumbing systems. Any pipes, conduit or other installations within the Premises shall be installed within columns, behind walls, under finished floors or above finished ceilings where at all possible. When exercising the Reserved Right, Landlord shall not enter into the Premises except at reasonable times and upon reasonable prior notice to Tenant (except in the case of emergency), and Landlord will interfere with Tenant's use and occupancy of the Premises as little as is reasonably practicable. Landlord shall use reasonable efforts to schedule any Reserved Right work at such times as to minimize unreasonable interference with Tenant's business operations.

6.303 Alterations, Additions, Improvements and Installations by Tenant.

Tenant shall not, without the prior written consent of Landlord, make any changes, modifications, alterations, additions or improvements to, or install any equipment or machinery (other than office equipment, unattached personal property, and computer and telecommunications equipment that do not create any special electrical, cooling or ventilating needs) on, the Premises (all such changes, modifications, alterations, additions, improvements and installations approved by Landlord are herein collectively referred to as "**Installations**") if any such Installations would (i) affect any structural or load bearing portions of the Building, (ii) result in a material increase of electrical usage above the normal type and amount of electrical current to be provided by Landlord, (iii) result in an increase in Tenant's usage of heating or air conditioning, (iv) impact mechanical, electrical or plumbing systems in the Premises or the Building, (v) affect areas of the Premises which can be viewed from Common Areas, (vi) require greater or more difficult cleaning work (e.g., kitchens, reproduction rooms and interior glass partitions), (vii) adversely affect Landlord's ability to deliver Building services to other tenants of the Building or (viii) violate any provision in Article 4 above. As to Installations not covered by the preceding sentence (including the installation of computer or telecommunications equipment that creates any special electrical, cooling or ventilating needs), Tenant will not perform same without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. All Installations shall be at Tenant's sole cost and expense. Without in any way limiting Landlord's consent rights, Landlord shall not be required to give its consent until (a) Landlord approves the contractor or person making such Installations and approves such contractor's insurance coverage to be provided in connection with the work, such approval not to be unreasonably withheld, conditioned or delayed, (b) Landlord approves final and complete plans and specifications for the work, such approval not to be unreasonably withheld, conditioned or delayed and (c) the appropriate governmental agency, if any, has approved the plans and specifications for such work. Subject to Section 4.302, all work performed by Tenant or its contractor relating to the Installations shall conform to applicable governmental Laws, including, without limitation, the Disability Acts. Upon completion of the Installations, Tenant shall deliver to Landlord "as built" plans or construction drawings marked to show variations from same. If Landlord performs such Installations, Tenant shall pay Landlord, as additional Rent, the cost thereof plus ten percent (10%) as reimbursement for Landlord's overhead. Each payment shall be made to Landlord within thirty (30) days after receipt of an invoice from Landlord. Subject to Tenant's removal rights under Section 1.301, all Installations that constitute improvements constructed within the Premises shall be surrendered with the Premises at the expiration or earlier termination of this Lease. Tenant shall indemnify and hold Landlord harmless from, and reimburse Landlord for and with respect to, any and all costs, expenses (including actual, reasonable attorneys' fees), demands, claims, causes of action and liens arising from or in connection with any Installations performed by or on behalf of Tenant. All Installations performed by or on behalf of Tenant

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will be performed diligently and in a first-class workmanlike manner and in compliance with all applicable Laws, and/or Tenant's and Landlord's insurance carriers. Landlord will have the right, but not the obligation, to inspect periodically the work on the Premises and may require changes in the method or quality of the work. Notwithstanding anything in this Lease to the contrary, Landlord's consent shall not be required for any Installation that satisfies all of the following criteria (a "**Minor Installation**"): (a) is of a cosmetic nature such as painting, wallpapering, hanging pictures and installing carpeting; (b) is not visible from outside the Premises or Building; (c) will not affect the systems or structure of the Building; and (d) does not require work to be performed inside the walls or above the ceiling of the Premises (except to run cabling); and (e) does not require the issuance of a building permit. Prior to starting work on any Minor Installation, Tenant shall furnish to Landlord a copy of plans and specifications, if any; names of proposed contractors; copies of contracts; and evidence of contractors' and subcontractors' insurance.

6.304 Approvals.

Any approval by Landlord (or Landlord's architect and/or engineers) of any of Tenant's contractors or Tenant's drawings, plans or specifications which are prepared in connection with any construction of improvements in the Premises shall not in any way be construed as or constitute a representation or warranty of Landlord as to the abilities of the contractor or the adequacy or sufficiency of such drawings, plans or specifications or the improvements to which they relate, for any use, purpose or condition.

ARTICLE 7 — INSURANCE, FIRE AND CASUALTY

SECTION 7.1 TOTAL OR PARTIAL DESTRUCTION OF THE BUILDING OR THE PREMISES.

In the event the Building or the Premises should be damaged by fire or other casualty, then within ninety (90) days of the date of such casualty, Landlord shall deliver written notice of its determination of whether repairs can or cannot be completed within two hundred forty (240) days of the date of such casualty. In the event that the Building should be totally destroyed by fire or other casualty or in the event the Building (or any portion thereof) should be so damaged that rebuilding or repairs cannot be completed, in Landlord's reasonable opinion, within such two hundred forty (240) day period, Landlord may, at its option, terminate this Lease (so long as Landlord likewise terminates the leases for all other similarly affected tenants in the Building, to the extent contractually permitted), in which event Tenant's obligation to pay Basic Annual Rent and Additional Rent with respect to the unexpired portion of this Lease shall be terminated effective as of the date of such casualty. Landlord shall exercise the termination right pursuant to the preceding sentence, if at all, by delivering written notice of termination to Tenant within ninety (90) days after the casualty at issue. In the event that the Premises should be so damaged by fire or other casualty that rebuilding or repairs cannot be completed, in Landlord's reasonable opinion, within two hundred forty (240) days after the casualty, Tenant may, at its option terminate this Lease, in which event Tenant's obligation to pay Basic Annual Rent and Additional Rent during the unexpired portion of this Lease shall be terminated, effective as of the date of casualty. Tenant shall exercise the termination right pursuant to the preceding sentence, if at all, by delivering written notice of termination to Landlord within twenty (20) days after receiving a copy of Landlord's determination that the repairs cannot be completed within such two hundred forty (240) day period. In the event the Building or the Premises should be damaged by fire or other casualty and, in Landlord's reasonable opinion, the rebuilding or repairs can be completed within two hundred forty (240) days after the casualty, or if the damage should be more serious but neither Landlord nor Tenant elect to terminate this Lease pursuant to this Section, in either such event Landlord shall, within ninety (90) days after the date of the casualty, commence (and thereafter pursue with reasonable diligence) repairing the Building and the Premises, but only to the extent of insurance proceeds actually received by Landlord for such repairs, to substantially the same condition which existed immediately prior to the happening of the casualty. In no event shall Landlord be required to rebuild, repair or replace any part of the furniture, equipment, fixtures, inventory, supplies or any other personalty or any other interior tenant-finish improvements, which may have been placed by Tenant within the Building or at the Premises. Landlord shall allow Tenant a prorated diminution of Basic Annual Rent and Additional Rent based upon the portion of the Premises that is Untenantable; provided, that if such casualty was caused by Tenant, its agents, employees, licensees or invitees, Basic Annual Rent and Additional Rent shall be abated only to the

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extent Landlord is compensated for such Basic Annual Rent and Additional Rent by loss of rents insurance, if any. Notwithstanding Landlord's restoration obligation, in the event any mortgagee under a deed of trust, security agreement or mortgage on the Building should require that the insurance proceeds be used to retire or reduce the mortgage debt or if the insurance company issuing Landlord's fire and casualty insurance policy fails or refuses to pay Landlord the proceeds under such policy, Landlord shall have no obligation to rebuild and this Lease shall terminate upon notice by Landlord to Tenant. Subject to the provisions of subsection 7.201(c) below, any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or to the Premises shall be for the sole benefit of the party carrying such insurance and under its sole control. Notwithstanding anything in this Lease to the contrary, if Tenant shall not have the right to terminate this Lease because Landlord determined that the necessary repairs and restoration could be completed within two hundred forty (240) days of the date of the casualty, but the necessary repairs and restoration are not substantially completed within such two hundred forty (240) day period, then until Landlord delivers the Premises to Tenant with all necessary repairs and restoration substantially completed, Tenant shall have the right and option to terminate this Lease upon sixty (60) days notice to Landlord and, unless Landlord shall substantially complete the required repairs and restoration within such sixty (60) day period, this Lease shall automatically terminate upon the expiration of such sixty (60) day period. Upon any termination of this Lease pursuant to this Section 7.1, the parties shall be relieved from further obligation or liability to the other, except for such indemnity and other obligations which expressly survive the expiration or sooner termination of the Term.

SECTION 7.2 TENANT'S INSURANCE.

7.201 Types of Coverage.

Tenant covenants and agrees that from and after the date of delivery of the Premises from Landlord to Tenant, Tenant will carry and maintain, at its sole cost and expense, the insurance set forth in paragraphs (a), (b) and (c) of this subsection.

(a) Commercial General Liability Insurance on a primary basis and without any right of contribution from any insurance carried by Landlord covering the Premises and Tenant's use thereof against claims for personal or bodily injury or death or property damage occurring upon, in or about the Premises (including contractual indemnity and liability coverage), such insurance to insure both Tenant and, as additional named insureds, Landlord and the Property Manager, and to afford protection to the limit of not less than \$5,000,000.00, combined single limit, in respect to injury or death to any number of persons and all property damage arising out of any one (1) occurrence, with a commercially reasonable deductible acceptable to Landlord. This insurance coverage shall extend to any liability of Tenant arising out of the indemnities provided for in this Lease.

(b) Property insurance on an all-risk basis (including, without limitation, coverage against fire, wind, tornado, vandalism, malicious mischief, water damage and sprinkler leakage) covering all Installations, fixtures, equipment and personalty located in the Premises and endorsed to provide one hundred percent (100%) replacement cost coverage. The property insurance may provide for a commercially reasonable deductible acceptable to Landlord. Landlord acknowledges and agrees that Tenant's current deductible of \$50,000 is a commercially reasonable deductible and is acceptable to Landlord.

(c) Worker's compensation insurance insuring against and satisfying Tenant's obligations and liabilities under the worker's compensation Laws of the State of Texas, together with employer's liability insurance in an amount not less than \$1,000,000.00.

7.202 Other Requirements of Insurance.

All such insurance will be issued and underwritten by companies reasonably acceptable to Landlord and will contain endorsements that (a) such insurance may not lapse with respect to Landlord or Property Manager or be canceled or amended with respect to Landlord or Property Manager without the insurance company endeavoring to give Landlord and Property Manager at least thirty (30) days prior written notice of such cancellation or amendment, (b) Tenant will be solely responsible for payment of premiums, (c) in

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the event of payment of any loss covered by such policy, Landlord or Landlord's designees will be paid first by the insurance company for Landlord's loss and (d) Tenant's insurance is primary in the event of overlapping coverage which may be carried by Landlord. Any insurance provided for in subsection 7.201 above may be effected by a policy or policies of blanket insurance covering additional items or locations or assureds, provided that the requirements of this Section 7.2 are otherwise satisfied.

7.203 Proof of Insurance.

Prior to the Commencement Date, Tenant shall deliver to Landlord duly executed originals of the certificates of such insurance evidencing in-force coverage (and, if requested by Landlord, Tenant shall make available for Landlord's review at the Premises true and correct copies of all such insurance policies). Further, Tenant shall deliver to Landlord renewals thereof at least thirty (30) days prior to the expiration of the respective policy terms.

SECTION 7.3 LANDLORD'S INSURANCE.

7.301 Types of Coverage.

Landlord covenants and agrees that from and after the date of delivery of the Premises from Landlord to Tenant, Landlord will carry and maintain, at its sole cost and expense, the insurance set forth in paragraphs (a) and (b) of this subsection.

(a) Commercial General Liability Insurance insuring against claims for personal or bodily injury or death or property damage occurring upon, in or about the Building or Common Areas (including contractual indemnity and liability coverage) to afford protection to the limit of not less than \$5,000,000.00 combined single limit in respect to injury or death to any number of persons and property damage arising out of any one (1) occurrence. This insurance coverage shall extend to any liability of Landlord arising out of the indemnities provided for in this Lease.

(b) Landlord shall at all times during the term hereof maintain in effect a policy or policies of all risk extended coverage insurance covering the Building (excluding property required to be insured by Tenant) and the Garage and all improvements, fixtures, equipment and personalty of Landlord located therein and endorsed to provide full replacement cost coverage and providing protection against perils included within the standard Texas form of fire and extended coverage insurance policy (including, without limitation, coverage against fire, wind, tornado, vandalism, malicious mischief, water damage and sprinkler leakage), together with insurance against sprinkler damage, vandalism, malicious mischief and such other risks as Landlord may from time to time determine and with any such deductibles as Landlord may from time to time determine. The property insurance may provide for a commercially reasonable deductible.

7.302 Self Insurance.

Any insurance provided for in subsection 7.301 above may be effected by self-insurance or by a policy or policies of blanket insurance covering additional items or locations or assureds, provided that the requirements of this Section 7.3 are otherwise satisfied. Tenant shall have no rights in any policy or policies maintained by Landlord. If Landlord elects to provide insurance through blanket insurance, then Landlord shall be permitted to allocate a fair portion of the premiums of the blanket insurance to Operating Expenses. If Landlord self insures pursuant to this subsection, Landlord shall be entitled to include in Operating Expenses an amount equal to the cost that would have been incurred by Landlord if Landlord had provided such coverage through a third party insurer.

SECTION 7.4 WAIVER OF SUBROGATION.

LANDLORD AND TENANT EACH HEREBY WAIVES ANY RIGHTS IT MAY HAVE AGAINST THE OTHER (INCLUDING, BUT NOT LIMITED TO, A DIRECT ACTION FOR DAMAGES) ON ACCOUNT OF ANY LOSS OR DAMAGE OCCASIONED TO LANDLORD OR TENANT, AS THE CASE MAY BE **(EVEN IF (X) SUCH LOSS OR DAMAGE IS CAUSED BY THE FAULT, NEGLIGENCE OR OTHER TORTIOUS CONDUCT, ACTS OR OMISSIONS OF THE RELEASED PARTY OR THE RELEASED PARTY'S DIRECTORS, EMPLOYEES, AGENTS,**

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SUBTENANTS OR INVITEES AND/OR (Y) THE RELEASED PARTY IS STRICTLY LIABLE FOR SUCH LOSS OR DAMAGE), TO THEIR RESPECTIVE PROPERTY, THE PREMISES, ITS CONTENTS OR TO ANY OTHER PORTION OF THE BUILDING OR THE PROPERTY ARISING FROM ANY RISK (WITHOUT REGARD TO THE AMOUNT OF COVERAGE OR THE AMOUNT OF DEDUCTIBLE) COVERED BY THE ALL RISK ONE HUNDRED PERCENT REPLACEMENT COST PROPERTY INSURANCE REQUIRED TO BE CARRIED BY TENANT AND LANDLORD, RESPECTIVELY, UNDER SUBSECTIONS 7.201(b) AND 7.301(b) ABOVE. The foregoing waiver shall be effective even if either or both parties fail to carry the all risk one hundred percent replacement cost property insurance required by Sections 7.201(b) and 7.301(b) above. If a party waiving rights under this Section is carrying an all risk full replacement cost insurance policy in the promulgated form used in the State of Texas and an amendment to such promulgated form is passed, such amendment shall be deemed not a part of such promulgated form until it applies to the policy being carried by the waiving party. Without in any way limiting the foregoing waivers and to the extent permitted by applicable Law, the parties hereto each, on behalf of their respective insurance companies insuring the property of either Landlord or Tenant against any such loss, waive any right of subrogation that Landlord or Tenant or their respective insurers may have against the other party or their respective officers, directors, employees, agents or invitees and all rights of their respective insurance companies based upon an assignment from its insured. Each party to this Lease agrees immediately to give to each such insurance company written notification of the terms of the mutual waivers contained in this Section and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of said waivers. The foregoing waiver shall be effective whether or not the parties maintain the required insurance.

SECTION 7.5 TENANT'S INDEMNITY.

Subject to the limitation and exclusions set forth below in this subsection, Tenant hereby agrees to and will indemnify and hold harmless Landlord, Property Manager, their respective officers, directors, and employees and any other parties for whom Landlord and/or Property Manager are legally responsible (each a "**Landlord Indemnified Party**") from, and shall reimburse each Landlord Indemnified Party for and with respect to, any and all costs, expenses (including, without limitation, actual, reasonable attorneys fees), claims, demands, actions, proceedings, judgments, hearings, damages, losses and liabilities brought or asserted by or payable to any third party on account of personal injury, death, property damage or any other form of injury or damage (each a "**Claim**" and collectively the "**Claims**") arising out of or relating to (a) an incident or event which occurred within or on the Premises, (b) the use or occupancy of the Premises, or (c) any breach of this Lease by Tenant and which resulted in a Claim. The indemnification and reimbursement obligations of Tenant under this subsection shall not apply to a Claim (i) waived by Landlord under Section 7.4 above or any other provision of this Lease, or (ii) arising primarily out of the negligence or intentional misconduct of the Landlord Indemnified Party. If a third party files a lawsuit or brings any other legal action asserting a Claim against a Landlord Indemnified Party and that is covered by Tenant's indemnity, then Tenant, upon notice from the Landlord Indemnified Party, shall resist and defend such Claim through counsel reasonably satisfactory to the Landlord Indemnified Party. **TENANT ACKNOWLEDGES THAT TENANT'S INDEMNITY OBLIGATIONS UNDER THIS SECTION 7.5 MAY APPLY TO CLAIMS RESULTING FROM THE PARTIAL (BUT NOT PRIMARY) NEGLIGENCE OF A LANDLORD INDEMNIFIED PARTY.** Tenant's obligations under this subsection shall survive the termination of this Lease.

SECTION 7.6 LANDLORD'S INDEMNITY.

Landlord will indemnify and hold Tenant and its partners, officers, directors, agents, contractors, representatives or employees (each a "**Tenant Party**" and collectively "**Tenant Parties**") harmless from, and reimburse the Tenant Parties for and with respect to all Claims to the extent any Claim is suffered by, recovered from or asserted against such Tenant Party and arises from or in connection with any damage or

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injury occurring in the Common Areas. The indemnification and reimbursement obligations of Landlord under this subsection shall not apply to a Claim (i) waived by Tenant under Section 7.4 above or any other provision of this Lease, or (ii) arising primarily out of the negligence or intentional misconduct of a Tenant Party. If a third party files a lawsuit or brings any other legal action asserting a Claim against a Tenant Party and that is covered by Landlord's indemnity, then Landlord, upon notice from the Tenant Party, shall resist and defend such Claim through counsel selected by Landlord's insurance carrier or, if selected by Landlord, reasonably satisfactory to the Tenant Party. **LANDLORD ACKNOWLEDGES THAT LANDLORD'S INDEMNITY OBLIGATIONS UNDER THIS SECTION 7.6 MAY APPLY TO CLAIMS RESULTING FROM THE PARTIAL (BUT NOT PRIMARY) NEGLIGENCE OF A TENANT PARTY.** This Section 7.6 shall survive the expiration or earlier termination of this Lease.

ARTICLE 8 — CONDEMNATION

SECTION 8.1 CONDEMNATION RESULTING IN CONTINUED USE NOT FEASIBLE.

If the Property or any portion thereof that, in Landlord's reasonable opinion, is necessary to the continued efficient and/or economically feasible use of the Property shall be taken or condemned in whole or in part for public purposes, or sold to a condemning authority in lieu of taking, then the term of this Lease shall, at the option of Landlord, forthwith cease and terminate so long as Landlord likewise terminates the leases for all other similarly affected tenants in the Building, to the extent contractually permitted.

SECTION 8.2 TOTAL CONDEMNATION OF PREMISES.

In the event that all or substantially all of the Premises (or access thereto) is taken or condemned or sold in lieu thereof, or if by reason of a temporary taking Tenant will be unable to conduct its normal business operations in the Premises (whether due to a taking of a portion of the Premises or other area(s) of the Building on which Tenant's operations are dependent or due to a taking that deprives Tenant of commercially reasonable access to the Premises) for a period reasonably anticipated to exceed one hundred eighty (180) consecutive days, either Landlord or Tenant may terminate this Lease by delivering written notice thereof to the other within thirty (30) days after the taking, condemnation or sale in lieu thereof.

SECTION 8.3 CONDEMNATION WITHOUT TERMINATION.

If upon a taking or condemnation or sale in lieu of the taking of all or less than all of the Property which gives either Landlord or Tenant the right to terminate this Lease pursuant to Section 8.1 or 8.2 above and neither Landlord nor Tenant elect to exercise such termination right, then this Lease shall continue in full force and effect, provided that, if the taking, condemnation or sale includes any portion of the Premises or renders any portion of the Premises Untenantable, the Basic Annual Rent and Additional Rent shall be redetermined on the basis of the remaining square feet of Agreed Rentable Area of the Premises that is not Untenantable. Landlord, at Landlord's sole option and expense, shall restore and reconstruct the Building to substantially its former condition to the extent that the same may be reasonably feasible, but such work shall not be required to exceed the scope of the work done in originally constructing the Building, nor shall Landlord in any event be required to spend for such work an amount in excess of the amount received by Landlord as compensation or damages (over and above amounts going to the mortgagee of the property taken) for the part of the Building or the Premises so taken. In the event the Premises, the Building, or the Garage, as so restored and reconstructed by Landlord, is materially unsuitable for Tenant to conduct its normal business operations, Tenant shall have the right to terminate this Lease upon thirty (30) days' notice to Landlord. Such notice shall identify with reasonable detail the aspects of Landlord's restoration and reconstruction which renders the Premises, Building and/or Garage materially unsuitable for Tenant to conduct its normal business operations. If Landlord shall correct such aspects within such thirty (30) day period, Tenant's termination notice shall be deemed to be null and void. If Landlord shall not substantially correct such aspects within such thirty (30) day period, this Lease shall automatically terminate upon the

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expiration of such thirty (30) day period and neither party shall owe any further obligation or liability to the other with respect to this Lease other than for such obligations and liabilities as shall expressly survive the expiration or sooner termination of this Lease.

SECTION 8.4 CONDEMNATION PROCEEDS.

Landlord shall receive the entire award (which shall include sales proceeds) payable as a result of a condemnation, taking or sale in lieu thereof. Tenant hereby expressly assigns to Landlord any and all right, title and interest of Tenant now or hereafter arising in and to any such award with respect to its leasehold interest in the Premises. Tenant shall, however, have the right to recover from such authority through a separate award which does not reduce Landlord's award, any compensation as may be awarded to Tenant on account of moving and relocation expenses and depreciation to and removal of Tenant's physical property or otherwise.

ARTICLE 9 — LIENS

Tenant shall keep the Premises and the Property free from all liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant and Tenant shall indemnify and hold harmless Landlord from and against, and reimburse Landlord for and with respect to, any and all Claims, causes of action, damages, expenses (including actual, reasonable attorneys' fees), arising from or in connection with any such Liens. In the event that Tenant shall not, within thirty (30) days following notification to Tenant of the imposition of any such lien, cause the same to be released of record by payment or the posting of a bond in amount, form and substance reasonably acceptable to Landlord, Landlord shall have, in addition to all other remedies provided herein and by Law, the right but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of or defense against the claim giving rise to such lien. All actual and reasonable out-of-pocket amounts paid or incurred by Landlord in connection therewith shall be paid by Tenant to Landlord on demand and shall bear interest from the date of demand until paid at the rate set forth in Section 15.10 below. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration or repair of or to the Building or the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanic's or other liens against the interest of Landlord in the Property or the Premises.

ARTICLE 10 — TAXES ON TENANT'S PROPERTY

Tenant shall be liable for and shall pay, prior to their becoming delinquent, any and all taxes and assessments levied against, and any increases in Real Estate Taxes as a result of, any personal property or trade or other fixtures placed by Tenant in or about the Premises and any improvements constructed in the Premises by or on behalf of Tenant; but only to the extent such increase can reasonably be attributed to such fixtures or improvements, as reflected in a separate assessment or other documentation prepared by the Dallas Central Appraisal District (or any successor entity thereto or other applicable authority). In the event Landlord pays any such additional taxes or increases, Tenant will, within thirty (30) days after demand, reimburse Landlord for the amount thereof.

ARTICLE 11 — SUBLETTING AND ASSIGNING

SECTION 11.1 SUBLEASE AND ASSIGNMENT.

Tenant shall not assign this Lease, or allow it to be assigned, in whole or in part, by operation of Law or otherwise (it being agreed that for purposes of this Lease, assignment shall include, without limitation, the transfer of a majority interest of stock, partnership or other forms of ownership interests, merger or dissolution) or mortgage or pledge the same, or sublet the Premises or any part thereof or permit the

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Premises to be occupied by any firm, person, partnership or corporation or any combination thereof, other than Tenant, without the prior written consent of Landlord (which consent shall not be unreasonably withheld, conditioned or delayed in accordance with Section 11.2 below). Notwithstanding the foregoing, if any permitted assignee of Tenant is a public corporation, the transfer of a majority interest of the stock of such assignee shall not be deemed to be an assignment of this Lease and shall not require Landlord's consent or any notification to Landlord. Notwithstanding any subletting or assignment by Tenant hereunder or any provision herein to the contrary, Tenant shall remain fully liable for the performance of all the covenants, agreements, terms, provisions and conditions contained in this Lease on the part of Tenant to be performed, including without limitation, Tenant's obligation to pay Basic Rent and Additional Rent during the entire Term. Tenant shall deliver to Landlord a copy of each assignment or sublease entered into by Tenant promptly after the execution thereof, whether or not Landlord's consent is required in connection therewith. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and/or sublettings. Any assignment made by Tenant shall be in recordable form and shall contain a covenant of assumption of obligations accruing thereafter by the assignee running to Landlord. All actual, reasonable, out-of-pocket legal fees and expenses incurred by Landlord in connection with any assignment or sublease proposed by Tenant will be the responsibility of Tenant and will be paid by Tenant within thirty (30) days of receipt of an invoice from Landlord; provided, however, that in no event shall Tenant be required to pay any such legal fees in connection with a single assignment or sublease transaction which are in excess of \$1,500. In addition, in consideration for Landlord's review of any requested assignment or sublease, Tenant will pay to Landlord an administrative overhead fee of \$1,000.00 at the time of such request.

Notwithstanding the foregoing, but subject to the provisions set forth below, Tenant may, without the prior written consent of Landlord, but only after giving Landlord at least ten (10) days prior written notice, sublet the Premises or any part thereof to an Affiliate (hereinafter defined) or assign this Lease to an Affiliate unless: (i) the sublessee's or assignee's use of the Premises conflicts with the Permitted Use or any exclusive or non-compete clause then affecting the Building (but only to the extent same apply to the portion of the Building that includes the Premises); (ii) the nature, business or activities of the sublessee or assignee (or their respective principals, employees or invitees) is not reasonably acceptable to Landlord; (iii) such sublease or assignment adversely affects the real estate investment trust (or pension fund) qualification tests (if any) applicable to Landlord or its affiliates; (iv) a default exists under this Lease beyond any applicable cure period(s); or (v) the sublessee or assignee fails to execute Landlord's then-standard but reasonable form of consent document (containing, in the event of an assignment, an assumption by the assignee of all obligations of Tenant under this Lease accruing after the date of the assignment), or fails to execute a sublease or assignment in form and substance reasonably satisfactory to Landlord. Tenant's notice shall include the identity of the Affiliate and the relationship of the Affiliate to Tenant and if the Affiliate is a merged or acquiring entity covered by clause (ii) below, the notice shall be accompanied by then current financial statements of the merged or acquiring entity, as applicable. The term "**Affiliate**" shall mean (i) any entity which, directly or indirectly, controls or is controlled by or is under common control with the original Tenant executing this Lease (the "**Original Tenant**"), or (ii) an entity which results from the merger of the Original Tenant with another entity or an entity which acquires substantially all of the assets or stock of the Original Tenant, provided such merged or acquiring entity, as applicable, has total assets and a tangible net worth at least equal to the greater of Original Tenant's tangible net worth at the commencement date of this Lease or Tenant's tangible net worth as of the day prior to the merger, as evidenced by such financial statements as Landlord may reasonably request. For purposes of this subsection, (i) "**control**" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities by contract or otherwise, and ownership of the liabilities, losses, profits and tax benefits for such entity, and (ii) "**tangible net worth**" shall mean the excess of total assets over total liabilities (in each case, determined in accordance with generally accepted accounting principles) excluding from such determination any assets which would be classified as intangible assets under generally accepted accounting principles.

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SECTION 11.2 LANDLORD'S CONSENT.

If Tenant desires to sublease or assign any portion of the Premises (excluding assignments or subleases to Affiliates), Tenant shall submit to Landlord in writing (a) the name of the proposed transferee, the nature of the proposed transferee's business and, for proposed subleases, the portion of the Premises which Tenant desires to sublease (if the proposed sublease space is less than all of the Premises, such portion is herein referred to as the "**Proposed Sublease Space**"), (b) such financial information on the proposed transferee as is reasonably available, (c) a copy of the proposed form of sublease or assignment, or, at Tenant's option, a letter of intent setting forth the material financial and other terms of the proposed transaction, and (d) such other information as Landlord may reasonably request (collectively, the "**Required Transfer Information**"). Landlord shall, within fourteen (14) days after Landlord's receipt of the Required Transfer Information, deliver to Tenant a written notice (each such notice, a "**Landlord Response**") in which Landlord either (i) consents to the proposed sublease or assignment, or (ii) withholds its consent to the proposed sublease or assignment, which consent shall not be unreasonably withheld or conditioned so long as Landlord has received all Required Transfer Information. Landlord shall be deemed to have reasonably withheld its consent to any sublease or assignment if (A) Landlord determines that such transferee is not of the character or quality of a tenant to whom Landlord would generally lease space in the Building, (B) such proposed transferee fails to execute a consent document in form and of substance reasonably satisfactory to Landlord, or such proposed sublease or assignment is not in form and of substance reasonably satisfactory to Landlord, (C) such sublease or assignment conflicts in any manner with this Lease, (D) the proposed transferee is a governmental entity, or the proposed transferee is a medical office that provides client or patient services, (E) the proposed transferee's primary business is prohibited by any exclusive or non-compete clause then affecting the Building (but only to the extent same apply to the portion of the Building that includes the Premises), (F) the proposed transferee (or any affiliate of same) is an occupant of the Building (unless Landlord is unable to accommodate the additional space needs of such proposed transferee with an equal amount of contiguous space as required by such proposed transferee) or Landlord is negotiating with the proposed transferee to become a tenant in the Building (as evidenced by the exchange of written correspondence between Landlord and such proposed transferee or its broker or agent relating to the terms of a proposed lease transaction), (G) an uncured default exists under this Lease (after expiry of any applicable notice and cure period), (H) such assignment or sublease adversely affects the real estate investment trust (or pension fund) qualification tests (if any) applicable to Landlord or its affiliates, or (I) the proposed transferee is or has been involved in litigation with Landlord or its affiliates. The foregoing factors shall not be deemed to be the exclusive grounds for which Landlord may reasonably withhold its consent. If Landlord fails to timely provide a Landlord Response, then Landlord shall be deemed to have withheld its consent. In the event Landlord consents to a proposed sublease or assignment, such transfer shall not be effective unless and until (i) Tenant and the proposed transferee execute Landlord's reasonable form of consent document, and (ii) Guarantor executes such documentation as Landlord may reasonably require to evidence Guarantor's reaffirmation of its guaranty of this Lease, notwithstanding such assignment or sublease. Landlord shall from time to time advise Tenant of any exclusive or non-compete clauses then affecting the portion of the Building that includes Premises promptly following Tenant's written request for such information. There are no such exclusive or non-compete clauses presently affecting the initial Premises, the Headway Space or the Expansion Space as of the Effective Date.

SECTION 11.3 LANDLORD'S RIGHTS RELATING TO ASSIGNEE OR SUBTENANT.

Without limiting Landlord's consent rights and as a condition to obtaining Landlord's consent, (i) each assignee must assume all obligations under this Lease arising from and after the effective date of its assumption of the Lease, and (ii) each sublessee must confirm that its sublease is subject and subordinate to this Lease. To the extent the rentals or income derived from any sublease or assignment (excluding any sublease or assignment to an Affiliate) exceed the rentals due hereunder, 50% of such excess rentals and income (after reimbursement of Tenant's actual and reasonable out-of-pocket costs and expenses incurred in connection with such sublease or assignment, and after deduction for the unamortized cost of any alterations or improvements made by Tenant to the Premises and the fair market value of any Tenant furniture, fixtures, equipment and other personal property included in any such sublease or assignment transaction) shall be the property of and paid over to Landlord as and when collected in consideration for

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Landlord's consent to the applicable assignment or sublease. If the Premises or any part thereof are sublet, Landlord may at its option collect directly from such sublessee all rents becoming due to Tenant under such sublease and apply such rent against any sums due to Landlord by Tenant hereunder following any Tenant default which is continuing beyond applicable notice and cure periods. Tenant hereby authorizes and directs any such sublessee to make such payments of rent directly to Landlord upon receipt of notice from Landlord and Tenant agrees that any such payments made by a sublessee to Landlord shall, to the extent of the payments so made, be a full and complete release and discharge of rent owed to Tenant by such sublessee. No direct collection by Landlord from any assignee or sublessee shall be construed to constitute a novation or a release of Tenant or any guarantor of Tenant from the further performance of its obligations hereunder. Receipt by Landlord of rent from any assignee, sublessee or occupant of the Premises or any part thereof shall not be deemed a waiver of the above covenant in this Lease against assignment and subletting or a release of Tenant under this Lease. Amounts so collected by Landlord from any assignee or subtenant of Tenant shall be credited in full against the Rents due under this Lease, with any excess (subject to the foregoing profit split) being paid to Tenant promptly upon Landlord's receipt of such amounts. In the event that, following an assignment or subletting, this Lease or the rights and obligations of Tenant hereunder are terminated for any reason, including without limitation in connection with default by or bankruptcy of Tenant (which, for the purposes of this Section 11.3, shall include all persons or entities claiming by or through Tenant), Landlord may, at its sole option, consider this Lease to be thereafter a direct lease to the assignee or subtenant of Tenant upon the terms and conditions contained in this Lease; provided, however, that in no event shall any subtenant be obligated by the operation of such provision to pay any rental in excess of the rental reserved under its sublease with Tenant during the term of the sublease.

SECTION 11.4 ASSIGNMENT AND BANKRUPTCY.

11.401 Assignments after Bankruptcy.

If, pursuant to applicable bankruptcy law (as hereinafter defined), Tenant (or its successor in interest hereunder) is permitted to assign this Lease in disregard of the restrictions contained in this Article 11 (or if this Lease shall be assumed by a trustee for such person), the trustee or assignee shall cure any default under this Lease and shall provide adequate assurance of future performance by the trustee or assignee including (1) of the source of payment of Basic Annual Rent and performance of other obligations under this Lease (for which adequate assurance shall mean the deposit of cash security with Landlord in an amount equal to the sum of one (1) year's Basic Annual Rent, Additional Rent and other Rent then reserved hereunder for the calendar year preceding the year in which such assignment is intended to become effective, which deposit shall be held by Landlord, without interest, for the balance of the Term as security for the full and faithful performance of all of the obligations under this Lease on the part of Tenant yet to be performed) and that any such assignee of this Lease shall have a net worth exclusive of good will, computed in accordance with the generally accepted accounting principles, equal to at least ten (10) times the aggregate of the Basic Annual Rent reserved hereunder; and (2) that the use of the Premises shall be in accordance with the requirements of Article 3 hereof and, further, shall in no way diminish the reputation of the Building as a first-class office building or impose any additional burden upon the Building or increase the services to be provided by Landlord. If all defaults are not cured and such adequate assurance is not provided within sixty (60) days after there has been an order for relief under applicable bankruptcy law, then this Lease shall be deemed rejected, Tenant or any other person in possession shall vacate the Premises, and Landlord shall be entitled to retain any Basic Annual Rent, Additional Rent and any other Rent, together with any security deposit previously received from the Tenant, and shall have no further liability to Tenant or any person claiming through Tenant or any trustee.

11.402 Bankruptcy of Assignee.

If Tenant assigns this Lease to any party and such party or its successors or representatives causes termination or rejection of this Lease pursuant to applicable bankruptcy law, then, notwithstanding any such termination or rejection, Tenant (A) shall remain fully liable for the performance of all covenants, agreements, terms, provisions and conditions contained in this Lease, as though the assignment never occurred and (B) shall, without in any way limiting the foregoing, in writing ratify the terms of this Lease, as same existed immediately prior to the termination or rejection.

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SECTION 12.1 SALE OF THE PROPERTY.

In the event of any transfer of title to the Building, the transferor shall automatically be relieved and freed of all obligations of Landlord under this Lease accruing after such transfer, provided that (i) if a Security Deposit has been made by Tenant, Landlord shall not be released from liability with respect thereto unless Landlord transfers the Security Deposit to the transferee, and (ii) if the Reserve Amount has yet to be fully distributed in accordance with the terms of the Reserve Agreement, Landlord shall not be released from liability with respect thereto unless Landlord transfers its right, title and interest to the Reserve Amount to the transferee.

SECTION 12.2 SUBORDINATION, ATTORNMENT AND NOTICE.

This Lease is subject and subordinate to (i) any lease wherein Landlord is the tenant and to the liens of any and all mortgage(s), deed(s) of trust or other lien(s), regardless of whether such lease, mortgage(s), deed(s) of trust or other lien(s) now exist or may hereafter be created with regard to all or any part of the Premises, the Building or the Property, (ii) any and all advances (including interest thereon) to be made under any such lease, mortgage(s), deed(s) of trust or other lien(s) and (iii) all modifications, consolidations, renewals, replacements and extensions of any such lease, mortgage(s), deed(s) of trust or other lien(s); provided that the foregoing subordination in respect of any lease wherein Landlord is named as tenant made after the date hereof, or any mortgage, deed of trust or other lien placed on the Property after the date hereof shall not become effective until and unless the holder of same delivers to Tenant a non-disturbance agreement substantially in the form attached hereto as **Exhibit G** (or in a form otherwise reasonably acceptable to Tenant, which may include Tenant's agreement to attorn). Tenant also agrees that any lessor, mortgagee or trustee may elect (which election shall be revocable) to have this Lease superior to any lease or lien of its mortgage or deed of trust and, in the event of such election and upon notification by such lessor, mortgagee or trustee to Tenant to that effect, this Lease shall be deemed superior to the said lease, mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said lease, mortgage or deed of trust. Tenant shall, in the event of the sale or assignment of Landlord's interest in the Premises (except in a sale-leaseback financing transaction), or in the event of the termination of any lease in a sale-leaseback financing transaction wherein Landlord is the lessee, attorn to and recognize such purchaser, assignee or mortgagee as Landlord under this Lease. Tenant shall, in the event of any proceedings brought for the foreclosure of, or in the event of the exercise of the power of sale under, any mortgage or deed of trust covering the Premises, attorn to and recognize the purchaser at such sale, assignee or mortgagee, as the case may be, as Landlord under this Lease. The above subordination and attornment clauses shall be self-operative and no further instruments of subordination or attornment need be required by any mortgagee, trustee, lessor, purchaser or assignee. In confirmation thereof, Tenant agrees that, upon the request of Landlord, or any such lessor, mortgagee, trustee, purchaser or assignee, Tenant shall execute and deliver whatever instruments may be required for such purposes and to carry out the intent of this Section 12.2 provided same contain provisions reasonably acceptable to Tenant.

Landlord represents that the only mortgage or deed of trust currently affecting the Building or the parcel of the Land upon which the Building is constructed is a deed of trust with Wells Fargo Bank, N.A., Trustee for the Holders of Wachovia Commercial Mortgage Securities, Inc., Commercial Mortgage Pass-Through Certificates, Series 2006-C29 (the "**Existing Mortgagee**"). Tenant acknowledges its receipt of a fully executed subordination, non-disturbance and attornment agreement substantially in the form attached hereto as **Exhibit G** from the Existing Mortgagee. Tenant shall promptly reimburse Landlord for any costs exceeding \$1500 charged by the Existing Mortgagee or its counsel in connection with obtaining such subordination, non-disturbance and attornment agreement.

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SECTION 12.3 TENANT’S ESTOPPEL CERTIFICATE.

Tenant shall, within fifteen (15) days after receiving a written request from Landlord or any mortgagee of Landlord, without additional consideration, deliver an estoppel certificate for the benefit of Landlord, any mortgagee of Landlord and/or any other party designated by Landlord, consisting of reasonable statements required by Landlord, any mortgagee or purchaser of any interest in the Property, which statements may include but shall not be limited to the following: this Lease is in full force and effect, with rental paid through a specified date; this Lease has not been modified or amended; to Tenant’s actual knowledge (without duty of inquiry), Landlord is not in default and Landlord has fully performed all of Landlord’s obligations hereunder; and such other statements as may reasonably be required by the requesting party. If Tenant is unable to make any of the statements contained in the estoppel certificate because the same is untrue, Tenant shall with specificity state the reason why such statement is untrue. Tenant shall, if requested by Landlord or any such mortgagee, deliver to Landlord a fully executed instrument in form reasonably satisfactory to Landlord evidencing the consent of Tenant to the mortgage or other hypothecation by Landlord of the interest of Landlord hereunder.

Landlord shall, within fifteen (15) days after receiving a written request from Tenant, without additional consideration, deliver an estoppel certificate for the benefit of Tenant and/or any other third party reasonably designated by Tenant, consisting of reasonable statements required by Tenant, which statements may include but shall not be limited to the following: this Lease is in full force and effect, with rental paid through a specified date; this Lease has not been modified or amended; to Landlord’s actual knowledge (without duty of inquiry) Tenant is not in default and Tenant has fully performed all of Tenant’s obligations hereunder; and such other statements as may reasonably be required. If Landlord is unable to make any of the statements contained in the estoppel certificate because the same is untrue, Landlord shall with specificity state the reason why such statement is untrue.

ARTICLE 13 — DEFAULT

SECTION 13.1 DEFAULTS BY TENANT.

The occurrence of any of the events described in subsections 13.101 through 13.108 shall constitute a default by Tenant under this Lease.

13.101 Failure to Pay Rent.

With respect to the first two payments of Rent not made by Tenant when due in any twelve (12) month period, the failure by Tenant to make either such payment to Landlord within seven (7) days after Tenant receives written notice specifying that the payment was not made when due. With respect to any other payment of Rent, the failure by Tenant to make such payment of Rent to Landlord when due, no notice of any such failure being required.

13.102 Failure to Perform.

Except for a failure covered by subsection 13.101 above or 13.103 below, any failure by Tenant to observe and perform any provision of this Lease to be observed or performed by Tenant where such failure continues for thirty (30) days after written notice to Tenant, provided that if such failure cannot reasonably be cured within said thirty (30) day period, Tenant shall not be in default hereunder so long as : (1) Tenant commences to cure the failure within said thirty (30) day period, and (2) Tenant diligently and continuously pursues a course of action that will fully and completely cure the failure as soon as reasonably practicable thereafter.

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13.103 Continual Failure to Perform.

The third failure by Tenant in any twelve (12) month period to perform and observe a particular provision of this Lease to be observed or performed by Tenant (other than the failure to pay Rent, which in all instances will be covered by subsection 13.101 above), no notice being required for any such third failure.²

13.104 Bankruptcy, Insolvency, Etc.

Tenant or any guarantor of Tenant's obligations hereunder (hereinafter called "**Guarantor**", whether one (1) or more), (i) cannot meet its obligations as they become due, (ii) becomes or is declared insolvent according to any Law, (iii) makes a transfer in fraud of creditors according to any applicable Law, (iv) assigns or conveys all or a substantial portion of its property for the benefit of creditors or (v) Tenant or Guarantor files a petition for relief under the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (collectively, "**applicable bankruptcy law**"); a receiver or trustee is appointed for Tenant or Guarantor or its property; the interest of Tenant or Guarantor under this Lease is levied on under execution or under other legal process; any involuntary petition is filed against Tenant or Guarantor under applicable bankruptcy law; or any action is taken to reorganize or modify Tenant's or Guarantor's capital structure if either Tenant or Guarantor be a corporation or other entity (provided that no such levy, execution, legal process or petition filed against Tenant or Guarantor shall constitute a breach of this Lease if Tenant or Guarantor shall vigorously contest the same by appropriate proceedings and shall remove or vacate the same within ninety (90) days from the date of its creation, service or filing).

13.105 Abandonment.

The abandonment of the Premises by Tenant and the cessation of payment of Rent or Tenant's delivery of a written declaration of its intention not to pay Rent accruing under this Lease.

13.106 Vacation.

Intentionally omitted.

13.107 Loss of Right to do Business.

If Tenant is a corporation or limited partnership, Tenant fails to maintain its right to do business in the State of Texas or fails to pay any applicable annual franchise taxes as and when same become finally due and payable and fails to cure such failure promptly upon receipt from Landlord of notice of such failure.

13.108 Dissolution or Liquidation.

If Tenant is a corporation or partnership, Tenant dissolves or liquidates or otherwise fails to maintain its corporate or partnership structure, as applicable, except to the extent such dissolution shall be in connection with a transfer to an Affiliate permitted under Section 11.1.

With respect to the defaults described in subsections 13.103 (if applicable), 13.104, 13.105 and 13.108, Landlord shall not be obligated to give Tenant notices of default and Tenant shall have no right to cure such defaults.

SECTION 13.2 REMEDIES OF LANDLORD.

13.201 Termination of the Lease.

Upon the occurrence of a default by Tenant hereunder and the expiration of all applicable notice and cure periods, Landlord may terminate this Lease by giving written notice thereof to Tenant and, without further notice and without liability, repossess the Premises in accordance with Section 13.202 below. Landlord shall be entitled to recover all loss and damage Landlord may suffer by reason of such termination, whether through inability to relet the Premises on satisfactory terms or otherwise, including without limitation, the following (without duplication of any element of damages):

² Provided no default by Tenant beyond the expiration of any applicable notice and cure period occurs under this Lease during the first three Lease Years, then Section 13.103 shall be void and of no force or effect with respect to the Original Tenant only.

(a) accrued Rent to the date of termination and Late Charges, plus interest thereon at the rate established under Section 15.10 below from the date due through the date paid or date of any judgment or award by any court of competent jurisdiction, the unamortized cost of any construction or refurbishment allowances, brokers' fees and commissions, actual and reasonable attorneys' fees, moving allowances and any other actual, reasonable out-of-pocket costs incurred by Landlord in connection with making or executing this Lease, recovering the Premises or reletting the Premises, including, without limitation, actual and reasonable advertising costs, brokerage fees, leasing commissions, attorneys' fees and refurbishing costs and other costs in readying the Premises for a new tenant (but excluding capital costs of refurbishment and readying the Premises unless reasonably required to put the Premises into the condition required upon surrender as set forth in Section 1.301); and

(b) the present value of the Rent (discounted at a rate of interest equal to eight percent [8%] per annum [the "Discount Rate"]) that would have accrued under this Lease for the balance of the Lease term but for such termination, reduced by the reasonable fair market rental value of the Premises for such balance of the Lease term (determined from the present value of the actual base rents, discounted at the Discount Rate, received and to be received from Landlord's reletting of the Premises or, if the Premises are not relet, the base rents, discounted at the Discount Rate, that would be received from a comparable lease and comparable tenant for a comparable term and taking into account among other things, the condition of the Premises, market conditions and the period of time the Premises may reasonably remain vacant before Landlord is able to re-lease the same to a suitable replacement tenant).

13.202 Repossession and Re-Entry.

Upon the occurrence of a default by Tenant hereunder, Landlord may immediately terminate Tenant's right of possession of the Premises (whereupon all obligations and liability of Landlord hereunder shall terminate), but not terminate this Lease, and, in accordance with any applicable judicial process, enter upon the Premises or any part thereof, take absolute possession of the same, expel or remove Tenant and any other person or entity who may be occupying the Premises and change the locks. If Landlord terminates Tenant's possession of the Premises under this subsection 13.202, (i) Landlord shall have no obligation whatsoever to tender to Tenant a key for new locks installed in the Premises, and (ii) Tenant shall have no further right to possession of the Premises. Landlord may, however, at its sole option relet the Premises or any part thereof for such terms and such rents as Landlord may in its sole discretion elect (subject to Section 13.207). If Landlord elects to relet the Premises, rent received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord (in such order as Landlord shall designate), second, to the payment of any actual and reasonable cost of such reletting, including, without limitation, actual and reasonable refurbishing costs, attorneys' fees, advertising costs, brokerage fees and leasing commissions and third, to the payment of Rent due and unpaid hereunder (in such order as Landlord shall designate), and Tenant shall satisfy and pay to Landlord any deficiency upon demand therefor from time to time. No such re-entry or taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such termination is given to Tenant pursuant to subsection 13.201 above. If Landlord relets the Premises, either before or after the termination of this Lease, all such rentals received from such lease shall be and remain the exclusive property of Landlord and, subject to credit thereof to Tenant's obligations hereunder, Tenant shall not be, at any time, entitled to recover any such rental. Landlord may at any time after a reletting elect to terminate this Lease.

13.203 Cure of Default.

Upon the occurrence of a default hereunder by Tenant, Landlord may, in accordance with any applicable judicial process, enter upon the Premises and do whatever Tenant is obligated to do under the terms of this Lease and Tenant agrees to reimburse Landlord on demand for any actual, reasonable out-of-pocket expenses which Landlord may incur in effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by the negligence of Landlord or otherwise.

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13.204 Continuing Obligations.

No repossession of or re-entering upon the Premises or any part thereof pursuant to subsection 13.202 or 13.203 above or otherwise and no reletting of the Premises or any part thereof pursuant to subsection 13.202 above shall relieve Tenant or any Guarantor of its liabilities and obligations hereunder, all of which shall survive such repossession or re-entering. In the event of any such repossession of or re-entering upon the Premises or any part thereof by reason of the occurrence of a default, Tenant will continue to pay to Landlord Rent required to be paid by Tenant. Notwithstanding the foregoing, if following any repossession of the Premises Landlord shall use any of the Premises for its own purposes, all Rent shall abate with respect to such portion of the Premises during the period Landlord shall so use such portion for its own purposes.

13.205 Cumulative Remedies.

No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy set forth herein or otherwise available to Landlord at Law or in equity and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing at Law or in equity or by statute. In addition to the other remedies provided in this Lease and without limiting the preceding sentence, Landlord shall be entitled, to the extent permitted by applicable Law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the covenants, agreements, conditions or provisions of this Lease, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at Law or in equity.

13.206 Limitation on Damages.

Notwithstanding anything herein or in any other provision of the Lease to the contrary, (i) in no event shall Tenant be liable to Landlord for special, punitive or exemplary damages whether by reason of a failure to perform (or a default) by Tenant hereunder or otherwise, (ii) Tenant's liability for any "holdover" shall be limited to the extent set forth in Section 1.4, and (iii) Tenant shall have no liability to Landlord for any consequential damages that may be suffered by Landlord as a result of a monetary default by Tenant.

13.207 Mitigation of Damages.

Upon termination of Tenant's right to possess the Premises, Landlord shall, but only to the extent required by applicable Law, use objectively reasonable efforts to mitigate damages by reletting the Premises. Landlord shall not be deemed to have failed to do so if Landlord refuses to lease the Premises to a prospective new tenant with respect to whom Landlord would be entitled to withhold its consent pursuant to Article 11, or who (1) is an Affiliate, parent or subsidiary of Tenant; (2) is not acceptable to any mortgagee of Landlord; (3) requires improvements to the Premises to be made at Landlord's expense; or (4) is unwilling to accept lease terms then proposed by Landlord, including: (a) leasing for a shorter or longer term than remains under this Lease; (b) re-configuring or combining the Premises with other space, and/or (c) taking all or only a part of the Premises. Notwithstanding Landlord's duty to mitigate its damages as provided herein, Landlord shall not be obligated (i) to give any priority to reletting Tenant's space in connection with its leasing of space in the Building, or (ii) to accept below market rental rates for the Premises or any rate that would negatively impact the market rates for the Building. To the extent that Landlord is required by applicable Law to mitigate damages, Tenant must plead and prove by clear and convincing evidence that Landlord failed to so mitigate in accordance with the provisions of this Section 13.207, and that such failure resulted in an avoidable and quantifiable detriment to Tenant.

SECTION 13.3 DEFAULTS BY LANDLORD.

Landlord shall be in default under this Lease if and only if Landlord fails to perform any of its obligations hereunder and said failure continues for a period of thirty (30) days after Tenant delivers written notice thereof to Landlord (to each of the addresses required by this Section) and each mortgagee who has a lien against any portion of the Property and whose name and address has been provided to Tenant by written notice, provided that if such failure cannot reasonably be cured within said thirty (30) day period, Landlord shall not be in default hereunder if the curative action is commenced within said thirty (30) day period and is thereafter diligently pursued until cured. In no event shall (i) Tenant claim a constructive or actual eviction or that the Premises have become unsuitable hereunder or (ii) a constructive or actual eviction or

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breach of the implied warranty of suitability be deemed to have occurred under this Lease, prior to the expiration of the notice and cure periods provided under this Section 13.3. Any notice of a failure to perform by Landlord shall be sent to Landlord at the addresses and to the attention of the parties set forth in the Basic Lease Provisions. Any notice of a failure to perform by Landlord not sent to Landlord at all addresses and/or to the attention of all parties required under this Section and to each mortgagee who is entitled to notice (and whose address has been provided to Tenant by written notice) or not sent in compliance with Article 14 below shall be of no force or effect. Nothing set forth in this Section 13.3 shall diminish either Tenant's rights to abatement of rent as provided for in Section 5.402.

SECTION 13.4 LANDLORD'S LIABILITY.

13.401 Tenant's Rights in Respect of Landlord Default.

Tenant is granted no contractual right of termination by this Lease, except to the extent and only to the extent set forth in Articles 7 and 8 above. The liability of Landlord to Tenant for any breach or default under this Lease shall be limited to the interest of Landlord in the Property, and the rents, issues, profits and proceeds thereof, as the same may then be encumbered and Landlord shall not be personally liable for any deficiency. If Landlord is found to be in default hereunder by reason of its failure to give a consent that it is required to give hereunder, Tenant's sole remedy will be an action for specific performance or injunction. The foregoing sentence shall in no event be construed as mandatorily requiring Landlord to give consents under this Lease. In no event shall Landlord be liable to Tenant for consequential or special damages by reason of a failure to perform (or a default) by Landlord hereunder. In no event shall Tenant have the right to levy execution against any property of Landlord other than its interest in the Property as hereinbefore expressly provided. Tenant hereby waives its statutory lien under Section 91.004 of the Texas Property Code.

13.402 Certain Limitations on Landlord's Liability.

UNLESS CAUSED BY LANDLORD'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND WITHOUT LIMITING THE PROVISIONS OF SECTION 7.4, LANDLORD SHALL NOT BE LIABLE TO TENANT FOR ANY CLAIMS, ACTIONS, DEMANDS, COSTS, EXPENSES, DAMAGE OR LIABILITY OF ANY KIND (i) arising out of the use, occupancy or enjoyment of the Premises by Tenant or any person therein or holding under Tenant or by or through the acts or omissions of any of their respective employees, officers, agents, invitees or contractors, (ii) caused by or arising out of fire, explosion, falling sheetrock, gas, electricity, water, rain, snow or dampness, or leaks in any part of the Premises, (iii) caused by or arising out of damage to the roof, pipes, appliances or plumbing works or any damage to or malfunction of heating, ventilation or air conditioning equipment, (iv) caused by tenants or any persons either in the Premises or elsewhere in the Building or by occupants of property adjacent to the Property or by the public or by the construction of any private, public or quasi-public work or (v) caused by any act, neglect or negligence of Tenant. In no event shall Landlord be liable to Tenant for any loss of or damage to property of Tenant or of others located in the Premises, the Building or any other part of the Property by reason of theft or burglary.

SECTION 13.5 WAIVER OF CONSUMER RIGHTS.

TENANT HEREBY WAIVES ALL ITS RIGHTS UNDER THE TEXAS DECEPTIVE TRADE PRACTICES—CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ. OF THE TEXAS BUSINESS AND COMMERCE CODE (THE "DTPA"), A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF TENANT'S OWN SELECTION, TENANT VOLUNTARILY CONSENTS TO THIS WAIVER.

Accordingly, Tenant's rights and remedies with respect to the transactions contemplated under this Lease, and with respect to all acts or practices of Landlord, past, present or future, in connection with such transactions, shall be governed by legal principles other than the DTPA. The foregoing waiver by Tenant shall also be binding on any permitted assignee or successor of Tenant under this Lease. The provisions of this Section shall survive any termination of this Lease.

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SECTION 13.6 WAIVER OF LANDLORD LIEN.

By its execution and delivery of this Lease, Landlord hereby waives its statutory landlord's lien with respect to all of Tenant's inventory, goods, consumer goods and equipment now or hereafter situated in the Premises and all proceeds therefrom, including insurance proceeds. Notwithstanding that such waiver is automatic and self-operative, Landlord shall, at Tenant's request and at no expense to Landlord, execute and deliver such written confirmations of such waiver as Tenant or any of its lenders shall reasonably require within fifteen (15) days of the delivery of same to Landlord for its execution, provided such confirmations are in form reasonably acceptable to Landlord.

ARTICLE 14 — NOTICES

Any notice or communication required or permitted in this Lease shall be given in writing, sent by (a) personal delivery, (b) expedited delivery service with proof of delivery, or (c) United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as provided in Item 16 of the Basic Lease Provisions and Section 13.3 above or to such other address or to the attention of such other person as shall be designated from time to time in writing by the applicable party and sent in accordance herewith. Any such notice or communication shall be deemed to have been given either at the time of personal delivery or, in the case of delivery service or mail, as of the date of first attempted delivery at the address and in the manner provided herein, whether such delivery is accepted or refused by the intended recipient or cannot be completed due to the intended recipient's failure to provide notice of a change in address.

ARTICLE 15 — MISCELLANEOUS PROVISIONS

SECTION 15.1 BUILDING NAME AND ADDRESS.

Tenant shall not, without the written consent of Landlord, use the name of the Building for any purpose other than as the address of the business to be conducted by Tenant in the Premises and in no event shall Tenant acquire any rights in or to such names. Landlord shall have the right at any time to change the name, number or designation by which the Building is known.

SECTION 15.2 SIGNAGE.

Tenant shall not inscribe, paint, affix or display any signs, advertisements or notices on or in the Building, except for such tenant identification information as Landlord permits to be displayed on or adjacent to the access door or doors to the Premises (and Landlord agrees that tenant identification signage shall be permitted on any full floor leased by Tenant, which signage may include Tenant's customary logo). Any such signs will be subject to Landlord's reasonable approval as to exact size, location and/or materials (if upgraded from Building standard materials), which approval will not be unreasonably withheld, conditioned or delayed. In the event Landlord elects to install and maintain a tenant directory in the Building's main lobby, Landlord agrees to provide Tenant with a proportionate number of entries (based on Tenant's Pro Rata Share Percentage) in such directory for listing Tenant and its personnel.

SECTION 15.3 NO WAIVER.

No waiver by Landlord or by Tenant of any provision of this Lease shall be deemed to be a waiver by either party of any other provision of this Lease. No waiver by Landlord of any breach by Tenant shall be deemed a waiver of any subsequent breach by Tenant of the same or any other provision. No waiver by Tenant of any breach by Landlord shall be deemed a waiver of any subsequent breach by Landlord of the same or any other provision. The failure of Landlord or Tenant to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power or remedy contained in this Lease shall not be construed as a waiver or a relinquishment thereof for the future. Landlord's consent to or approval of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render

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unnecessary the obtaining of Landlord's consent to or approval of any subsequent act of Tenant. Tenant's consent to or approval of any act by Landlord requiring Tenant's consent or approval shall not be deemed to render unnecessary the obtaining of Tenant's consent to or approval of any subsequent act of Landlord. No act or thing done by Landlord or Landlord's agents during the term of this Lease shall be deemed an acceptance of a surrender of the Premises, unless done in writing signed by Landlord. The delivery of the keys to any employee or agent of Landlord shall not operate as a termination of this Lease or a surrender of the Premises. The acceptance of any Rent by Landlord following a breach of this Lease by Tenant shall not constitute a waiver by Landlord of such breach or any other breach. The payment of Rent by Tenant following a breach of this Lease by Landlord shall not constitute a waiver by Tenant of any such breach or any other breach. No waiver by Landlord or Tenant of any provision of this Lease shall be deemed to have been made unless such waiver is expressly stated in writing signed by the waiving party. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly installment of Rent due under this Lease shall be deemed to be other than on account of the earliest Rent due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy which may be available to Landlord. No payment by Landlord or receipt by Tenant of a lesser amount than an amount due to be paid by Landlord hereunder shall be deemed to be other than on account of the earliest amount due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction and Tenant may accept such check or payment without prejudice to Tenant's right to recover the balance of such rent or pursue any other remedy which may be available to Tenant.

SECTION 15.4 APPLICABLE LAW.

This Lease shall be governed by and construed in accordance with the laws of the State of Texas without regard to principles of conflicts of law.

SECTION 15.5 COMMON AREAS.

“**Common Areas**” will mean all areas, spaces, facilities and equipment (whether or not located within the Building) made available by Landlord for the common and joint use of Landlord, Tenant and others designated by Landlord using or occupying space in the Building, including but not limited to, tunnels, walkways, sidewalks and driveways necessary for access to the Building, Building lobbies, landscaped areas, public corridors, public rest rooms (as opposed to rest rooms which serve a full floor tenant), Building stairs, elevators open to the public, service elevators (provided that such service elevators shall be available only for tenants of the Building and others designated by Landlord), drinking fountains and any such other areas and facilities, if any, as are designated by Landlord from time to time as Common Areas. Common Areas shall not include the Garage. “**Service Corridors**” shall mean all loading docks, loading areas and all corridors that are not open to the public but which are available for use by Tenant and others designated by Landlord. “**Service Areas**” will refer to areas, spaces, facilities and equipment serving the Building (whether or not located within the Building) but to which Tenant and other occupants of the Building will not have access, including, but not limited to, mechanical, telephone, electrical and similar rooms and air and water refrigeration equipment. Tenant is hereby granted a nonexclusive right to use the Common Areas and Service Corridors during the term of this Lease for their intended purposes, in common with others designated by Landlord, subject to the terms and conditions of this Lease, including, without limitation, the Rules and Regulations. The Common Areas, Service Corridors and Service Areas will be at all times under the exclusive control, management and operation of the Landlord. Tenant agrees and acknowledges that the Premises (whether consisting of less than one floor or consisting of one or more full floors within the Building) do not include, and Landlord hereby expressly reserves for its sole and exclusive use, any and all mechanical, electrical, telephone and similar rooms, janitor closets, elevator, pipe and other vertical shafts and ducts, flues, stairwells, any area above the acoustical ceiling and any other areas not specifically shown on **Exhibit B** as being part of the Premises. Tenant acknowledges that pipes, ducts, conduits, wires and equipment serving other parts of the Building may be located above the acoustical ceiling surfaces, below floor surfaces or within walls in the Premises.

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SECTION 15.6 SUCCESSORS AND ASSIGNS.

Subject to Article 11 hereof, all of the covenants, conditions and provisions of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

SECTION 15.7 BROKERS.

Landlord and Tenant each represents and warrants to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only Broker as identified in Item 12 of the Basic Lease Provisions and that it knows of no other real estate brokers or agents who are or might be entitled to a commission in connection with this Lease. Tenant agrees to indemnify and hold harmless Landlord from and against, and to reimburse Landlord for and with respect to any liability or claim, whether meritorious or not, arising in respect to brokers and/or agents not so named who claim to be entitled to receive a commission or other compensation in connection with this Lease as a result of claimed dealings with Tenant. Landlord agrees to indemnify and hold harmless Tenant from and against, and to reimburse Tenant for and with respect to any liability or claim, whether meritorious or not, arising in respect to brokers and/or agents not so named who claim to be entitled to receive a commission or other compensation in connection with this Lease as a result of claimed dealings with Landlord. Landlord has agreed to pay a commission (the “**Commission**”) to Broker (but only Broker) to the extent that Landlord has agreed to do so pursuant to the terms and provisions of a commission agreement (the “**Commission Agreement**”) executed by and between Landlord and Broker on or before the effective date hereof, which agreement (if any) is incorporated herein by reference for the specific purposes set forth in Section 62.022(b) of the Texas Property Code.

The portion of the Commission payable with respect to that portion of the Term which precedes the last day of the 60th Lease Month shall be payable from the Reserve Account pursuant to Section 15.28 below. As to any remaining portion of the Commission, if Landlord fails to pay Broker all or any portion of same in accordance with the terms of the Commission Agreement and such failure is continuing for 60 days following Landlord’s receipt of a Commission Offset Notice (defined below), then Tenant shall be entitled to assume Landlord’s obligation to pay such unpaid commission, in which event Tenant may offset the amount of such unpaid Commission then payable by Landlord pursuant to the Commission Agreement from the next accruing installment(s) of Basic Rent payable by Tenant under the Lease (provided that, as a condition to such offset, Landlord receives a writing executed by Tenant and Broker in which (i) Tenant assumes such obligation, and (ii) Broker acknowledges same and releases Landlord from any further obligations under the Commission Agreement). The term “**Commission Offset Notice**” shall mean a written notice of Landlord’s failure to pay Broker any portion of the Commission (to the extent not payable from the Reserve Account) in accordance with the terms of the Commission Agreement, specifying the amount required to be paid and the date on which such payment was required. In order to be valid, the Commission Offset Notice must be captioned “**OFFSET NOTICE**” in capitalized boldface type, and contain the following statement in capitalized boldface type: “**PLEASE BE ADVISED THAT THE FAILURE BY LANDLORD TO PAY LEASING COMMISSIONS IN THE AMOUNT SET FORTH HEREIN MAY RESULT IN OFFSET OF BASIC RENT BY TENANT UNDER ITS LEASE WITH LANDLORD**”. If Landlord in good faith disputes the Broker’s right to receive all or any portion of the remaining Commission, Landlord shall notify Tenant of such dispute, and the amount of the Commission which is in dispute, within the aforementioned 60 day period. Landlord’s notice (the “**Commission Dispute Notice**”) shall include a reasonably detailed description of the basis for Landlord’s dispute of its obligation to pay the remaining Commission or the disputed portion thereof to the Broker. If Landlord shall fail to timely deliver a Commission Dispute Notice to Tenant, Landlord shall have no right, as to Tenant, to dispute either Tenant’s payment of any disputed portion of the Commission or Tenant’s offset of same against the Basic Rent. If, however, Landlord shall timely deliver a Commission Dispute Notice to Tenant and Tenant shall nevertheless pay the disputed amount of the Commission or any portion thereof to the Broker and offset such payment against the Basic Rent, then (i) if Landlord shall then prevail in any dispute with Broker and/or Tenant (either pursuant a final court order or the parties’ voluntary agreement of settlement) concerning whether any of the disputed portion of the Commission was due and owing to the

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Broker pursuant to the terms of the Commission Agreement, Tenant shall promptly repay to Landlord the amount of the offset which is equal to the disputed portion of the Commission that Landlord successfully challenged in its dispute with Tenant and/or the Broker, together with Landlord's reasonable attorney fees incurred in connection with such dispute, and (ii) if Tenant shall then prevail in any dispute with Landlord (either pursuant to a final court order or the parties' voluntary agreement of settlement) concerning whether any of the disputed portion of the Commission was due and owing to the Broker pursuant to the terms of the Commission Agreement, Landlord shall promptly repay to Tenant its reasonable attorney fees incurred in connection with such dispute.

SECTION 15.8 SEVERABILITY.

If any provision of this Lease or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the court which makes that determination shall be asked to reform such provision to give effect to the parties' intention and the remainder of this Lease shall not be affected thereby and shall be enforced to the greatest extent permitted by Law.

SECTION 15.9 EXAMINATION OF LEASE.

Submission by Landlord of this instrument to Tenant for examination or signature does not constitute a reservation of or option for lease. This Lease will be effective as a lease or otherwise only upon execution by and delivery to both Landlord and Tenant.

SECTION 15.10 INTEREST ON OBLIGATIONS; CALCULATION OF CHARGES.

Any amount due from either party to the other which is not paid within thirty (30) days after the date due shall bear interest at the lower of (i) fifteen percent (15%) per annum or (ii) the highest rate from time to time allowed by applicable Law, from the date such payment is due until paid, but the payment of such interest shall not excuse or cure the default. Tenant (i) understands and accepts the methods of calculation for determining charges, amounts and additional rent payable by Tenant under this Lease, and (ii) waives (to the fullest extent permitted by applicable Law) all rights and benefits of Tenant under Section 93.012 (Assessment of Charges) of the Texas Property Code, as such section now exists or as it may be hereafter amended or succeeded.

SECTION 15.11 TIME.

Time is of the essence in this Lease and in each and all of the provisions hereof. Whenever a period of days is specified in this Lease, such period shall refer to calendar days unless otherwise expressly stated in this Lease.

SECTION 15.12 DEFINED TERMS AND MARGINAL HEADINGS.

The words "**Landlord**" and "**Tenant**" as used herein shall include the plural as well as singular. If more than one person is named as Tenant, the obligations of such persons are joint and several. The headings and titles to the articles, sections and subsections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.

SECTION 15.13 AUTHORITY OF TENANT AND LANDLORD.

Tenant represents to Landlord as follows: Tenant, if a corporation, is duly incorporated and legally existing under the Laws of the state of its incorporation and is duly qualified to do business in the State of Texas. Tenant, if a partnership or joint venture, is duly organized under the Texas Uniform Partnership Act. Tenant, if a limited partnership, is duly organized under the applicable limited partnership act of the State of Texas or, if organized under the Laws of a state other than Texas, is qualified under said Texas limited partnership act. Tenant has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and other documentation to lease the Premises and to carry on its business as now

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conducted and as contemplated to be conducted. Each person signing on behalf of Tenant is authorized to do so. The foregoing representations in this Section 15.13 shall also apply to any corporation, partnership, joint venture or limited partnership which is a general partner or joint venturer of Tenant.

Landlord represents to Tenant as follows: Landlord, if a corporation, is duly incorporated and legally existing under the Laws of the state of its incorporation and is duly qualified to do business in the State of Texas. Landlord, if a partnership or joint venture, is duly organized under the Texas Uniform Partnership Act. Landlord, if a limited partnership, is duly organized under the applicable limited partnership act of the State of Texas or, if organized under the Laws of a state other than Texas, is qualified under said Texas limited partnership act. Landlord has all requisite power and all governmental certificates of authority, licenses, permits, qualifications and other documentation to lease the Premises and to carry on its business as now conducted and as contemplated to be conducted. Each person signing on behalf of Landlord is authorized to do so. The foregoing representations in this Section 15.13 shall also apply to any corporation, partnership, joint venture or limited partnership which is a general partner or joint venturer of Landlord.

SECTION 15.14 FORCE MAJEURE.

Except as expressly otherwise set forth to the contrary herein, whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, the party taking the action shall not be liable or responsible for, and there shall be excluded from the computation for any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, governmental Laws, regulations or restrictions or any other causes of any kind whatsoever which are beyond the reasonable control of such party (each of the foregoing is herein referred to as an “**event of force majeure**” or “**force majeure**”); provided, however, in no event shall the foregoing apply to the financial obligations of either Landlord or Tenant to the other under this Lease, including Tenant’s obligation to pay Basic Annual Rent, Additional Rent or any other amount payable to Landlord hereunder.

SECTION 15.15 RECORDING.

This Lease shall not be recorded. However, Landlord shall have the right to record a short form or memorandum hereof, at Landlord’s expense, at any time during the term hereof and, if requested, Tenant agrees (without charge to Landlord) to join in the execution thereof. This Section 15.15 shall not preclude Tenant from making any public disclosures required by Law in the event Tenant or Tenant’s parent company is a publicly traded company.

SECTION 15.16 NO RELIANCE ON REPRESENTATIONS.

Tenant has not relied on any warranties, representations or promises made by Landlord and Landlord’s agents (express or implied) with respect to the Premises, the Building or any other part of the Property (including, without limitation, the condition, use or suitability of the Premises, the Building or the Property), except as expressly set forth in this Lease, and no rights, easements or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease.

SECTION 15.17 PARKING.

Exhibit E attached hereto sets forth the agreements between Landlord and Tenant relating to parking. Parking and delivery areas for all vehicles shall be in accordance with parking regulations established from time to time by Landlord, with which Tenant agrees to conform. Tenant shall only permit parking by its employees, customers and agents of automobiles in appropriate designated parking areas or in off-site locations.

SECTION 15.18 ATTORNEYS’ FEES.

In the event of any legal action or proceeding brought by either party against the other arising out of this Lease, the prevailing party shall be entitled to recover from the other the actual, reasonable attorneys’ fees

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and costs incurred in such action (including, without limitation, all costs of appeal) and such amount shall be included in any judgment rendered in such proceeding. A party shall be deemed to be the prevailing party if it shall prevail on the primary issue or issues in dispute via judgment or settlement regardless of whether actual damages are awarded.

SECTION 15.19 NO LIGHT, AIR OR VIEW EASEMENT.

Any diminution or shutting off of light, air or view by any structure which may be erected on the Property or lands adjacent to the Property shall in no way affect this Lease or impose any liability on Landlord (even if Landlord is the adjacent land owner).

SECTION 15.20 RELOCATION.

Landlord shall have no right pursuant to this Section 15.20 to relocate any portion of the Premises located either (A) on a floor entirely leased by Tenant pursuant to this Lease, or (B) on a floor partially leased by Tenant that is contiguous to a floor entirely leased by Tenant pursuant to this Lease (unless such partially leased floor contains less than 15,000 square feet of Agreed Rentable Area as a result of Tenant's exercise of its rights under Rider 5 hereto). With respect to any other portion of the Premises (if any) (the "**Subject Space**"), upon sixty (60) days advance written notice to Tenant (the "Relocation Notice"), Landlord shall have the right to relocate the Subject Space to other space in the Building (the "Substitute Space") provided the Substitute Space (i) has substantially the same amenities and proportion of exterior window space as the Subject Space, and (ii) is equal in size or larger than the Subject Space. Landlord shall pay all actual and reasonable, out-of-pocket expenses of any such relocation, including the expenses of moving (inclusive of Tenant's costs to relocate and install data and telephone equipment required for Tenant's normal business operations), and Landlord shall, at Landlord's sole cost and expense, prior to the date Tenant is required to surrender the Subject Space, construct and finish the Substitute Space to substantially the same configuration and level of finish as the Subject Space. In the event of such relocation, this Lease shall continue in full force and effect without any change in the terms or other conditions, except that the Substitute Space shall be the Subject Space. Landlord hereby agrees that the Basic Rent and Tenant's Pro Rata Share Percentage shall not be increased even if the Substitute Space is larger than the Subject Space. If requested by Landlord, Tenant shall execute an amendment to this Lease evidencing the foregoing.

SECTION 15.21 SURVIVAL OF INDEMNITIES.

Each indemnity agreement and hold harmless agreement contained herein shall survive the expiration or termination of this Lease.

SECTION 15.22 ENTIRE AGREEMENT.

This Lease contains all of the agreements of the parties hereto with respect to the Premises and any matter covered or mentioned in this Lease with respect to the Premises for the Term herein specified, and no prior or contemporaneous agreement, understanding or representation pertaining to any such matter shall be effective for any purpose. No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successors in interest.

SECTION 15.23 OFAC LIST REPRESENTATION.

Tenant hereby represents and warrants to Landlord that neither Tenant nor any of its respective officers, directors, shareholders, partners, members or affiliates is or will be an entity or person: (i) that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 24, 2001 ("**EO 13224**"); (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("**OFAC**") most current list of "Specifically Designated National and Blocked Persons" (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>) (the "**OFAC List**"); (iii) who commits, threatens to commit or supports "terrorism," as that term is defined in EO 13224; or (iv) who is otherwise affiliated with any entity or person listed above.

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SECTION 15.24 RISER SPACE.

Tenant, at Tenant's sole cost and expense but without any additional fee charged by Landlord, shall be entitled to install, use and maintain a new 4 inch riser in the Building's chase to serve the initial Premises as well as any Headway Space or Expansion Space that may be incorporated into the Premises ("**Dedicated Riser**") in connection with Tenant's cabling for telecommunications or data transmission (the "**Cabling**"). All coring and other work required to install the Dedicated Riser shall be subject to Landlord's approval in accordance with Section 6.303 as if all such work was being performed within the Premises. All Cabling shall be appropriately marked during installation. The Cabling and Dedicated Riser will be used solely by Tenant in the ordinary course of its business within the Premises.

SECTION 15.25 MONUMENT SIGNAGE.

In the event Landlord, in its sole discretion, elects to erect an exterior multi-tenant monument sign for the Building along Elm Street (the "**Elm Street Monument**"), then Tenant shall be entitled to maintain one panel identifying Tenant's name (the "**Monument Panel**") on the Elm Street Monument, provided (i) the Premises consist of at least 78,060 square feet of Agreed Rentable Area in the Building at all times during the Term, and (ii) no monetary default by Tenant has occurred under this Lease beyond the expiration of any applicable notice and cure period at the time the Elm Street Monument is erected. The design, size, location, composition, content, coloring, lettering and other characteristics of the Monument Panel shall be subject to Landlord's prior written approval. All costs associated with the Monument Panel (including without limitation the design, fabrication, installation and maintenance thereof) shall be borne solely by Tenant. At the expiration or earlier termination of the Lease or of Tenant's right to possess the Premises, Tenant's rights pursuant to this Section shall terminate and Landlord may require that Tenant, at its sole cost, remove the Monument Panel and repair any damage caused by such removal. The rights of Tenant and the obligations of Landlord under this Section shall be subject to all applicable Laws, and any Landlord approval hereunder shall not constitute any representation or warranty that any proposed signage complies with same or is otherwise permitted thereunder. The rights set forth in this Section are personal to the Original Tenant or a successor Tenant who is an Affiliate and, absent Landlord's prior written approval, shall not inure to the benefit of any other transferee of this Lease or of the Premises, notwithstanding anything to the contrary set forth elsewhere in this Lease (provided that the foregoing shall not prohibit a change necessitated by any Tenant name change). Tenant's obligations under this Section shall survive the expiration or termination of this Lease.

SECTION 15.26 GENERATOR.

A. Subject to all applicable Laws, Tenant shall have the right to install, at its sole cost and expense, equipment to provide an uninterrupted power supply to the Premises on a 24 hour, 7 day per week basis (provided such equipment has been approved by Landlord, which approval not to be unreasonably withheld, conditioned or delayed). In connection therewith, Tenant will have the right and option, but not the obligation, to locate an emergency generator (up to 1000 kW) and a fuel tank to power same in the initial location on the top level of the Garage as shown on **Exhibit I** attached hereto or such other location as Landlord may reasonably require (but such area shall not exceed three parking spaces). Tenant shall pay the prevailing monthly parking rate for reserved spaces in the Garage (as such rate may be adjusted from time to time) for any parking spaces utilized by Tenant in connection with its use of such space, which shall be payable in the same manner applicable to parking charges; provided that Tenant's use of any such parking spaces shall not count against the parking spaces allotted to Tenant pursuant to **Exhibit E** attached hereto. Tenant shall additionally be entitled to reasonable use of the risers and chaises in the Garage and the Building, and in the connections between the two, to deliver all power produced by its emergency generator to the Premises. Landlord represents and warrants to Tenant that the top floor of the Garage is capable of carrying a load of at least 50 pounds per square foot. Such generator shall be screened from public view in a manner reasonably acceptable to Landlord. Landlord shall have the right to require

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Tenant, upon not less than sixty (60) days prior written notice (except in cases of emergency), to relocate such generator to another area reasonably suitable therefor, in which event Landlord shall reimburse Tenant within thirty (30) days after demand for its reasonable and actual out-of-pocket expenses incurred in relocating such generator.

B. Unless and until such time as Tenant shall install an emergency power system pursuant to Section 15.26(A) above and such system being fully operational, Tenant shall, during the initial Term as set forth in Item 8 of the Basic Lease Provisions, have the right to use up to one hundred and forty kilowatts (140kw) of the electricity generated by the existing auxiliary emergency generator located in the loading dock area of the Building or any replacement for such existing generator as Landlord may elect to install (such existing or replacement generator, the “**Building Generator**”) in situations when Tenant is not receiving electrical power to the Premises, subject to all applicable Laws and the following terms and conditions:

- (1) With respect to any remaining Building Generator capacity (as same may become available), Tenant acknowledges and agrees that Landlord shall be entitled to make such remaining capacity available for use by other occupants of the Building.
- (2) On or before the Commencement Date, and on or before each anniversary of such date during the Term, Tenant shall pay to Landlord, in advance without notice or demand, an annual sum of \$4,900.00 (the “**Generator Rental**”).
- (3) Tenant shall bear any and all costs and expenses related to connecting the Premises to the Building Generator and the existing buss risers.
- (4) No irregularity or stoppage of any electrical service from the Building Generator will create any liability for Landlord (including, without limitation, any liability for damages to Tenant’s personal property or business activities caused by any such irregularity or stoppage), and Tenant hereby waives all claims against Landlord for and holds Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys’ fees) due to or arising out of the failure of the Building Generator to provide electricity.
- (5) The rights set forth in this Section are personal to the Original Tenant and shall not inure to the benefit of any assignee, subtenant or other transferee of this Lease or of the Premises (excluding an assignment or sublease to an Affiliate). Tenant shall not permit the Building Generator to be used by others without Landlord’s prior written consent. Such consent, once obtained, shall not be a waiver of this covenant in its future application.
- (6) Tenant reserves the right to discontinue its right to use the Building Generator upon sixty (60) days written notice to Landlord. Upon the effective date such usage right is discontinued, Landlord shall have no further obligations, and Tenant shall have no further rights, under this Section.
- (7) At any time the Premises are not connected to the Building Generator, Landlord may notify Tenant in writing of its intent to terminate Tenant’s rights under this Section 15.26(B), and if Tenant fails to connect the Premises to the Building Generator within sixty (60) days after the date of such notice, then Landlord may terminate such rights.
- (8) In the event Tenant elects to discontinue its right to use the Building Generator or Landlord elects to terminate such rights as provided in the preceding paragraph, Landlord shall promptly refund to Tenant the unused portion of any prepaid Generator Rental, as prorated from the date on which Tenant disconnects the Premises from the Building Generator and any buss risers (or, if the Premises are not so connected, the date on which such election by Tenant or Landlord is made).
- (9) At Landlord’s written request upon the earlier of (i) the expiration or earlier termination of the Lease or of Tenant’s right to possess the Premises, or (ii) the effective date of any election by

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Tenant to discontinue its right to use the Building Generator, Tenant shall promptly disconnect the Premises from the Building Generator and any buss risers. If Tenant fails to promptly perform said disconnection, Landlord may perform same at Tenant's expense, and Tenant shall reimburse Landlord for any such costs within thirty (30) days after demand therefor. From time to time during the Term, Landlord shall have the right to relocate the Building Generator at Landlord's expense to another area reasonably suitable therefor.

(10) If (i) the Building Generator should fail to function properly, and (ii) in Landlord's opinion, repairing the Building Generator is either not feasible or cost prohibitive, then upon Landlord's written notice to Tenant of same, Landlord shall have no further obligations, and Tenant shall have no further rights, as to the Building Generator following the date of such notice. Notwithstanding the foregoing, if Landlord in its sole discretion elects to install a new Building Generator in replacement of a failed or obsolete Building Generator, then Tenant's rights under this Section 15.26(B) shall be reinstated upon such installation.

SECTION 15.27 REFURBISHMENT ALLOWANCE.

Upon Tenant's written request (a "**Refurbishment Notice**"), which must be received by Landlord not later than the last day of the 66th Lease Month, and provided no default by Tenant under the Lease then exists beyond the expiration of any applicable notice and cure period, Landlord agrees to provide Tenant with a refurbishment allowance of up to \$5.00 per square foot of the Agreed Rentable Area in the Premises (the "**Refurbishment Allowance**"). The Refurbishment Allowance shall (subject to the remaining provisions of this Section) be used solely to pay for design fees and hard construction costs for Installations Tenant elects to perform in the Premises after the expiration of the 52nd Lease Month but prior to the expiration of the 70th Lease Month (the "**Refurbishment Work**"). All such work shall be performed in accordance with the terms and provisions of the Lease (including without limitation Section 6.303 thereof). Tenant shall be required to utilize the Refurbishment Allowance (if at all) on or before the last day of the 70th Lease Month; Landlord shall have no obligation to advance any portion of the Refurbishment Allowance for alterations or improvements made after such date. Tenant shall repay to Landlord as Rent the Refurbishment Allowance in equal monthly installments computed by fully amortizing the Refurbishment Allowance over the period commencing on the first day of the 67th Lease Month and ending on the last day of the 126th Lease Month, at a per annum interest rate of ten percent (10%). Such monthly installments shall be payable without demand, deduction or offset on the same date that Basic Rent is payable. Such installments shall be payable retroactive to the first day of the 67th Lease Month, and Tenant shall pay any such retroactive installments promptly upon determination of the applicable payment amounts. Upon Landlord's written request, Tenant agrees to execute a lease amendment prepared by Landlord that memorializes such additional Rent payments. Tenant's delivery of a Refurbishment Notice to Landlord shall constitute Tenant's waiver of its right to exercise the termination option set forth in Rider 4 to this Lease.

The Refurbishment Allowance shall (subject to the remaining provisions of this Section) be disbursed by Landlord from time to time, but no more than once monthly, with the first such disbursement being payable no sooner than the first day of the 67th Lease Month (notwithstanding anything to the contrary set forth herein), in an amount equal to the invoices and/or statements submitted to Landlord and for which Tenant has not been previously reimbursed. Landlord shall make disbursements of the Refurbishment Allowance within thirty (30) days after receipt of (1) a request for reimbursement from Tenant setting forth the amount sought to be reimbursed and the approximate cost to complete construction of the Refurbishment Work, (2) acceptable invoices and statements supporting the amount requested by Tenant, (3) fully executed and acknowledged releases and waivers of liens and claims (to the extent of the Refurbishment Work theretofore performed) in form acceptable to Landlord, from each of Tenant's Contractors (as defined in Section 3 of the Work Letter) and suppliers that is to receive any portion of the amount requested, and (4) any documentation required by Landlord in order to comply with Landlord's mortgagee's requirements or conditions to the funding of such disbursement by such mortgagee. Notwithstanding the foregoing, Landlord shall not be required to disburse (A) any amounts from the Refurbishment Allowance if any of Tenant's Contractors or their respective subcontractors, suppliers and materialmen file or have given notice of intent to file a lien against the Premises and/or the Building which has not been bonded around or

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released in accordance with the requirements of Section 2.4 of the Work Letter, until the time of such bonding or release, or (B) the last installment of the Refurbishment Allowance unless and until Tenant provides Landlord final lien waivers (in form reasonably satisfactory to Landlord) executed by each of Tenant's Contractors and their respective subcontractors, suppliers and materialmen, releasing and waiving all contractual, statutory and constitutional liens and security interests that they may have against the Premises, the Building, Tenant or Landlord arising out of or relating to the construction or design of the Refurbishment Work.

Time is of the essence in any exercise by Tenant of its rights under this Section.

SECTION 15.28 RESERVE ACCOUNT.

Within ten (10) days after the Effective Date of this Lease, Landlord shall deposit the amount of \$3,518,261.78 (the "**Reserve Amount**") into a segregated interest-bearing reserve account (the "**Reserve Account**") held by Landlord's existing mortgagee ("**Lender**"), which Reserve Amount shall be held for the benefit of Tenant pursuant to a reserve agreement entered into simultaneously with this Lease, by and among Landlord, Tenant and Lender (the "**Reserve Agreement**"). The Reserve Agreement shall provide for the direct payment to Broker of the portion of the Commission (such portion, the "**Fully Earned Commission**") payable under the Commission Agreement with respect to the portion of the term preceding the last day of the 60th Lease Month, and for the direct payment of the Finish Allowance (as defined in Section 2.1 of the Work Letter attached hereto as **Exhibit C**) to Tenant from the Reserve Account, upon satisfaction of all of the conditions and requirements for such payment set forth in this Lease or the Work Letter attached hereto as **Exhibit C**, as applicable. Landlord agrees to submit to Lender any application for a payment within seven (7) days after receipt of the same. If (A) Landlord fails to timely deposit all or any portion of the Reserve Amount, (B) Landlord fails to timely submit an application for a payment to Lender, or (C) Lender fails to release any payment to the appropriate payee within thirty (30) days after satisfaction of all of the conditions and requirements for such payment, then Tenant shall deliver written notice of such failure to Landlord and Lender. Landlord and/or Lender, as the case may be, will have seven (7) days after receipt of such written notice to cure such failure, failing which Tenant shall, as Tenant's sole remedy for such failure (but subject to the last sentence of this Section), have the right to (i) offset the amount of the Finish Allowance then due and payable to Tenant from the next accruing installment(s) of Basic Rent and Additional Rent payable by Tenant under the Lease until the entire amount owed to Tenant as a result of such failure has been fully credited to Tenant, and (ii) offset the unpaid amount of the Fully-Earned Commission then payable by Landlord from the next accruing installment(s) of Basic Rent payable by Tenant under the Lease (provided that, as a condition to such offset, Landlord receives a writing executed by Tenant and Broker in which (i) Tenant assumes the obligation to pay the remaining unpaid amount of the Fully-Earned Commission to Broker, and (ii) Broker acknowledges same and releases Landlord from any further obligations under the Commission Agreement with respect to the Fully-Earned Commission only). In addition to Tenant's other remedies set forth herein, in the event that Landlord fails to deposit the Reserve Amount in the Reserve Account within ten (10) days after the Effective Date of this Lease, then this Lease shall terminate if (i) within ten (10) days after the expiration of such ten day period, Tenant gives written notice to Landlord of its election to terminate this Lease (time being of the essence with respect to such notice) and (ii) Landlord fails to deposit the Reserve Amount in the Reserve Account within ten (10) days after the date of such notice from Tenant (time being of the essence with respect to same).

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IN WITNESS WHEREOF, the parties hereto have executed and delivered this Lease, as of the date first written in this Lease.

LANDLORD:

TENANT:

BINYAN REALTY LP,
a Delaware limited partnership

PRIORITY FULFILLMENT
SERVICES, INC., a Delaware corporation

By: Binyan Realty GP, LLC,
its general partner

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Effective Date: _____, 2011

Renaissance Tower/ Priority Fulfillment Services, Inc.

EXHIBIT A

LAND LEGAL DESCRIPTION

TRACT A-1

(Block 60, less parcel leased from V. Shapiro and D. Suhgers)

BEING a tract of land located in Block 60, Official City Number, in the City of Dallas, Texas; and being described more particularly as follows:

BEGINNING at a steel nail in asphalt at the intersection of the Northerly line of Elm Street, 80.0 feet wide, with the Westerly line of N. Field, 62.50 feet wide, as established by City of Dallas Ordinance No 3836, said beginning point being 0.20 foot South 76 degrees, 00 minutes West from the original Westerly line of N. Field Street as conveyed to the City of Dallas, described in Volume 26, Page 87 of the Minutes of Dallas county Court at Law No. 2;

Thence South 76 degrees 00 minutes West, along the Northerly line of Elm Street, at 25.0 feet passing a cross cut in stone walk at the Southwest corner of the Passageway Easement conveyed to the City of Dallas for widening N. Field Street by deed recorded in Volume 74065, Page 1295 of the Deed Records of Dallas County, Texas, in all a distance of 324.80 feet to a point for corner, being 25.0 feet North 76 degrees, 00 minutes East from the intersection of said line of Elm Street with the Easterly line of Griffin Place, formerly Griffin Street;

Thence North 14 degrees 00 minutes 00 seconds West, parallel with the Easterly line of Griffin Place, a distance of 80.00 feet to a point for corner;

Thence South 76 degrees 00 minutes West, parallel with Elm Street, a distance of 25.00 feet to a point for corner on the Easterly line of Griffin Place;

Thence North 14 degrees 00 minutes 00 seconds West, along the Easterly line of Griffin Place, a distance of 120.00 feet to a steel nail for corner of the Southerly line of Pacific Avenue, 80.0 feet wide;

Thence North 76 degrees 00 minutes 00 seconds East, along the Southerly line of Pacific Avenue, at 325.35 feet passing a cross cut in stone walk at the Northwest corner of said City of Dallas Passageway Easement, in all a distance of 350.35 feet to a steel nail in asphalt for corner on said Westerly line of N. Field Street as established by said City Ordinance No. 3836, being 0.35 foot North 76 degrees 00 minutes East from said original Westerly line of N. Field Street;

Thence South 13 degrees, 50 minutes, 30 seconds East, along the Westerly line of N. Field Street, a distance of 200.00 feet to the PLACE OF BEGINNING.

TRACT A-2

(parcel leased from V. Shapiro and D. Suhgers)

BEING a tract of land located in Block 60, Official City Number, in the City of Dallas, Texas, and being described more particularly as follows:

BEGINNING at a steel nail in stone walkway at the intersection of the Northerly line of Elm Street, 80.0 feet wide, with the Easterly line of Griffin Place, formerly Griffin Street, at this point 52.50 feet wide;

Thence North 76 degrees 00 minutes 00 seconds East, along the Northerly line of Elm Street, a distance of 25.00 feet to a point for corner;

Thence North 14 degrees 00 minutes 00 seconds West, parallel with the Easterly line of Griffin Place, a distance of 80.00 feet to a point for corner;

Thence South 76 degrees 00 minutes 00 seconds West, parallel with Elm Street, a distance of 25.00 feet to a point for corner on the Easterly line of Griffin Place;

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Thence South 14 degrees 00 minutes 00 seconds East, along the Easterly line of Griffin Place, a distance of 80.0 feet to the PLACE OF BEGINNING.

TRACT A-3

(parking garage leased parcel)

BEING a tract of land located in the City of Dallas, Texas, being parts of Blocks 224 and 231, Official City Numbers, together with a part of Federal Street adjacent to said Blocks Abandoned by City Ordinance No. 12840, and being described more particularly as follows:

Beginning at a cross cut in concrete at the Southeast corner of said Abandoned part of Federal Street, being the intersection of the present Westerly line of N. Field Street, 39.93 feet Westerly of the City of Dallas survey line therein, with the Northerly line of Pacific Avenue, 80.00 feet wide;

Thence North 14 degrees 00 minutes West, along the Easterly line of said Abandoned part of Federal Street, being the present Westerly line of N. Field Street, a distance of 113.06 feet to a cross cut in concrete at the Northeast corner of said Abandoned part of Federal Street and the Southwest corner of the tract conveyed to the City of Dallas by deed recorded in Volume 1304, Page 474 of the Deed Records of Dallas County, Texas;

Thence North 12 degrees 17 minutes West, along the Westerly line of said City of Dallas tract, being the present Westerly line of N. Field Street, a distance of 164.20 feet to a cross cut in concrete at the Northwest corner of said City of Dallas tract on the Southeast line of Patterson Street;

Thence South 50 degrees 10 minutes West, along the Southeast line of Patterson Street, a distance of 145.60 feet to a steel nail at the Northwest corner of the tract conveyed to First National Bank in Dallas, Trustee, by deed filed May 17, 1967 in said Deed Records;

Thence South 15 degrees 20 minutes 45 seconds East, a distance of 213.80 feet to a steel nail at the Southwest corner of said First National Bank in Dallas, Trustee, tract, on the Northerly line of Pacific Avenue;

Thence North 76 degrees 00 minutes East, along the Northerly line of Pacific Avenue, a distance of 121.10 feet to the PLACE OF BEGINNING.

TRACT A-4

(east half of Griffin Place parcel)

BEING a tract of land, formerly part of Griffin Place, in the City of Dallas, Texas adjoining Block 60, Official City Numbers, and being described more particularly as follows;

Beginning at the Southwest corner of said Block 60 at the intersection of the Northerly line of Elm Street, 80.0 feet wide, with the Easterly line of Griffin Place, abandoned;

Thence South 76 degrees 00 minutes 00 seconds West, along the Northerly line of Elm Street, a distance of 26.25 to a point for corner;

Thence North 14 degrees 07 minutes 30 seconds West, a distance of 180.90 feet to a point for corner on the projection easterly of the southerly line of Pacific Avenue as established in Block 53, Official City Numbers, by City of Dallas Ordinance No. 9000;

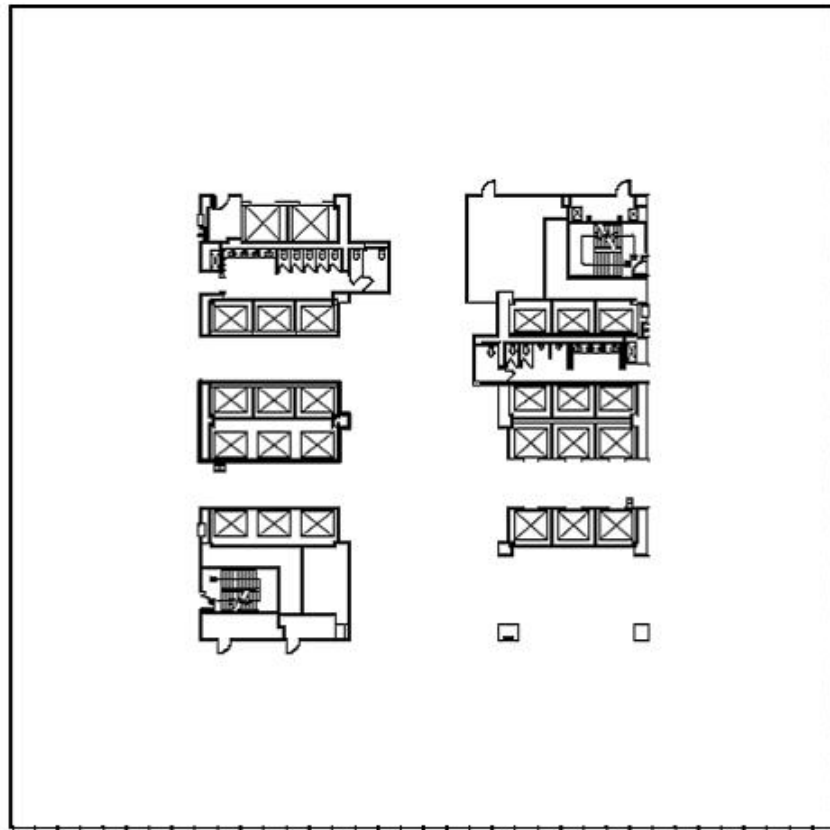
Thence North 76 degrees 00 minutes 00 seconds East, along said projection line of Pacific Avenue, being 59.1 feet southerly of and parallel with the City of Dallas survey line therein, a distance of 26.645 feet to a point for corner on the westerly line of Block 60, 19.10 feet South 14 degrees 00 minutes 00 seconds East from its northwest corner on the southerly line of Pacific Avenue, 80.0 feet wide;


Thence South 14 degrees 00 minutes 00 seconds East, along the Westerly line of Block 60, a distance of 180.90 feet to the Place of Beginning.

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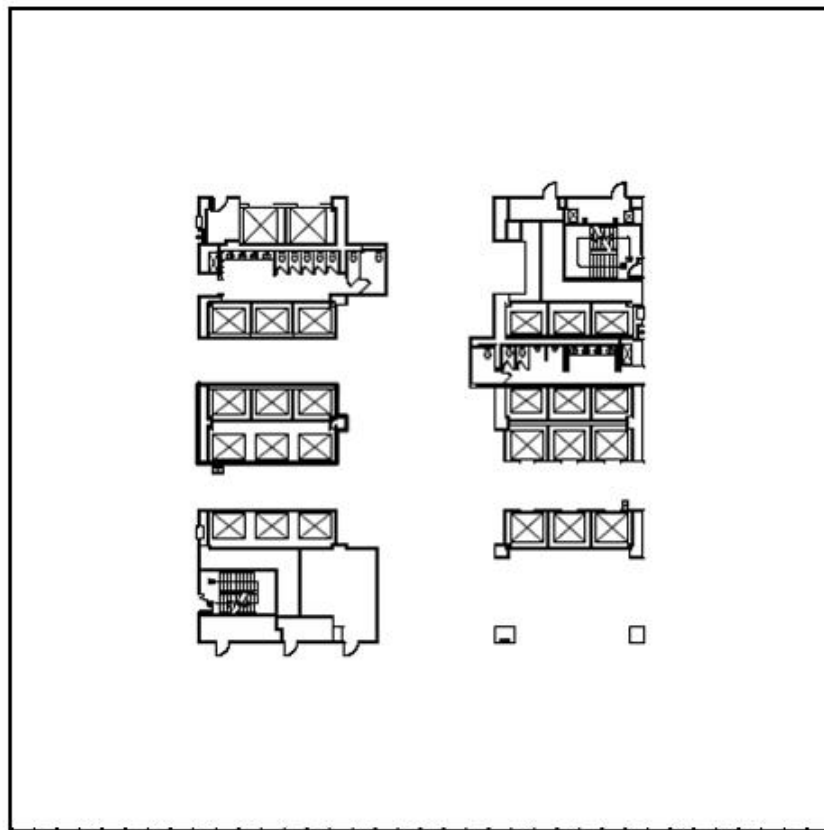
EXHIBIT B


FLOOR PLAN FOR THE PREMISES



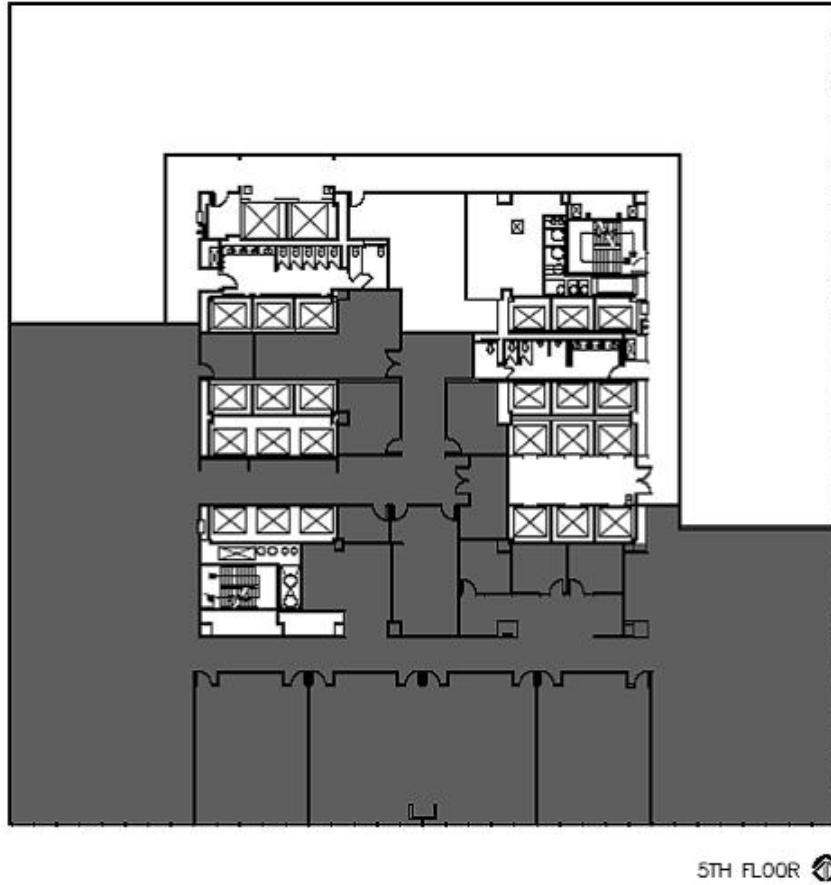
3RD FLOOR 

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4TH FLOOR 

Renaissance Tower/ Priority Fulfillment Services, Inc.

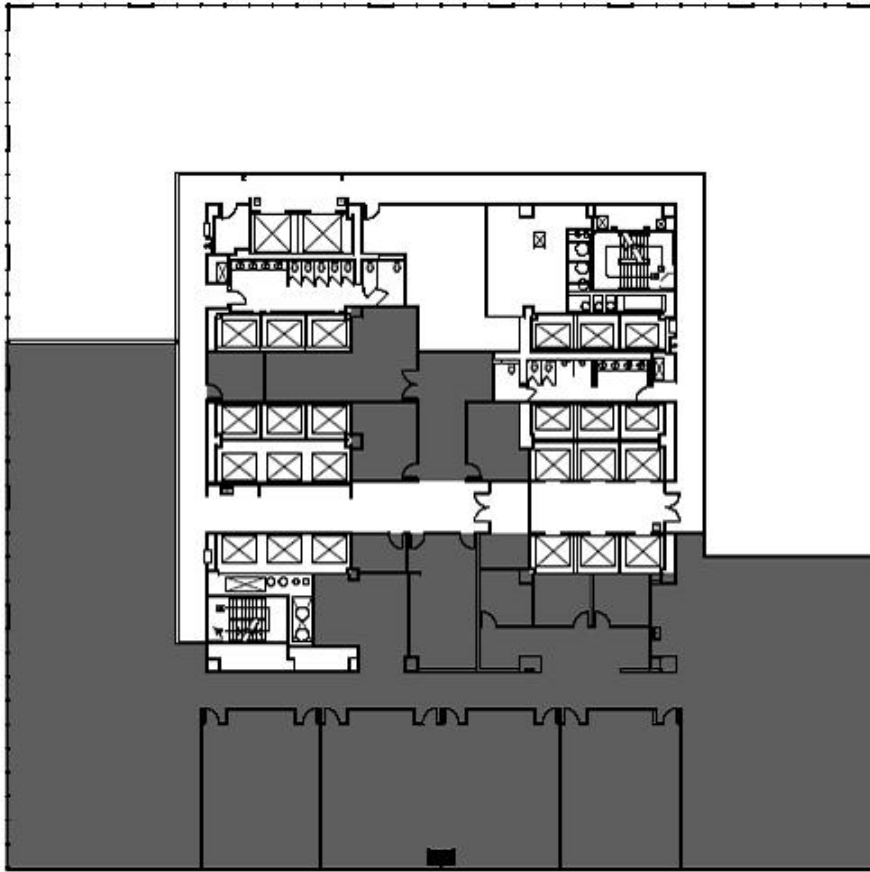


[shaded portion of 5th Floor included in Premises]

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EXHIBIT B-1

FLOOR PLAN FOR 5th FLOOR AS OF 25TH LEASE MONTH
[In the event Tenant fails to timely exercise the First Expansion Option]



5TH FLOOR 

[shaded portion of 5th Floor included in Premises]

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EXHIBIT C
WORK LETTER

1. Plans.

1.1 Design Professional. Tenant's architect for the space planning and design of Tenant's Improvements shall be Corgan Associates or another design professional approved by Landlord in writing, which approval shall not be unreasonably withheld, conditioned or delayed (Corgan Associates or such other design professional, the "**Design Professional**").

1.2 Design Process. Prior to the commencement of any construction work in the Premises:

- (a) Tenant shall cause Tenant's Design Professional, at Tenant's expense, to prepare and deliver to Landlord for approval a space plan for the portion of the Premises in which Tenant's Improvements are to be constructed. Landlord will approve or disapprove in writing the space plan, which written approval or disapproval shall be given within fourteen (14) days after receipt of the space plan. Landlord agrees not to unreasonably withhold, condition or delay its approval of the space plan or any revised space plan. If disapproved, Landlord shall provide Tenant with specific reasons for disapproval sufficient to enable Tenant's Design Professional to draft a space plan meeting Landlord's approval, and Tenant shall cause the Design Professional to revise and resubmit same to Landlord for approval. Landlord will approve or disapprove in writing the revised space plan within seven (7) days after receipt of same. The foregoing process shall be repeated if necessary until Landlord has approved the space plan (such space plan, when approved by Landlord, is herein referred to as the "**Space Plan**").
- (b) Tenant shall cause Tenant's Design Professional, at Tenant's expense, to prepare and deliver to Landlord for approval construction plans and specifications consistent with the Space Plan, which shall include complete sets of detailed architectural, structural, mechanical, electrical and plumbing working drawings (the "**Proposed Construction Drawings**"). Landlord agrees not to unreasonably withhold, condition or delay its approval of the Proposed Construction Drawings or any Revised Construction Drawings (as hereinafter defined). Within fourteen (14) days after receipt, Landlord shall either approve the Proposed Construction Drawings or notify Tenant of the item(s) of the Proposed Construction Drawings that Landlord disapproves and the reason(s) therefor (with items not disapproved being deemed approved). If Landlord disapproves the Proposed Construction Drawings, Tenant shall cause Tenant's Design Professional to revise and resubmit same to Landlord for approval (the "**Revised Construction Drawings**"). Within seven (7) days after receipt, Landlord shall either approve the Revised Construction Drawings or notify Tenant of the item(s) of the Revised Construction Drawings which Landlord disapproves and the reason(s) therefor (with items not disapproved being deemed approved). Landlord shall provide such specificity as to any disapproval as shall be necessary for Tenant's Design Professional to draft revisions meeting Landlord's approval. The foregoing process shall continue until Landlord has approved the Revised Construction Drawings in their entirety. The Proposed Construction Drawings or Revised Construction Drawings, as approved by Landlord, together with all changes and amendments thereto agreed to by Landlord and Tenant in writing, for all of Tenant's Improvements are hereinafter referred to as the "**Construction Drawings**" (all improvements required by the Construction Drawings are herein called "**Tenant's Improvements**"). Upon approval of the Construction Drawings by Landlord, Tenant's Design Professional shall deliver to Landlord the Construction Drawings in AutoCAD or compatible format.
- (c) Landlord hereby agrees that Landlord shall not unreasonably withhold, condition or delay its approval of the Construction Drawings; provided that Landlord shall be deemed to have reasonably withheld its approval if such disapproval is based on any of the following reasons: (i) the Construction Drawings do not conform to applicable Laws, (ii) the Construction Drawings will not accommodate Building standard heating, cooling, mechanical, electrical or plumbing improvements (as such determination may be affected by any Supplemental Systems Tenant proposes to install and

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utilize), (iii) the construction required by the Construction Drawings could, in Landlord's reasonable judgment, adversely affect the structural integrity or any structural member of the Building or any part thereof, or, in Landlord's reasonable judgment, will adversely affect existing Building standard heating, cooling, mechanical, electrical or plumbing improvements in any part of the Building, (iv) the design and/or color of Tenant's Improvements (to the extent visible from the interior of any passenger elevator or from any Common Area and assuming the door(s) to the Premises are closed) do not conform to the design and/or color scheme generally acceptable as tenant finish in the Building, (v) the work required by the Construction Drawings affects the exterior of the Premises or the Building, or (vi) the Construction Drawings are substantively incomplete or contain material errors or omissions. Landlord's approval of the Construction Drawings shall in no event be construed as a representation regarding the Construction Drawings, including, without limitation, the scope or accuracy of such drawings or whether such drawings comply with applicable Laws. Tenant acknowledges that Landlord may engage the Building's systems engineer and/or structural engineer (collectively, the "**Building Engineers**") to review the Space Plans, the Proposed Construction Drawings and any Revised Construction Drawings and prepare comments thereto as part of the approval process. Tenant agrees to reimburse Landlord for the Building Engineers' actual, reasonable fees in connection with same within thirty (30) days after receipt of an invoice therefor (which fees shall be deemed to be Permitted Costs subject to reimbursement from the Finish Allowance). Tenant shall not be obligated to reimburse Landlord for any fees, costs or expenses of Building Engineers in the employ of Landlord or any of its parents, subsidiaries or affiliates.

2. Construction and Costs of Tenant's Improvements.

2.1 Construction Obligation and Finish Allowance.

Tenant agrees to construct Tenant's Improvements, at Tenant's cost and expense, with contractors approved by Landlord pursuant to Section 3 below, provided, however, Landlord shall provide Tenant with an allowance of \$42.00 per square foot of Agreed Rentable Area in the Premises (the "**Finish Allowance**"), which allowance shall be disbursed by Landlord, from time to time, for payment of the following costs (collectively referred to as the "**Permitted Costs**"): (i) the contract sum required to be paid to the general contractor engaged to construct Tenant's Improvements (the "**Contract Sum**"), (ii) the fees of the Design Professional for the preparation of the Space Plan and Construction Drawings, together with any related fees of engineering consultants engaged by Tenant or the Design Professional (such fees, collectively, the "**Planning Fees**"); (iii) the Construction Management Fee (hereinafter defined); (iv) voice and data cabling costs (the "**Cabling Costs**"), (v) Tenant's actual out-of-pocket moving expenses incurred in connection with its initial occupancy of the Premises, including, without limitation, Tenant's costs of moving from any other space in the Building to the Premises ("**Moving Costs**"); (vi) cost of fixtures, furniture and equipment to be located within the Premises for use in connection with Tenant's business operations ("**FF&E Costs**"); (vii) Tenant's third-party project management fees (not to exceed 2% of the sum of the Contract Sum and the Planning Fees); and (viii) fees for permits or inspections required in connection with construction of Tenant's Improvements; provided that only up to \$12.00 per square foot of Agreed Rentable Area in the Premises shall be available for Cabling Costs, Moving Costs and FF&E Costs (collectively), and provided further that only \$8.00 per square foot of such \$12.00 per square foot maximum amount shall be available for application to FF&E Costs. In consideration of Landlord overseeing the construction of Tenant's Improvements, Tenant agrees to pay Landlord a fee equal to one percent (1%) of the sum of the Contract Sum and the Planning Fees (the "**Construction Management Fee**"). The Construction Management Fee shall be paid to Landlord monthly on the basis of Landlord's reasonable estimate of the percentage of Tenant's Improvements completed at the time of the payment. The Finish Allowance shall (subject to the remaining provisions of this Section) be disbursed from the Reserve Account (as defined in Section 15.28 of the Lease) from time to time (but no more than once monthly), in an amount equal to the invoices and/or statements submitted to Landlord and for which Tenant has not been previously reimbursed. Landlord shall authorize disbursements from the Reserve Account within ten (10) days after receipt of (1) a request for reimbursement from Tenant setting forth the amount sought to be reimbursed and the approximate cost to complete construction of the Tenant's Improvements, (2) acceptable invoices and statements supporting the amount requested by Tenant, and (3) fully executed and acknowledged releases and waivers of liens and claims (to the extent of work theretofore performed) in form acceptable to Landlord, from each of Tenant's Contractors (as defined in Section 3 below) and suppliers that is to receive any portion of the amount requested. Notwithstanding the

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foregoing, Landlord shall not be required (A) to authorize disbursements from the Reserve Account if any of Tenant's Contractors or their respective subcontractors, suppliers and materialmen file or have given notice of intent to file a lien against the Premises and/or the Building which has not been bonded around or released in accordance with the requirements of Section 2.4 below, until the time of such bonding or release, or (B) to authorize disbursements from the Reserve Account for the last installment of the Finish Allowance unless and until Tenant provides Landlord final lien waivers (in form reasonably satisfactory to Landlord) executed by each of Tenant's Contractors and their respective subcontractors, suppliers and materialmen, releasing and waiving all contractual, statutory and constitutional liens and security interests that they may have against the Premises, the Building, Tenant or Landlord arising out of or relating to the construction or design of the Tenant's Improvements.

2.2 Excess Costs. If the sum of the Permitted Costs exceeds the Finish Allowance, then Tenant shall pay all such excess costs ("**Excess Costs**") on or before the earlier of the date on which same are due or the date on which Tenant begins business operations in the Premises, provided that Tenant shall be entitled to withhold payment if Tenant is contesting same (but subject to Section 2.4 below).

2.3 Construction. Tenant shall cause Tenant's Contractors to perform all work required to complete Tenant's Improvements in a good and workmanlike manner in accordance with good industry practice and in accordance with the approved Construction Drawings ("**Tenant's Work**"). All Tenant's Work shall comply in all respects with applicable Laws. Prior to commencement of the construction of Tenant's Improvements, the Construction Drawings will, if required by applicable Laws, be approved by the appropriate governmental agency and all notices required to be given to any governmental agency shall have been given in a timely manner. The costs of any permits and/or inspections required in connection with, or as a prerequisite to, the construction and/or completion of Tenant's Work shall be obtained by Tenant at Tenant's expense. Landlord shall have the right to review, inspect and comment upon all portions of the construction of the Tenant's Improvements that tie into the base Building mechanical, electrical and plumbing systems and structural elements or other areas of the Building, as well as all other aspects of the construction of the Tenant's Improvements, but any such review, inspection and comments shall be strictly for Landlord's own purposes and shall not impose upon Landlord any express or implied duty to Tenant or any third party with respect to the Tenant's Improvements. Notwithstanding the foregoing or any other provision of the Lease to the contrary, in no event shall Tenant or Tenant's Contractors be required to correct any non-compliance with applicable Laws in areas outside of the Premises unless such non-compliance condition was caused by the acts or omissions of Tenant or Tenant's Contractors. If any such non-compliance condition for which Tenant or Tenant's Contractors are not responsible is required to be corrected in order for Tenant or Tenant's Contractors to secure any permit or other approval of governmental authorities exercising jurisdiction required to complete Tenant's Work or in order for Tenant to lawfully occupy and use the Premises for the Permitted Use, Landlord at its sole cost and expense shall promptly correct such non-compliance condition upon Tenant's delivery of notice of same.

2.4 Liens Arising from Tenant's Improvements. Tenant agrees to keep the Premises free from any liens arising out of nonpayment of construction costs for Tenant's Improvements. In the event that any such lien is filed and Tenant, within thirty (30) days following Tenant's receipt of notice of such filing fails to cause same to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as it in its sole discretion deems proper, including payment of or defense against the claim giving rise to such lien.

2.5 Conduct. Tenant shall maintain the Premises in a clean and orderly condition during construction. Tenant will cause Tenant's Contractors to promptly remove from the Building, by use of their own trash containers, all rubbish, dirt, debris and flammable waste, as well as all unused construction materials, equipment, shipping containers and packaging generated by Tenant's Work; neither Tenant nor Tenant's Contractors shall be permitted to deposit any such materials in Landlord's trash containers or elsewhere in the Building. Storage of construction materials, tools, equipment and debris shall be confined within the Premises. If, at any time, anyone performing construction work on behalf of Tenant shall cause disharmony or interference with anyone performing construction work in the Building on behalf of Landlord or otherwise, Landlord may, upon twenty-four (24) hours written notice to Tenant, require Tenant to remove from the Premises and from the Building any person or persons performing construction work on behalf of Tenant causing such disharmony or interference. Persons performing construction work on behalf of Tenant shall not be deemed to be causing any such disharmony or interference solely by reason of the fact that such persons or their employees, agents, contractors, subcontractors or representatives shall not belong to a national or local union or other employee organization. Subject to Section 7.4 of the Lease Supplement Provisions, Tenant shall be liable for any

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damage or injury to property or persons caused by persons performing construction work on behalf of Tenant. Subject to the Building's Rules and Regulations, Tenant's Contractors shall be allowed to utilize power within the Premises and the freight dock and freight elevator (subject to Landlord's reasonable approval of scheduling thereof), as necessary and required in connection with Tenant's Work in the Premises at no charge.

2.6 Final Plans. Upon substantial completion of Tenant's Work, Tenant shall deliver to Landlord one set of the as-built plans and specifications for the Premises in AutoCAD or compatible format.

2.7 Unused Allowance. Tenant may apply any unused portion of the Finish Allowance (but not to exceed, in the aggregate, \$2.50 per square foot of Agreed Rentable Area within the Premises) to reduce Basic Rent payable under the terms of the Lease beginning in the 7th Lease Month. Additionally, any unused portion of the Finish Allowance not applied to reduce Basic Rent in accordance with the preceding sentence shall remain available to Tenant for application to any Permitted Costs associated with any expansion of the Premises pursuant to Rider 2 to the Lease so long as such Permitted Costs are incurred within twelve (12) months following Substantial Completion of Tenant's Improvements hereunder (with any unused portion of the Finish Allowance thereafter remaining being forfeited).

2.8 VAV Boxes. All existing VAV boxes serving the Premises will comply with applicable legal requirements and be in good working order and condition upon Landlord's delivery of the Premises to Tenant. Landlord, at Landlord's sole expense and not to be deducted from the Finish Allowance, shall perform any repairs required to bring such existing VAV boxes into the foregoing specified condition upon such delivery.

2.9 ASHRAE 62.1-2004. If prior to commencement of Tenant's Work Tenant's MEP contractor, Schmidt & Stacy, or such replacement MEP contractor as Tenant shall select and shall be reasonably acceptable to Landlord, reasonably determines that the existing duct bringing outside air to the Premises is insufficient to comply with ASHRAE 62.1-2004, then Landlord shall, in addition to the Finish Allowance, contribute up to \$20,000 toward the reasonable cost of modifying such duct and/or adding a duct to achieve compliance with ASHRAE 62.1-2004. Such Landlord contribution shall be a one-time contribution with respect to the initial Premises only, and no contribution of any kind shall be made by Landlord for such purposes in connection with any future expansions, whether pursuant to Rider 2 or otherwise.

2.10 Test Fit. Landlord has paid Corgan Associates \$0.10 per Agreed Rentable Area of the Premises in connection with Tenant's preliminary test plan of the Premises. Further, Landlord will reimburse Tenant for up to \$2,500 of the cost of the engineering study performed by Corgan Associates and Schmidt & Stacy following the Effective Date and Landlord's receipt of third-party invoices and paid receipts for such costs incurred by Tenant.

2.11 Multi-Tenant Corridor. To the extent required by the City of Dallas in connection with Tenant's construction of Tenant's Improvements, Landlord shall, at Landlord's sole expense and not to be deducted from the Finish Allowance, construct such demising walls as are necessary to construct a public corridor so as to convert the 5th floor to a multi-tenant floor.

3. Tenant's Contractors.

Tenant's construction of Tenant's Improvements shall be done in accordance with, and subject to, the following:

- (a) Tenant shall use only such contractors which Landlord shall approve in its reasonable discretion and Landlord shall have approved the plans to be utilized by Tenant, which approval will not be unreasonably withheld, conditioned or delayed; and
- (b) Tenant, its contractors, workmen, mechanics, engineers, space planners or such others as may enter the Premises (collectively, "**Tenant's Contractors**"), work in harmony with and do not in any way disturb or interfere with Landlord's space planners, architects, engineers, contractors, workmen, mechanics or other agents or independent contractors in the performance of their work (collectively, "**Landlord's Contractors**"), it being understood and agreed that if entry of Tenant or Tenant's Contractors would cause, has caused or is causing a material disturbance to Landlord or Landlord's Contractors, then Landlord may, with notice, refuse admittance to Tenant or Tenant's Contractors causing such disturbance; and

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- (c) Tenant (notwithstanding the first sentence of subsection 7.201 of the Supplemental Lease Provisions), Tenant's Contractors and other agents shall provide Landlord sufficient evidence that each is covered under such Worker's Compensation, public liability and property damage insurance and shall comply with the Building's Contractor Rules and Regulations, in accordance with the requirements of Schedule 4 to this Exhibit C.

Notwithstanding anything in Section 3(b) above or any other provisions of the Lease to the contrary, Tenant's Contractors shall not be deemed to be working in disharmony with, or disturbing or interfering with, Landlord's Contractors solely by virtue of the fact that one or more of Tenant's Contractors or their employees, agents, contractors, subcontractors or representatives do not belong to a national or local union or other employee organization. Landlord shall not be liable for any injury, loss or damage to any of Tenant's installations or decorations made prior to the Commencement Date and not installed by Landlord unless resulting from the gross negligence, recklessness or intentional misconduct of Landlord or its employees, agents or contractors (subject to Section 7.4 of the Lease Supplement Provisions). Tenant shall indemnify and hold harmless Landlord and Landlord's Contractors from and against any and all costs, expenses, claims, liabilities and causes of action arising out of or in connection with work performed in the Premises by or on behalf of Tenant (but excluding work performed by Landlord or Landlord's Contractors) unless and to the extent resulting from the gross negligence, recklessness or intentional misconduct of Landlord or its employees, agents, contractors or representatives. Such entry by Tenant and Tenant's Contractors pursuant to this Section 3 shall be deemed to be under all of the terms, covenants, provisions and conditions of the Lease except the covenant to pay Rent.

4. Construction Representatives.

Landlord's and Tenant's representatives for coordination of construction and approval of change orders will be as follows, provided that either party may change its representative upon written notice to the other:

LANDLORD'S REPRESENTATIVE:

Steve Echols
CB Richard Ellis
222 W Las Colinas Blvd., Suite 165
Irving, TX 75039
972/830-3205 (Phone)
972/501-9019 (Fax)
steve.echols@cbre.com

TENANT'S REPRESENTATIVE:

Matt McGeath, LEED AP
Cushman & Wakefield of Texas, Inc.
2101 Cedar Springs, Suite 900
Dallas, TX 75201
972/663-9602 (Phone)
972/663-9999 (Fax)
matt.mcgeath@cushwake.com

Renaissance Tower/ Priority Fulfillment Services, Inc.

Schedule 4

Contractor Rules and Regulations and Insurance Requirements

Renaissance Tower/ Priority Fulfillment Services, Inc.

Renaissance Tower
RULES AND REGULATIONS
GOVERNING WORK DONE BY CONTRACTORS

The following are the rules and regulations governing the work of all firms working at or in Renaissance Tower, 1201 Elm Street, Dallas, Texas. These rules and regulations apply to general construction, tenant lease space construction, retail space construction, and vendors providing services to the Property. No deviation or exceptions will be permitted without written approval from Property Management Personnel. All questions or comments should be directed to: Roy Smith at (214) 571.5254, roy.smith@cbre.com, or Robert Harris at (214) 571.6250, rharris4@cbre.com. These rules and regulations are subject to revisions and updating from time to time and it is the Contractor's responsibility to be aware of and comply with the most current rules and regulations.

1. Access to the Property

All Contractors must provide a current Certificate of Insurance per the Landlords requirements to the Property Management Office, Tenant Services Coordinator, prior to requesting entry onto the Property. All Contractors must register with Property Security at the Security Control Center prior to entering the Property. Property Security will confirm that the Contractor has received approval to enter the Property to perform work Property Security will provide each of the Contractor's personnel with a badge, which shall be visibly displayed at all times while on Property and returned to Property Security prior to leaving the Property. All Contractors will provide an updated list of authorized personnel to Property Security and will notify Security of any changes. All personnel shall enter and exit the building through the service dock area only and shall sign in at the Security Control Center. The Service Dock is for loading and unloading only. No Contractor parking is permitted in this area. The Contractor is responsible for their own parking. The Contractor is responsible for the supervision of all of their personnel.

2. Work Hours

Property hours of operation are Monday through Friday from 7:00 am until 6:00 pm, and Saturday from 8:00 am until 1:00 pm Contractors may schedule certain work to occur during these hours of operation. Any work interrupting the normal operation of the Property must be scheduled after-hours. A Contractor performing work that causes a Tenant complaint will be asked to discontinue such work until after-hours.

There are certain operations that must be performed after-hours to prevent the interruption of business operations. These include but are not limited to:

- Drilling or cutting of the concrete floor-slab
- Drilling or cutting of any concrete or metal structural member
- Any work where machine noise or vibration may disrupt normal office procedures.
- Any work that causes unpleasant or unhealthy odors such as the use of cutting oils, paints, etc.

All work performed after-hours must be approved by Property Management and scheduled through Property Security.

3. After-hour's Access

Contractors shall contact Property Management before 3:00 p.m. weekdays to request access clearance for work performed before or after normal working hours. Access to the building will be controlled by Property Security located at the loading dock and follow procedures for normal Access to the Property. Property access on Saturday and Sunday will be handled in the same manner as After-hours Access.

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4. Deliveries

All deliveries must be scheduled and coordinated through Property Security.

5. Service Elevator

Contractors are to move all personnel, supplies and materials via the service elevator. No construction materials or personnel are to utilize any of the passenger elevators. **No exceptions, Violators will be removed from the Property and forbidden from returning to the Property, Any damage caused to the passenger elevators by this action will be billed to the Contractor.**

A prior notification of at least 24 hours is required to schedule service elevator time,

6. Permits

All construction work ("Work") performed on the Property requires permitting and licenses necessary for the execution of the Work. The Contractor shall secure and pay for permits and licenses prior to the start of the Work. The Building Permit(s) shall be properly posted on-site. The Contractor shall provide Property Management with a copy of the Permit(s).

7. Hot Work Permits

All construction that requires hot work (i.e. sweating of plumbing lines, soldering, welding, etc.) must be permitted by Property Management. The Contractor shall coordinate with Property Management to obtain the Permit. The Permit must be posted in the Work Area prior to performing any such work.

8. Common Areas

The Contractor shall carefully protect walls, carpets, ceiling tiles, floors, furniture and fixtures in the Property's Common Areas or areas open to the public, and shall pay for repairs or replacement of all damaged property therein (whether caused by Contractor, its agents or subcontractors).

A walk-through with Property Management of these areas will be conducted prior to commencement of the Work to document the existing conditions. A final walk-through with Property Management will take place to document the finished condition of the areas prior to the Contractor receiving final payment for the Work.

9. Workman Conduct

No loud or abusive language will be tolerated. Use of radios and the playing of music is prohibited. It is the responsibility of the Contractor to enforce this regulation on a day-to-day basis, and/or in response to specific complaints from other tenants or from Property Management.

10. Smoking

Renaissance Tower is a "No Smoking" facility and Contractors are prohibited from smoking in the building. Smoking is only allowed in the designated smoking section outside of the building in the West side courtyard. No smoking is allowed at the Dock area of the building.

Renaissance Tower/ Priority Fulfillment Services, Inc.

11. Carrying of Firearms

The carrying of firearms of any kind in any leased premises, the building in which such premises, are situated, or any related connected retail mall of which the foregoing are a part, is prohibited except in the case of unconcealed firearms carried by licensed security personnel hired or contracted for by tenants for security of their premises as permitted by such tenants' leases or otherwise consented to by Management in writing.

12. Sanitary Facilities

Sanitary Facilities will be designated for the Contractor's use by Property Management. The Contractor shall use only the facilities specifically provided or designated by Property Management. Charges associated with clean-up or damage of any kind shall be the responsibility of the General Contractor.

Under no circumstances will restroom facilities be used by workmen to clean construction materials or tools. Water will be provided for the cleaning of tools OFF-SITE.

13. Office Equipment

There will be absolutely no use of tenant and/or Building property to include, but not limited to telephones, dollies, vending machines, copiers, and tools on tenant occupied floors to include the Lower Level of the Property.

14. Non-Compliance

Non-compliance with these regulations will result in the possible barring of the Contractor from current or future activities in the Building. Any costs incurred by Owner in cleaning the Building or Work Area or repairing damage resulting from the General Contractor's activities (including the activities of any of the General Contractor's employees or subcontractors) will be billed to the General Contractor or set off against future payment to the General Contractor.

15. Clean Up

The Contractor shall at all times, on a day-to-day basis, keep the Work Area and other areas of the Property free from accumulations of waste material, debris or rubbish caused by or incidental to the Work. The Contractor is not permitted to use the Property's waste containers, dumpsters or compactors. Upon completion of the Work, the Contractor shall promptly remove all waste material, debris, rubbish, equipment, and excess construction material from the Work Area.

16. Disposition of Materials

The Contractor is responsible for removing all waste or unwanted material from the Property. The property does not have space available for the placement of dumpster or waste storage containers. The Contractor is responsible for complying with all local, State and Federal regulations related to the disposal of waste materials. Property Management may require documentation from the Contractor verifying that waste materials have been properly disposed of per these regulations.

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17. Storage

No material storage or trash will be allowed in the service dock area. No storage of flammable, toxic or hazardous materials or supplies will be allowed on the Property unless approved in writing by Property Management and in accordance with approved building codes and regulations. Electric, telephone, janitor and other closets are not to be used for contractor storage or office use without prior written approval by Property Management.

18. Fire Alarm System

Prior to performing any work that may interfere with the fire alarm system wiring, or otherwise activate or affect the fire alarm system, the Contractor must contact Property Management. The Contractor shall take any and all reasonable steps to prevent accidental activation of the fire and smoke detection devices within or adjacent to the Work Area. Such steps shall not include disconnecting any such devices.

All smoke device covers must be removed on a daily basis.

19. Fire Sprinkler System

The Contractor must **provide 24 hour notice to Property Management** prior to performing any work that will involve the draining of a fire sprinkler line, or otherwise affect the Property's fire sprinkler system. De-energizing of the fire pump related to filling of the fire sprinkler lines will be confirmed by the Contractor with Property Management prior to any work.

In no case shall the fire sprinkler system be Left inoperable overnight.

20. Electrical Panel Changes

All electrical circuits added to existing electrical panels or any new circuits added to new electrical panels will be properly labeled. Included in this labeling will be the area and/or equipment serviced by the circuit(s), as provided for in specifications. All electrical panels which have covers removed for any reason (e.g., so as to allow the addition of new circuits) or any new electrical panels which are installed shall be left at the end of each day with all panel covers properly in place and all panels securely closed. Under no circumstances will power serving other tenants' premises or other areas of the Building be shut off without the advance approval of Property Management and notification to the affected tenant(s).

24 hour notice is required, with prior written approval, for any scheduled power interruption,

21. Paint and Combustibles

All paint and other flammable materials will be stored in approved sealed containers. A fire extinguisher will be placed in the area where flammables are used or stored. All rags will be stored in approved containers, which prevent combustion.

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22. Use of Varnishes/Lacquer and Solvent Based Coatings in the Building

No use of varnishes/lacquer, solvent-based coatings or any volatile organic compounds (VOC) are to be sprayed or used in the Building without the prior written approval of Property Management. Contractor shall provide material data sheet(s), MSDS, for all building materials containing VOC. This type of work should be conducted off-site when at all possible. Anyone found using these compounds in or around the Building without the approval of Property Management will be required to cease such work and be subject to removal from the Property.

23. Asbestos-Containing Materials

No asbestos-containing materials shall be allowed on the Property. Contractor shall verify that no material used in the Work contains asbestos fibers. An MSDS sheet must be submitted to Property Management and kept on file on-site for all products used to perform the Work.

I have reviewed and understand the Rules and Regulations governing Work performed at Renaissance Tower. I will abide by these rules and regulations in the performance of my work. Any deviation from this will be reported to Property Management.

Date: _____

Signature: _____

Print Name: _____

Company Name: _____

Acknowledged and accepted by General Contractor

Please return this sheet to Property Management, attention Roy Smith.

Renaissance Tower/ Priority Fulfillment Services, Inc.

SAMPLE CERTIFICATE OF INSURANCE

ISSUE DATE:

PRODUCER: Name of Insurance Agency Insurance Agency Address City, State, Zip	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
	COMPANIES AFFORDING COVERAGE Company Letter: A Company Letter: B Company Letter: C Company Letter: D Company Letter: E
INSURED Name of Tenant or Contractor Tenant or Contractor Address City, State, Zip	

COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFEC. DATE	POLICY EXPIRATION DATE	LIMITS	
GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNERS & CONTRACTOR'S PROT				General Aggregate	\$ 2,000,000.00
				Products-Comp/OP Agg	\$ 1,000,000.00
				Personal & Adv. Injury	\$ 1,000,000.00
				Each Occurrence	\$ 1,000,000.00
				Fire Damage (Any one fire)	\$ 2,000,000.00
				Med. Expense (Any 1 person)	\$ 5,000.00
AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY				Combined Single Limit	\$ 1,000,000.00
				Bodily Injury (Per Person)	\$
				Bodily Injury (Per Accident)	\$
				Property Damage	\$
				Excess Liability	\$
EXCESS LIABILITY <input checked="" type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				Each Occurrence	\$ 4,000,000.00
				Aggregate	\$ 4,000,000.00
WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS	
				Each Accident	\$ 1,000,000.00
				Disease-Policy Limit	\$ 1,000,000.00
OTHER				Disease-Each Employee	\$ 1,000,000.00

Binyan Realty LP, CB Richard Ellis, Inc. shall be named as "additionally insured parties"

INCLUDES WAIVER OF SUBROGATION WITH REGARD TO WORKER'S COMPENSATION.

CERTIFICATE HOLDER Binyan Realty LP 1201 Elm Street Suite 2550 Dallas, Texas 75270	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE _____ (REPRESENTATIVE'S SIGNATURE)
---	---

Please use exact verbiage as shown in example for Certificate Holder and Additionally Insured Party.

Renaissance Tower/ Priority Fulfillment Services, Inc.

EXHIBIT D

COMMENCEMENT DATE MEMORANDUM

This Commencement Date Memorandum is being executed pursuant to that certain Lease Agreement (the "Lease") dated this ____ day of _____, 20____ between **BINYAN REALTY LP**, a Delaware limited partnership (hereinafter called "Landlord"), and **PRIORITY FULFILLMENT SERVICES, INC.**, a Delaware corporation (hereinafter called "Tenant"), pursuant to which Landlord leased to Tenant and Tenant leased from Landlord certain space in the office building located at 1201 Elm Street, in Dallas, Texas (the "Building"). Landlord and Tenant hereby agree that:

1. Landlord has fully completed any construction work required under the terms of the Work Letter attached to the Lease.
2. The Commencement Date of the Lease is _____, 20____. If the date set forth in Item 9 of the Basic Lease Provisions is different than the date set forth in the preceding sentence, then Item 9 of the Basic Lease Provisions is hereby amended to be the Commencement Date set forth in the preceding sentence.
3. The Expiration Date of the Lease is _____, 20____. If the date set forth in Item 10 of the Basic Lease Provisions is different than the date set forth in the preceding sentence, then Item 10 of the Basic Lease Provisions is hereby amended to be the Expiration Date set forth in the preceding sentence.
4. Tenant acknowledges receipt of the current Rules and Regulations for the Building.
5. All capitalized terms not defined herein shall have the meaning assigned to them in the Lease.

Agreed and executed this ____ day of _____, 20____.

LANDLORD:

BINYAN REALTY LP,
a Delaware limited partnership

By: Binyan Realty GP, LLC,
its general partner

By: _____
Name: _____
Title: _____

TENANT:

PRIORITY FULFILLMENT SERVICES, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

Renaissance Tower/ Priority Fulfillment Services, Inc.

EXHIBIT E

PARKING

1. Parking Spaces.

A. Tenant shall have the right and option, but not the obligation, to rent during the Term of the Lease (i) up to five (5) parking spaces in the Garage on a reserved basis (the “**Reserved Spaces**”), and (ii) up to fifteen (15) parking spaces in the Garage on an unreserved and non-exclusive basis (the “**Unreserved Spaces**”). Tenant’s election to rent any or all of the Reserved Spaces shall be made in writing to Landlord no later than forty-five (45) days prior to the date on which Tenant desires to rent same, and Tenant’s election to rent any or all of the Unreserved Spaces shall be made in writing to Landlord no later than thirty (30) days prior to the date on which Tenant desires to rent same. Similarly, Tenant may elect to discontinue renting any Reserved Space or Unreserved Space (but only after Tenant has rented such space for at least six months) by giving Landlord thirty (30) days prior written notice. Notwithstanding the foregoing, (i) following any election by Tenant to discontinue renting any of such Reserved Spaces or Unreserved Spaces, Landlord shall have no further obligations, and Tenant shall have no further rights, with respect to such Reserved Spaces or Unreserved Spaces that Tenant elects to discontinue renting, except that if Tenant later gives Landlord written notice that it desires to rent some or all of the discontinued Reserved Spaces or Unreserved Spaces and some or all of such spaces are then available for rent, Landlord shall make available and rent the available spaces to Tenant (up to the amount requested by Tenant), and (ii) as of the first day of the 25th Lease Month, Landlord shall have no further obligations, and Tenant shall have no further rights, with respect to any such spaces that Tenant has not elected to rent prior to such date, provided that if Tenant thereafter gives Landlord notice that it desires to rent some or all of such spaces and some or all of such spaces are then available for rent, Landlord shall make available and rent the available spaces to Tenant (up to the amount requested by Tenant). In determining whether any parking space is “available for rent,” as used in this Exhibit, Landlord shall be entitled to consider both its current and anticipated parking needs for the Building.

B. In addition to the Reserved Spaces and the Unreserved Spaces, Tenant shall have the right and option, but not the obligation, to rent during the Term of the Lease, on an unreserved and non-exclusive basis, one parking space in the Garage per each 1,600 square feet of Adjusted Agreed Rentable Area in the Premises (such additional parking spaces, the “**Discretionary Spaces**”). The term “**Adjusted Agreed Rentable Area in the Premises**” shall mean the Agreed Rentable Area in the Premises, less 32,000 square feet (as determined from time to time). Tenant’s election to rent any or all of the Discretionary Spaces shall be made in writing to Landlord no later than thirty (30) days prior to the date on which Tenant desires to rent same. Similarly, Tenant may elect to discontinue renting any Discretionary Space (but only after Tenant has rented such Discretionary Space for at least six months) by giving Landlord thirty (30) days prior written notice. Notwithstanding the foregoing, (i) following any election by Tenant to discontinue renting any of such Discretionary Spaces, Landlord shall have no further obligations, and Tenant shall have no further rights, with respect to such Discretionary Spaces that Tenant elects to discontinue renting, except that if Tenant later gives Landlord written notice that it desires to rent some or all of the discontinued Discretionary Spaces and some or all of such spaces are then available for rent, Landlord shall make available and rent the available spaces to Tenant (up to the amount requested by Tenant), and (ii) as of the first day of the 25th Lease Month, Landlord shall have no further obligations, and Tenant shall have no further rights, with respect to any Discretionary Spaces that Tenant has not elected to rent prior to such date, provided that if Tenant thereafter gives Landlord notice that it desires to rent some or all of such spaces and some or all of such spaces are then available for rent, Landlord shall make available and rent the available spaces to Tenant (up to the amount requested by Tenant).

C. In addition to the Reserved Spaces, the Unreserved Spaces and the Discretionary Spaces, Tenant shall have the right and option, but not the obligation, to rent during the Term of the Lease, on an unreserved and non-exclusive basis, up to 150 permits for parking spaces in the Garage available solely for Late Night Use (the “**Late Night Permits**”). The term “**Late Night Use**” shall mean use permitted only during the period beginning at 10:00 p.m. each evening and ending at 7:30 a.m. the following morning. Use of the Late Night Permits shall be restricted to parking spaces located on the top five levels of the Garage. Landlord

shall be entitled to require that any person using a Late Night Permit display a vehicle window sticker or other identification supplied by Landlord in order to permit Landlord to monitor the use of the Late Night Permits. Tenant's election to rent any Late Night Permits shall be made in writing to Landlord no later than thirty (30) days prior to the date on which Tenant desires to rent same. Similarly, Tenant may elect to discontinue renting any of such Late Night Permits (but only after Tenant has rented such Late Night Permit for at least six months) by giving Landlord thirty (30) days prior written notice.

2. **Parking Rental.** The rent for such parking spaces shall be the rate from time to time designated by Landlord or Landlord's garage operator as standard for the Building. On the execution date of the Lease, the monthly parking rental rates in the Garage are as follows: \$160 (plus applicable taxes) for each unreserved parking space, and \$250 (plus applicable taxes) for each reserved parking space. Landlord or Landlord's garage operator shall provide Tenant at least thirty (30) days notice of any change in the parking rates at the Garage and the giving of such notice shall be deemed an amendment to this Exhibit and Tenant shall thereafter pay the adjusted rent. All payments of rent for parking spaces shall be made (i) at the same time as Basic Monthly Rent is due under the Lease and (ii) to Landlord or to such persons (for example but without limitation, the manager of the Garage) as Landlord may direct from time to time. Notwithstanding the foregoing, provided Tenant is not in monetary default under the Lease beyond the expiration of any applicable notice and cure period, (i) 50% of the rent for the Reserved Spaces shall be abated for the first eighteen (18) Lease Months, (ii) 50% of the rent for the Unreserved Spaces shall be abated for the first six (6) Lease Months, and (iii) rent for each Late Night Permit shall be at 50% of the then-standard Building rate for unreserved parking spaces. Notwithstanding anything to the contrary set forth herein, if the vehicle of any Late Night Permit holder (i) is present in the Garage at any time between the hours of 7:31 a.m. and 9:59 p.m., or (ii) is parked in a parking space located below the top five levels of the Garage, then, for each such permit for the month in which such violation occurs, Tenant shall be charged 125% of the then-standard monthly charge for unreserved parking in the Garage. Tenant shall pay Landlord for any such increased parking charges within thirty (30) days after receiving a written demand therefor accompanied by reasonable proof of such violation.
3. **Parking Cards/Devices.** Landlord will provide Tenant with an access card or other form of access device for each parking space to which Tenant is entitled. Parking cards or any other access device or form of identification supplied by Landlord shall remain the property of Landlord and shall not be transferable. There will be a reasonable replacement charge payable by Tenant equal to the amount posted from time to time by Landlord for loss of any parking card or other form of access device issued by Landlord.
4. **Validation.** Tenant may validate visitor parking, by such method or methods as Landlord or the operator of the Garage may approve, at the validation rate from time to time generally applicable to visitor parking. Landlord shall invoice Tenant for the parking rent generated through Tenant's validations, and Tenant shall pay same by the date on which its next Basic Monthly Rent payment is due (provided that if Tenant receives Landlord's invoice less than thirty (30) days before such payment is due, then Tenant's payment for such charges shall be due on the date on which the following Basic Monthly Rent payment is due). Landlord expressly reserves the right to reasonably redesignate parking areas and to modify the parking structure for other uses or to any extent.
5. **Damage to or Condemnation of Garage.** If Landlord fails or is unable to provide any parking space to Tenant in the Garage because of damage or condemnation, such failure or inability shall never be deemed to be a default by Landlord as to permit Tenant to terminate the Lease, either in whole or in part, but Tenant's obligation to pay rent for any such parking space which is not provided by Landlord shall be abated for so long as Tenant does not have the use of such parking space and such abatement shall constitute full settlement of all claims that Tenant might otherwise have against Landlord by reason of such failure or inability to provide Tenant with such parking space. In no event shall Landlord reduce the number of Reserved Spaces available to Tenant unless the damage or condemnation shall reduce the available parking spaces in the Garage to a number that is below the total number of reserved spaces provided to tenants in the Building. In such event, Landlord shall reduce Tenant's access to Reserved Spaces in such percentage as is equivalent to the percentage reduction in each other Building tenant's access to its previously leased reserved spaces.

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6. **Rules and Regulations.** A condition of any parking shall be compliance by the parker with Landlord's reasonable rules and regulations, including any sticker or other identification system reasonably established by Landlord. Garage managers or attendants are not authorized to make or allow any exceptions to these Rules and Regulations. The following rules and regulations are in effect until notice is given to Tenant of any change. Landlord reserves the right to modify and/or adopt such other reasonable and generally applicable rules and regulations for the Garage as it reasonably deems necessary for the operation of the Garage; provided, however, that in no event may Landlord enact or enforce such rules and regulations against Tenant in a discriminatory manner.
- (a) Cars must be parked entirely within the stall lines painted on the floor.
 - (b) All directional signs and arrows must be observed.
 - (c) The speed limit shall be five (5) miles per hour.
 - (d) Parking is prohibited in areas not striped for parking, aisles, areas where "no parking" signs are posted, in cross hatched areas and in such other areas as may be designated by Landlord or Landlord's agent(s) including, but not limited to, areas designated as "Visitor Parking" or reserved spaces not rented under this Exhibit.
 - (e) Every parker is required to park and lock his own car. All responsibility for damage to cars or persons or loss of personal possessions is assumed by the parker.
 - (f) Spaces which are designated for small, intermediate or full-sized cars shall be so used. No intermediate or full-size cars shall be parked in parking spaces limited to compact cars.
7. **Default.** Failure to promptly pay the rent required hereunder shall constitute a default under the Lease. Landlord may refuse to permit any person who routinely violates the rules to park in the Garage, as evidenced by notes of such violations, copies of which shall be promptly submitted to Tenant, and any violation of the rules shall subject the car to removal at the car owner's expense. No such refusal or removal shall create any liability on Landlord or be deemed to interfere with Tenant's right to quiet possession of the Premises.

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EXHIBIT F
RULES AND REGULATIONS

1. Except as expressly permitted in the Lease, Tenant shall not use the Premises, the Building or any other part of the Property to sell any items or services at retail price or cost to the public present in the Premises, the Building or any other part of the Property without prior written approval of Landlord. The sale of services for stenography, typewriting, and blueprinting, duplicating and similar businesses shall not be conducted within the Premises, the Building or any other part of the Property for the service or accommodation of occupants of the Building (excluding Tenant and its subtenants and assigns) or users of any other part of the Property without prior written consent of Landlord. Tenant shall not conduct any auction on the Premises or any other part of the Property nor store goods, wares or merchandise on the Premises (except for Tenant's own personal use) or any other part of the Property.
2. Sidewalks, halls, doorways, vestibule, passageways, stairwells, and other similar areas shall not be obstructed or used by Tenant for a purpose other than normal ingress and egress to and from the Premises and Building.
3. Fire Arms, weapons, flammable, explosive or other hazardous liquids and materials shall not be brought on the Premises or into the Building or on the Property without the prior written consent of Landlord, except as may be expressly permitted in the Lease.
4. Except as expressly permitted in the Lease, (i) Tenant shall not make any alterations or improvements to the Premises without the prior written consent of Landlord and (ii) all improvements and the methods of installing and constructing such improvements must be approved in writing by Landlord prior to commencement of installation and/or construction. Should Tenant require telegraphic, telephonic, enunciator or other communication service, Landlord will direct the electrician as to where and how wires are to be introduced and placed and none shall be introduced or placed except as Landlord reasonably shall direct. Except as expressly permitted in the Lease, all contractors and technicians performing work for Tenant within the Building shall be referred to Landlord for approval before performing such work.
5. Movement into or out of the Building of freight, furniture, office equipment or other material for dispatch or receipt by or on behalf of Tenant that requires movement through public corridors or lobbies or entrances to the Building shall be done at hours and in a manner reasonably approved in writing by Landlord for such purposes from time to time. Only licensed commercial movers shall be used for moving freight, furniture, or office equipment to and from the Premises and Building. All hand trucks shall be equipped with rubber tires and rubber side guards. Tenant shall be responsible for all damage to the Building inflicted by Tenant's agents and employees in moving equipment or furniture into or out of the Building.
6. Request by Tenant for building services, maintenance or repair shall be made in writing to the office of the Building Manager. The Angus Online Request System is equivalent to submitting a request in writing.
7. Except as expressly permitted in the Lease, Tenant shall not change locks or install additional locks on doors without the prior written consent of Landlord. Tenant shall not make or cause to be made duplicates of keys procured from Landlord without the prior written approval of Landlord, not to be unreasonably withheld, conditioned or delayed. All keys to the Premises and combinations to vaults shall be surrendered to Landlord upon tenancy termination.
8. Tenant shall give prompt notice to the office of the Building Manager of any damage to or defects in plumbing, electrical fixtures or heating and cooling equipment which become known to Tenant. Liquids, or other materials or substances which may cause damage to the plumbing, shall not be put into the lavatories, water closets or other plumbing fixtures by Tenant, its agents, employees or invitees. Damages resulting to such fixtures or appliances from misuse by Tenant or Tenant's agents, employees or invitees shall be paid by Tenant, and Landlord shall not in any case be liable therefore. The water closets and other water fixtures

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shall not be used for any purpose other than those for which they were constructed and any damage resulting to them from misuse shall be borne by the Tenant. Tenant shall not waste water by interfering with the faucets.

9. Except as expressly permitted in the Lease, no food shall be prepared in or distributed from the Premises without prior written approval of the Building manager. Vending machines or dispensing machines of any kind will not be placed in the Premises by Tenant unless prior written approval has been obtained from Landlord or unless same are reserved solely for use by the employees, agents and contractors of Tenant and its subtenants and assigns.
10. Landlord shall have the power to reasonably prescribe the weight and position of safes, filing cabinets or other heavy equipment that may overstress any portion of the floor. Any damage done to the Building by the improper placement of heavy items that overstress the floor will be repaired at the sole expense of Tenant. Tenant shall notify the Building Manager when safes or other heavy equipment brought into or out of the Building, and the moving shall be done under the supervision of the Building Manager, after prior written permission from Landlord, not to be unreasonably withheld, conditioned or delayed. Persons employed to move such property must be pre-approved by Landlord.
11. Tenant shall cooperate with Building employees in keeping the Premises neat and clean. Nothing shall be swept or thrown into the corridors, halls, elevator shafts or stairways. Trash shall only be disposed of in appropriate receptacles approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed.
12. Tenant, its employees, or agents, or anyone else who desire to enter the Building after normal working hours, will be required to identify themselves and to sign in upon entry and sign out upon leaving, giving their location during their stay and their time of arrival and departure. The Building will normally be open for business from 7:00 a.m. until 6:00 p.m. Monday through Friday and 8:00 a.m. until 1:00 p.m. on Saturdays, the following holidays excepted: January 1st (New Year's Day); Last Monday in May (Memorial Day); July 4th (Independence Day); First Monday in September (Labor Day); Fourth Thursday in November (Thanksgiving Day) and the day after Thanksgiving; December 24th (Christmas Eve), December 25th (Christmas Day) and any other day on which tenants in other buildings comparable to the Building are generally closed. The foregoing shall not be deemed to limit Tenant's access rights expressly set forth in the Lease.
13. Tenant shall not install any solar screen material, window shades, blinds, drapes, awnings, window ventilators, or other similar equipment and any window treatment of any kind whatsoever, without Landlord's prior written consent. Tenant shall not maintain any non-Building standard lighting, signage and furnishings (excluding typical office task lighting and furnishings) that may be visible from the exterior of the Building or Common Areas and shall promptly change any unapproved item upon written notice by Landlord, at Tenant's expense.
14. No sign, advertisement, notice or handbill shall be exhibited, distributed, painted or affixed by Tenant, its employees or agents, on, about or from any part of the Premises or from any other part of the Property without the prior written consent of Landlord.
15. Tenant shall not permit any improper, objectionable or unpleasant noises or odors in (or to be emitted from) the Premises or the Building, nor shall Tenant permit the operation of any machinery or equipment in the Premises that could in any way annoy any other tenant in the Building, nor shall Tenant otherwise interfere in any way with other tenants in the Building or adjoining landowners or persons having business with such other tenants or adjoining landowners.
16. Tenant shall keep all corridor doors, when not in use, closed.
17. Tenant shall not use, or permit the use of, the Premises or any portion thereof as sleeping or lodging quarters.

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18. Tenant shall place solid pads under all rolling chairs.
19. Tenant agrees to cooperate and assist Landlord (at no expense to Tenant) in the prevention of canvassing, soliciting and peddling within the Building and on the Property.
20. Tenant shall not sell lottery tickets or conduct any other form of gambling from or within the Premises or any other part of the Property. Only the Renaissance Convenience Store may sell lottery tickets.
21. Except for Seeing Eye dogs assisting the disabled, Tenant shall not keep any animals or birds in or about the Premises or the Building.
22. Tenant shall comply with all reasonable parking rules and regulations as may be posted and distributed from time to time.
23. Unless otherwise expressly provided in the Lease, Landlord will not be responsible for personal property, equipment, money, or jewelry lost or stolen from the Premises.
24. Tenant shall not allow space heaters to be used in their space or any electric appliance that are reasonably deemed to be an electric hazard or over load of the breaker or electric panel.
25. Tenant shall comply with the Dallas City Ordinance 27440 or any like ordinance currently in force at the time. Smoking is prohibited within 15 feet of any entrance to an indoor or enclosed area, in any area designated as nonsmoking and marked with a no smoking sign. Smoking is allowed in an unenclosed outdoor seating area. The building patio is located outside the west exit doors. All other areas are designated as no smoking areas.
26. Tenant will at all times cooperate with Landlord in preserving a first class image for the Building as a premier multi-tenant office building in the Dallas Central Business District (the "CBD"). Toward that end, Tenant shall ensure that its employees and agents are appropriately attired at all times while at the Building or the Property. During the Building's normal business hours, such attire shall reflect a professional appearance, comporting with the standard of "business attire" or "business casual," as such terms are generally used in the CBD business community. At all times other than the Building's normal business hours, such attire may also include more casual attire, such as shorts, but shall remain within the generally accepted standards for after-hours attire as is customary in first class multi-tenant office buildings in the CBD. At no time shall any of the following be permitted attire at the Building or the Property: swimwear or sleepwear; slippers, "flip-flops" or similar loose-fitting footwear; clothing made of "see-through" materials or that is otherwise revealing in any unprofessional manner; excessively baggy or sagging pants or shorts; torn, frayed, ripped or dirty garments; or any clothing containing profanity, obscenities or pornographic or other obscene images.
27. At times other than the Building's normal business hours, the Common Areas of the Building and Property shall be available for use by tenants and their employees and agents solely for the purpose of ingress and egress to their leased premises and for the use of restroom facilities (for tenants on multi-tenant floors). The Common Areas shall not be available for other purposes outside of the Building's normal business hours, and neither tenants nor their employees or agents shall be permitted to loiter or congregate in any Common Areas for any purpose during such time.

Landlord reserves the right to rescind any of these Rules and Regulations and to make such other further reasonable Rules and Regulations as in its reasonable judgment shall from time to time be needed for the safety, protection, care and cleanliness of the Building or any other portion of the Property, the orderly management of the Building and/or the protection and comfort of the tenants and their agents, employees and invitees and, when made and written notice thereof is given to a tenant, shall be binding upon it in like manner as if originally herein prescribed. These Rules and Regulations and no amendments hereto shall ever be constructed to create any obligations on Landlord. In the event of any conflict between these Rules and Regulations and the Lease of which they are a part, the Lease shall control.

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EXHIBIT G

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EXHIBIT H
JANITORIAL SPECIFICATIONS

CLEANING STANDARDS AND FREQUENCY
FOR
RENAISSANCE TOWER
CLEANING STANDARDS AND FREQUENCY
FOR
RENAISSANCE TOWER

I. CLEANING PERFORMANCE STANDARDS

A. LOBBY

1. Sweeping and Dusting
 - a. Lobby and entrance floors will be clean and free of dirt streaks and there will be no dirt remaining in corners, behind doors, or where the dirt is picked up with the dustpan after the sweeping operation.
 - b. Wads of gum, tar, and other sticky substances will be removed from the area.
 - c. Grills and woodwork will be dust-free after dusting. Dust will have been removed rather than merely pushed around.
 - d. There will not be any spots or smudges on the wall surfaces, caused by touching the wall with a treated dust cloth, mop or scrubber.
 - e. All glass surfaces will be free of spots, streaks, and smudges both inside and outside the Building.
2. Polishing and Wall Spotting
 - a. Doorknobs, push bars, kick plates, railings, doors and other surfaces will be cleaned and polished to an acceptable luster.
 - b. Drinking fountains will be cleaned, disinfected, and free of stains. The wall surfaces around the drinking fountains will be free of water spots and streaks.
3. Mopping
 - a. Lobby and entrance floors will be free of loose and/or caked dirt particles and will present an overall appearance of cleanliness after the mopping operation.
 - b. Marble floors should be maintained by thoroughly dust mopping and cleaning any spills or spots with a damp mop using clean clear water.

- c. Walls, baseboards, and other surfaces will be free of watermarks, scars from the cleaning equipment striking the surfaces, and splashes from the cleaning solution and rinse water.
- d. All surfaces will be dry and the corners and crevices clean after mopping.
- e. Entrance and rain mats will be free of dust, dirt and other debris. Mats will be vacuumed as needed during the day and again each night and shampooed once a week.

B. ROOM CLEANING

- 1. Trash Removal
 - a. Recycling guidelines will be adhered to as outlined in the current program.
 - b. All wastepaper baskets will be empty and in place, clean and ready for use. Liners will be replaced nightly.
 - c. Cleaners' trash bags, when filled, will be disposed of quickly.
- 2. Sweeping or Vacuum Cleaning
 - a. All carpeting will be vacuumed and spot cleaned using commercial grade equipment.
 - b. Baseboards, furniture, and equipment will not be disfigured or damaged during the cleaning operation.
 - c. Furniture and equipment moved during sweeping will be replaced.
 - d. Chairs shall be checked monthly to see if vacuuming is required.
- 3. Dusting
 - a. Desktop dusting will be performed nightly. (Exposed horizontal surfaces only to be dusted.)
 - b. Corners and crevices will be free from any dust.
 - c. Windowsills, door ledges, doorframes, door louvers, window frames, wainscoting, baseboards, columns, and partitions will be free of dust.
 - d. Mirrors, ashtrays, door glass, and all other glass will be clean and free of dirt, dust, streaks, and spots. (this does not include building exterior windows).
- 4. Rugs/Carpets
 - a. Rugs will be clean and free from dust, dirt and other debris.
 - b. There will be no trash or foreign matter under desks, tables or chairs.
 - c. Any furniture moved during rug cleaning will be replaced.

5. Drinking Fountains
 - a. Drinking fountains will be clean and free of stains.
 - b. All other surfaces of the fountain will be free of spots, and streaks.

C. STAIRWAY CLEANING

1. Sweeping and Dusting
 - a. Stair landings, steps and all corners of stair treads will be free of loose dirt or dust streaks at all times.
 - b. Stair railings, door moldings, ledges, and grills will be dust free at all times.
2. Cleaning, Polishing and Wall Spotting
 - a. Glass surfaces will be clean and free of any smudges, finger marks, and dirt.
 - b. Handrails, doorknobs, and other surfaces will be clean.
 - c. Walls will be free of dirt spots of any kind.
 - d. Fire extinguisher cabinets and glass door fronts, as well as inside surfaces shall be clean and free of any dirt.
3. Mopping and Scrubbing
 - a. Stair landings and steps will be free of loose and/or caked dirt particles.
 - b. Walls, baseboards, and stair risers will be free of loose and/or caked dirt particles.
 - c. All surfaces will be dry and the corners and cracks clean after dry mopping.

D. ELEVATOR CLEANING

1. Floor Cleaning and Dusting
 - a. Interior surfaces of elevator will be free of loose dirt and dust streaks.
 - b. Carpets shall be spot cleaned, as necessary and proper maintenance shall be kept to ensure they remain fresh and unsoiled looking.
2. Cleaning, Polishing, and Wall Spotting
 - a. Handrails, controls, and other surfaces will be clean and polished.
 - b. Walls will be free of finger marks and other smudges.
 - c. All elevator tracks will be carefully and thoroughly cleaned and shined weekly.
 - d. Ceilings shall be free of dust and fingerprints.
3. Mopping Waxing and Polishing

- a. Elevator walls will be free of splash marks, floor will be clean, and base plates and thresholds polished.

E. RESTROOM CLEANING

1. Replenish Supplies
 - a. All dispensers of supplies will be clean and filled with the proper supplies (towels, soap, napkins, etc.), in the standard quantities provided for in the Building janitorial contract. Above standard usage or specialty requirements such as seat covers, private restrooms and kitchens supplies will be billed accordingly for Landlord's actual, reasonable out-of-pocket cost.
 - b. Trash containers will be emptied and clean liners inserted.
 - c. Extra supplies will not be left on countertops, toilet backs or other non-dispenser locations.
2. Clean Sanitary Receptacles
 - a. All sanitary receptacles will be clean, both inside and outside, and contain a new wax liner.
 - b. All sanitary receptacles will be free of spots, stains and finger marks.
 - c. All sanitary receptacles will be free of odors.
3. Clean Toilet Room Fixtures
 - a. All porcelain and Corian surfaces of wash basins, toilets, and urinals will be free of dust, dirt, spots.
 - b. The wall surfaces will be free of spots and smears.
 - c. All toilet seats will be left in raised position after cleaning. They will be free of spots and the seat hinges will be free of mold.
 - d. The plumbing fixtures will be free of mold and water stains.
4. Clean Supply Dispensers, Tile Walls, Stall Partitions, Doors, Shelves, Mirrors and Floors.
 - a. All supply dispensers will be clean and free of finger marks and water spots.
 - b. All shelves and shelf brackets will be free of gum, dust, fingerprints, water stains, smudges and other soil.
 - c. All mirrors should be free of streaks, smudges, water spots, dust; lipstick smudges.
 - d. Walls, stall partitions and doors will be free of hand marks, dust, pencil marks, lipstick smudges, water streaks and mold.
 - e. Floors will be free of dirt and dust, rust, gum, grease, black marks, loose paper, water, mop stains, and strings.

F. WALL CLEANING

1. Wall Cleaning
 - a. There will be no streaks or spots remaining on walls or signs of overlapping.
 - b. Wall will be uniformly clean all over.
 - c. Woodwork on doors, windows and moldings will be clean.

G. FLOOR CLEANING

1. Preparation for Mopping
 - a. Cleaning solutions, where used, will have been mixed thoroughly and in the proportions specified without undue spillage of either solution or rinse water.
 - b. Proper precautions will have been taken to advise building occupants of wet and/or slippery floor conditions. Yellow caution signs will be set up on any wet floor.
2. Floor Mopping
 - a. The mopping work will have been performed in such manner as to properly clean the floor surface. Proper extraction methods will be used to eliminate residue buildup in seams and discoloring of grout.
 - b. All mopped areas will be clean and free from dirt, streaks, mop marks, and strands, etc.; properly rinsed, if required, and dry-mopped to present an overall appearance of cleanliness.
 - c. Walls, baseboards and other surfaces will be free of watermarks, scars, or marks from the cleaning equipment striking the surfaces and splashings from the cleaning solutions and rinse water.
 - d. Care will have been taken throughout the mopping operation to prevent the liquids and equipment from coming into contact with electric outlets located in the floor areas or baseboards.
3. Preparation of Floor Areas for Waxing
 - a. The floor area will be free of dirt and dissolved wax particles, cleaning material residue, streaks, mop strands and otherwise be thoroughly cleaned.
 - b. Walls, baseboards, furniture bases, and other surfaces will be free of watermarks, marks from the cleaning equipment and splashings from the floor cleaning solutions.
 - c. All cleaned surfaces will be wiped dry and the floor ready for application of wax.
4. Waxing

- a. The surface waxed will have had the proper type of wax applied in accordance with the best operating practices.
 - b. The wax will be applied thinly, uniformly and evenly in such a manner as to avoid skipping of areas, and will be allowed to properly dry before being polished.
 - c. Walls, baseboards, furniture and other surfaces will be free of wax residue and marks from the equipment. Covering for wall protection will be used in areas where paneling or cloth fabric is found.
 - d. The waxed area will be free of streaks, mop strand marks, skipped areas, and other evidence of improper wax application.
5. Buffing
- a. The waxed or damp-mopped surface shall have dried to the touch after being buffed.
 - b. Baseboards, furniture and equipment will not be disfigured or damaged during the buffing work.
 - c. The finished area will be polished to an acceptable, uniform luster.
6. Furniture Arrangements in Waxed Areas
- a. All rug edges will be replaced to their proper position.
 - b. Care will have been exercised to avoid damage to building and/or office equipment during waxing process.
7. Preparation for Floor Scrubbing
- a. The machine and other equipment will be checked and readied for work in careful and thorough manner.
 - b. Cleaning solutions will be mixed thoroughly and in proportions specified without undue spillage of either solution or rinse water.
8. Operation of Machinery
- a. The mechanized equipment will be operated only by authorized personnel having sufficient instructions as to its proper and efficient operation.
 - b. The scrubbing machine will be started and operated in a safe and reasonable manner.
 - c. Care of the mechanical equipment will be exercised at all times during its operation to avoid damage to personnel, the building, and equipment.
9. Floor Scrubbing and Rinsing
- a. Proper precautions will be utilized to inform the building occupants of wet and/or slippery conditions during the scrubbing operation.
 - b. The scrubbing work will be performed in such manner as to properly clean the floor surface with care taken to see that the proper cleaning solution is used.

- c. All areas, including areas inaccessible to the machine and which are cleaned by means of deck scrubbing brushes and/or mops, will be clean and free of dirt, water streaks, mop marks and string; properly rinsed; and dry-mopped to present an overall appearance of cleanliness.
- d. Walls, baseboards and other surfaces will be free of watermarks, scars from the cleaning equipment striking the surfaces and splashing from the cleaning solution and rinse water.

H. WASTE DISPOSAL

1. Paper and Trash Collection, Removal and Disposal
 - a. Recycling guidelines will be followed as set forth in the recycling program.
 - b. Bagged trash will be delivered in leak proof containers to a designated trash area before being removed to the proper dumpsters nightly.
 - c. All unused waste collection bags will be in the proper storage location.
 - d. Cardboard boxes will be broken down and disposed of properly.
 - e. Any paper and trash spilled (including liquids) during the collection process will have been cleaned up.

II. CLEANING FREQUENCY

A. GENERAL CLEANING—FIVE DAYS PER WEEK (Nightly Sunday – Thursday)

1. All carpeting will be vacuumed.
2. Empty and clean all wastebaskets, sand urns, replacing sand as required, receptacles, ash trays, etc, damp dust or wet wipe and dry polish as necessary. (Liners will be placed in receptacles and wastebaskets and replaced as needed.)
3. Remove all trash and wastepaper to designated collection points. All trash will be placed in designated area and either removed nightly or placed in trash compactor.
4. All surfaces of desks, enclosures, and horizontal surfaces of all other furniture, file cabinets, lockers, woodwork, window sills, etc. should be damp dusted with clean dry cloth. (Exposed horizontal surfaces only to be dusted.)
5. Drinking fountains will be cleaned and disinfected, and all exposed metal shall be polished and kept free of foreign matter. All walls/vinyl areas around drinking fountains will be kept free of fingerprints and other matter.
6. All glass doors and including bright metal finishes and handrails will be dusted on interior and exterior.
7. All tenant's entrance doors, frames, glass and adjacent metal will be dusted. Partition glass will be spot cleaned to remove smudges and fingerprints.
8. Vacuum entrance mats nightly.

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9. All thresholds shall be cleaned nightly.
10. Clean restroom mirrors, powder shelves, bright work, dispensers, etc.
11. Clean and sanitize all restroom fixtures. Toilet, wash basins, urinals, shower walls, and floors are to be kept free of scale and mildew. Wash and sanitize top and underside of toilet seats.
12. Refill soap, towel and tissue containers and holders.
13. Wipe down toilet partitions and counters and walls around wash basins.
14. Mop all restroom floors.
15. Mop all hard surfaced floors.
16. Mop outside main lobby entrances.
17. Mop and sweep loading dock and service elevator area.
18. Wipe clean accessible horizontal surfaces.
19. Empty and sanitize all receptacles and sanitary disposals.
20. All counter tops of wet bar areas will be wiped down nightly and sinks will be cleaned if free of dishes.
21. Clean all lobby furniture; remove fingerprints and smudges from metal and glass trim on furniture.

B. GENERAL CLEANING—WEEKLY

1. Vacuum upholstery in executive areas.
2. Dust hanging pictures, frames and picture glass.
3. Restroom air supply and return grills will be thoroughly cleaned.
4. All building vacant suites are to be vacuumed and cleaned.

(a) C. GENERAL CLEANING—MONTHLY

1. Dust exterior of lighting fixtures and air conditioning grills.
2. Window blinds are to be dusted or vacuumed.
3. Engineering to mop machine, electrical., telephone rooms and clean inside fire extinguisher cabinets.

D. GENERAL CLEANING—QUARTERLY

1. Dust and spot clean where necessary all vertical surfaces such as walls, partitions, ventilating louvers and other surfaces not reached in nightly or monthly cleaning.
2. Thoroughly sweep and mop tile flooring in basement corridors as needed.

E. ELEVATORS AND ESCALATORS

1. Elevator carpet will be vacuumed daily, spot cleaned as required.
2. Exterior doors and trim will be dusted and fingerprint and smudges removed daily.
3. Fingerprints and smudges will be removed daily from the interior metal doors and panels.
4. Ceiling will be dusted daily and wiped down monthly.
5. Elevator thresholds will be brushed clean and polished daily.
6. Escalator skirts and trim will be dusted nightly and polished washed monthly.
7. Escalator treads will be cleaned weekly with a specialized escalator machine.

F. FLOOR CLEANING

1. Hard surface (marble not included)
 - a. Common areas: sweep and wet mop nightly, spray buff monthly, scrub and refinish bi-annually.
 - b. Tenant areas: dust mop and mop nightly, spray buff monthly, scrub and refinish bi-annually.
 - c. Restroom floors: power scrubbed monthly.
 - d. Scrub and clean door thresholds daily.
2. Concrete floors
 - a. Damp mop weekly and scrub quarterly.
 - b. Police building stairwells weekly and wet mop quarterly.
3. Wood Floors
 - a. Dust mop daily.
 - b. Spot damp mop for spillage daily.
4. Carpet Floors
 - a. Vacuum all walkways and common areas nightly and all remaining areas weekly.
 - b. Spot removal as required.
5. Marble Floors

- a. Common Building areas to be maintained on a monthly basis following marble/granite care instructions.
- b. Tenant areas to be dust mopped nightly and damp mop spills/ spots cleaned as needed using clean clear water only.

G. BUILDING EXTERIOR

1. Thoroughly sweep, pick up trash and completely hose down (i.e. water broom) all sidewalks, corridors and entrance areas and areas around the sidewalks, corridors and entrance areas and areas around the planters daily.

H. GARAGE

1. Nightly
 - a. Clean garage elevator lobbies.
 - b. Spot check and clean or wash walls as needed.
 - c. Spot check stairwells and remove any debris. Sweep as necessary.
 - d. Empty all trash receptacles and replace liners.
2. Weekly
 - a. Replace sand in ash urns.
 - b. Dust and wipe down exterior light fixtures.
4. Monthly
 - a. Mop all landings and steps in stairwells.
 - b. Shampoo carpet in elevator cabs

I. DAILY JANITORIAL SERVICES

(occurring between 7:30 a.m. and 5:30 p.m. Monday through Friday)

1. Cleaning garage elevator lobbies of trash and debris including daily cleaning of elevator cabs.
2. Checking all stairwells in Renaissance Tower and the Renaissance Tower Parking Garage.
3. Putting out rain mats and umbrella sleeves in lobby when necessary.
4. Re-stocking according to Section I.E.1(a) above and touch-up cleaning of restrooms on all occupied floors, twice per day with one time occurring in the morning and again in the afternoon. Additional stocking or touch-ups requested outside the normal rotation will be billed accordingly for Landlord's actual, reasonable out-of-pocket cost.
5. Cleaning chrome inside building.
6. Cleaning elevator lobbies throughout building.

7. Cleaning security and fire control areas.
8. Spot cleaning all glass building entrances.
9. Picking up trash, sweeping or mopping, and cleaning glass in garage lobbies. Cleaning lobby and elevator cab floors as necessary. Pick up trash outside facility.
10. Vacuuming lobby and elevator carpets as needed daily during low traffic periods.
11. Cleaning around Building exterior, including tree pits and lights at least twice per day. Remove trash from flowerbeds. Smoking area in the Plaza shall be cleaned as needed throughout the day.
12. Dry mopping (with treated mop) lobby floors as needed.
13. Performing other janitorial services as requested by Building Management.

J. DAILY JANITORIAL SPECIFICATIONS FOR THE CRYSTAL COURT

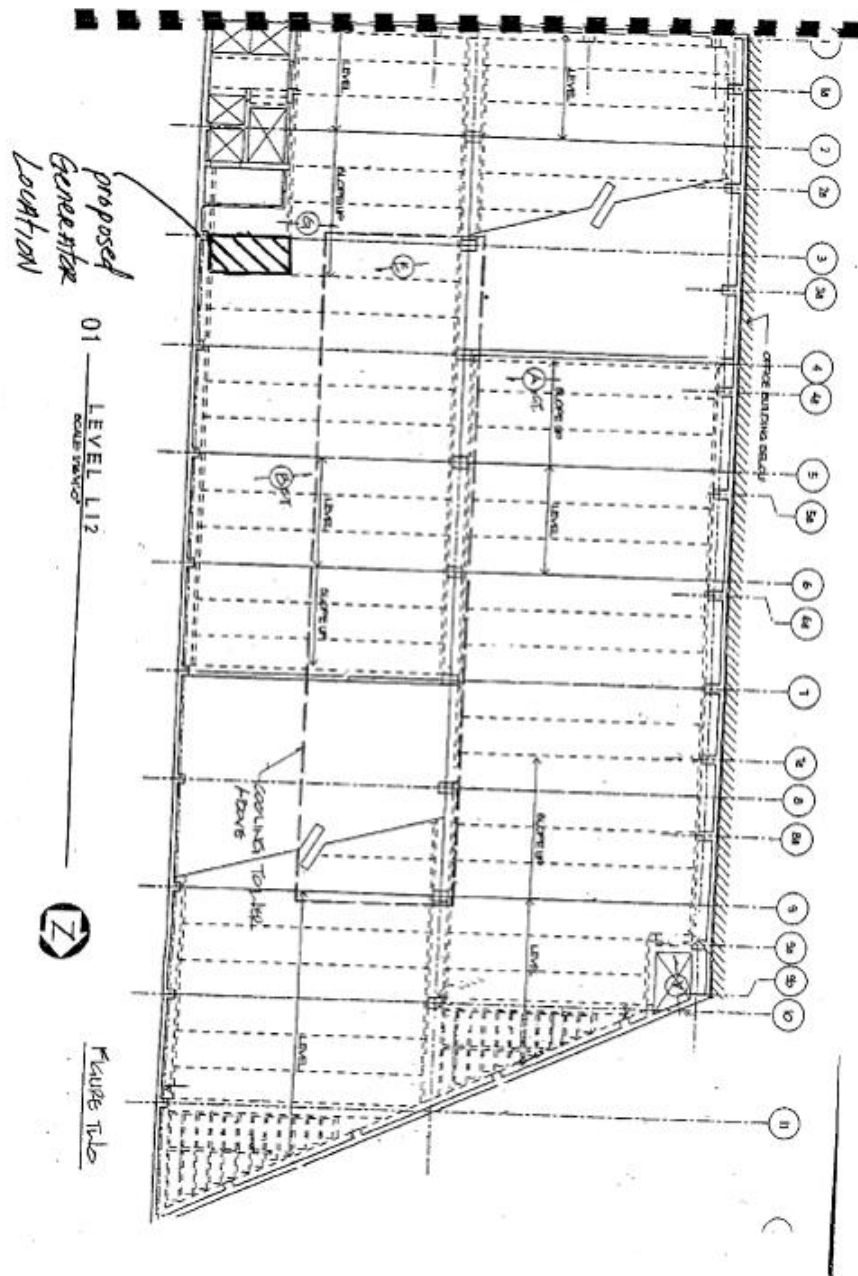
1. Remove all trays and trash from tables.
2. Damp wipe all tables and chairs after patrons leave.
3. Return all trays to retail tenant areas.
4. Damp mop floors where spillage occurs, sweep when necessary.
5. Empty and sanitize all receptacles, remove wastepaper and trash from premises; replace trashcan liners.
6. Remove all finger marks and smudges from all vertical surfaces, including doors, door frames and around light switches.

K. WINDOW WASHING

1. Exterior of exterior windows: twice per year.
2. Interior of exterior windows: once per year (interior tenant glass excluded)

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EXHIBIT I
GENERATOR LOCATION



RIDER 1
RENEWAL OPTION

- A. If, and only if, on the date Tenant notifies Landlord of its intention to renew the term of the Lease (as provided below), (i) Tenant is not in default under the Lease beyond applicable notice and curative periods, and (ii) the Lease is in full force and effect, then Tenant, but not any assignee or subtenant of Tenant (other than an assignee that is an Affiliate), shall have and may exercise an option to renew the Lease for one (1) additional term of five (5) years (the “**Renewal Term**”) upon the same terms and conditions contained in the Lease with the exceptions that (x) the Lease shall not be further available for renewal, and (y) the rental for the Renewal Term shall be the “**Renewal Rental Rate**”. The Renewal Rental Rate is hereby defined to mean the rate (or rates) a willing tenant would pay and a willing landlord would accept for a comparable transaction (i.e., a renewal in comparable space and in a comparable building) as of the commencement date of the applicable term, neither being under any compulsion to lease and both having reasonable knowledge of the relevant facts, for the uses permitted hereunder if offered for lease in the open market with a reasonable period of time in which to consummate a transaction. In calculating the Renewal Rental Rate, all relevant factors will be taken into account, including without limitation the location and quality of the Building, lease term, amenities of the Property, condition of the space, and finish allowances and base year applicable to the Renewal Rental Rate as set forth above, rent being charged in other first-class office buildings located in Dallas for leases then being entered into for space comparable to the Premises; location, quality, amenities, age and reputation of the buildings in which the space being compared is located; use and size of the space under comparison; location and/or floor level of the subject space and any comparison space within their respective buildings, including view, elevator lobby exposure, etc.; extent of services provided or to be provided; extent and condition of leasehold improvements in the subject space and in any comparison space; abatements pertaining to the subject space and to any comparison space; inclusion of parking charges in rental, if applicable; lease takeovers/assumptions by the landlord of the comparison space, if applicable; moving allowances granted, if any in connection with the subject space and with respect to any comparison space; relocation allowances granted, if any in connection with the subject space and with respect to any comparison space; construction, refurbishment and repainting allowances granted, if any in connection with the subject space and with respect to any comparison space; any other concessions or inducements in connection with the subject space and with respect to any comparison space; and differences, if any, between the brokerage commissions payable for a renewal of the Premises as compared to the brokerage commissions or the comparison premises.
- B. If Tenant desires to renew the Lease, Tenant must notify Landlord in writing of its intention to renew on or before the date which is at least nine (9) months but no more than twelve (12) months prior to the Expiration Date. Landlord shall, within the next sixty (60) days, notify Tenant in writing of Landlord’s determination of the Renewal Rental Rate (“**Landlord’s Initial Determination**”) and Tenant shall, within the next thirty (30) days following receipt of Landlord’s Initial Determination, notify Landlord in writing of Tenant’s acceptance or rejection of Landlord’s Initial Determination. If Tenant timely notifies Landlord of Tenant’s acceptance of Landlord’s Initial Determination, the Lease shall be extended as provided herein and Landlord and Tenant shall enter into an amendment to the Lease to reflect the extension of the term and changes in Rent in accordance with this Rider 1. If Tenant timely notifies Landlord in writing of Tenant’s rejection of Landlord’s Initial Determination, then Landlord and Tenant may agree to meet within the thirty (30) day period following Landlord’s receipt of Tenant’s rejection notice in an attempt to reach agreement on the Renewal Rental Rate. If Landlord and Tenant fail to reach agreement on the Renewal Rental Rate within such thirty (30) day period, then Tenant shall, by written notice to Landlord given prior to the expiration of such thirty (30) day period, elect either to (x) rescind its election to renew the Lease, in which case the Lease shall end on the then-current Expiration Date and neither Landlord nor Tenant shall have any further obligation or liability under this Rider, or (y) submit the determination of the Renewal Rental Rate to arbitration in accordance with Section C below (with Tenant’s failure to (i) specifically elect arbitration or (ii) timely provide notice of its election to be construed as its election to rescind its election to renew). If Tenant fails to timely notify Landlord of Tenant’s acceptance or rejection of Landlord’s Initial Determination, then Tenant shall be deemed to have rejected Landlord’s Initial Determination and elected to rescind its election to renew. Any purported acceptance by Tenant of Landlord’s Initial Determination that contains any conditions or qualifications shall be deemed to constitute Tenant’s rejection of Landlord’s

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Initial Determination. Furthermore, if Tenant is in default beyond the expiration of all applicable cure periods under the Lease as of the Expiration Date of the then-current term, then Tenant's rights and Landlord's obligations under this Rider shall be voidable at the option of Landlord.

- C. Within fifteen (15) days following receipt of a notice of the submission for determination of the Renewal Rental Rate through arbitration, Landlord and Tenant shall each appoint an arbitrator (collectively, the "**Arbitrators**") and notify the other party of such appointment. Within twenty (20) days following such notice of the Arbitrators, Landlord and Tenant shall submit to the Arbitrators their respective assessments of the Renewal Rental Rate for the Renewal Term, together with the supporting data that was used to calculate such assessments (provided that the assessment submitted to the Arbitrators by Landlord shall not exceed Landlord's Initial Determination). Within twenty (20) days after such submission to the Arbitrators, each of the Arbitrators shall select the assessment (i.e., either Landlord's assessment or Tenant's assessment) which is closest to such Arbitrator's determination of the Renewal Rental Rate for the Renewal Term, which assessment shall be binding on Landlord and Tenant. If the Arbitrators are unable to agree upon an assessment within such time period, then they shall, within another ten (10) days, select a third Arbitrator (or if they cannot agree on the selection of a third Arbitrator, the American Arbitration Association shall so select). The third Arbitrator, using all of the information provided to the initial Arbitrators, as well as any additional analyses or data compiled or prepared by the initial Arbitrators, shall then select the assessment (i.e., either Landlord's assessment or Tenant's assessment) which is closest to such Arbitrator's determination of the Renewal Rental Rate for the Renewal Term, which assessment shall be binding on Landlord and Tenant. The cost of the Arbitrator selected by Landlord shall be paid by Landlord, the cost of the Arbitrator selected by Tenant shall be paid by Tenant, and the cost of third Arbitrator shall be borne by the party whose assessment is not selected. If Tenant has exercised the right to extend the Term and the Renewal Rental Rate for the Renewal Term has not been determined by the time Rent for the Renewal Term is scheduled to begin, then Tenant shall pay Rent for the Renewal Term in accordance with the Rent in effect immediately prior to the Renewal Term until such time as the Renewal Rental Rate for the Renewal Term has been determined, at which time appropriate cash payments shall be promptly made by Landlord or Tenant such that Tenant is charged Rent based on the Renewal Rental Rate for the Renewal Term during the interval in question. Each Arbitrator shall (i) be a real estate broker or leasing agent licensed under the laws of the State of Texas, (ii) have been actively engaged in leasing transactions involving in the aggregate more than 500,000 square feet of rentable area of office space in Dallas, Texas (of which at least 250,000 shall have been in the Dallas central business district) over the immediately preceding fifteen (15) year period, and (iii) have general experience and competence in determining market rates for office space comparable to the Premises. In addition, the third Arbitrator shall have not represented either Landlord or Tenant during the preceding fifteen year period. In no event shall any of the Arbitrators have an economic interest in the final determination of the Renewal Rental Rate. The decision of the arbitrator(s) shall be final and non-appealable, shall be binding on both Landlord and Tenant, and may be enforced in any court of competent jurisdiction in Dallas County, Texas. All information produced by the parties in arbitration shall remain confidential and shall not be made part of any public record. Neither party shall make any public announcement of the outcome of arbitration until both parties have agreed upon the terms of such press release or other public announcement. Within twenty (20) days after the Arbitrators' determination of the Renewal Rental Rate, Landlord and Tenant will enter into an amendment to the Lease prepared by Landlord, in form reasonably acceptable to Tenant, to reflect the extension of the term and Renewal Rental Rate determined in accordance with this Rider.

D. Time is of the essence in any exercise by Tenant of its rights under this Rider.

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RIDER 2
EXPANSION OPTION

A. FIRST EXPANSION OPTION – HEADWAY SPACE

1. Subject to the terms of this Rider, Tenant shall have the option (the “**First Expansion Option**”) to lease that portion of the 5th floor of the Building containing 14,826 square feet of Agreed Rentable Area, as more particularly identified on **Schedule 1** attached hereto (the “**Headway Space**”). Tenant shall exercise the First Expansion Option, if at all, by delivering written notice of such exercise on or before the last day of the 22nd Lease Month (such notice, the “**First Expansion Notice**”). Tenant shall be required to lease all of the Headway Space if it elects to exercise the First Expansion Option. If Tenant fails to exercise the First Expansion Option in the manner set forth in this Rider, the First Expansion Option shall expire and be of no further force or effect.

2. The Headway Space shall be leased to Tenant upon all terms and conditions of the Lease with the following exceptions:

(a) The Basic Annual Rent for the applicable Headway Space will be equal to the product of the Basic Annual Rent per square foot of Agreed Rentable Area applicable to the Premises (at the then applicable Basic Annual Rent rate) under Item 3 of the Basic Lease Provisions, multiplied by the Agreed Rentable Area of the Headway Space as set forth above, with such Basic Rent increasing from time to time in accordance with the increases in Basic Rent applicable to the remainder of the Premises.

(b) The Headway Space shall be delivered to Tenant in “as is” condition. Tenant shall be entitled to a finish allowance equal to the product of (i) \$42.00, multiplied by (ii) the number of square feet of Agreed Rentable Area in the Headway Space, multiplied by (iii) a fraction, the numerator of which is the number of full Lease Months that remain in the initial Term from and after the date Basic Rent commences with respect to the Applicable Expansion Space and the denominator of which is 126.³ Such finish allowance shall be disbursed by Landlord substantially in accordance with the disbursement procedures applicable to the Refurbishment Allowance as set forth in Section 15.27 of the Lease.

(c) Basic Monthly Rent for the Headway Space will be equal to one-twelfth (1/12th) of the Basic Annual Rent for the Headway Space.

(d) Basic Rent and Additional Rent for the Headway Space shall commence (the “**Headway Space Commencement Date**”) on the earliest to occur of (i) the date on which the leasehold improvements to be constructed in the Headway Space are substantially completed, (ii) the date that Tenant commences occupancy of the Headway Space for its Permitted Use, or (iii) sixty (60) days after Landlord delivers the Headway Space to Tenant.

(e) Tenant’s Pro Rata Share Percentage shall each be recalculated based on the Agreed Rentable Area of the Premises as of the Headway Space Commencement Date.

(f) Except as may be necessary to complete improvements in the Headway Space, Tenant shall have no right to occupy any portion of the Headway Space, and in no event shall Tenant occupy the Headway Space, prior to (i) substantial completion of Tenant’s leasehold improvements in the Headway Space, and (ii) issuance of a certificate of completion or other document or permit issued by the applicable governmental authority authorizing Tenant’s occupancy of the Headway Space. Tenant’s improvements to the Headway Space shall be deemed to be substantially completed on the date that (i) such improvements have been completed other than for minor finish details or mechanical adjustment, the incompleteness of which shall not interfere with Tenant’s use and occupancy of the Headway Space for the Permitted Use and (ii) Tenant shall have obtained all permits and approvals of governmental authorities exercising jurisdiction required for Tenant to lawfully occupy and use the Headway Space for the Permitted Use.

³ The caps set forth in Sections 2.1 and 2.6 of the Work Letter with respect to the portion of the Finish Allowance that shall be available for Cabling Costs, Moving Costs and FF&E Costs or that may be applied to reduce Basic Rent shall also apply to the finish allowance to be provided for the Headway Space, provided that such caps shall be proportionately reduced commensurate with the proportionate reduction in the Finish Allowance.

3. Within thirty (30) days after Landlord's receipt of a First Expansion Notice, Landlord and Tenant will enter into an amendment to the Lease prepared by Landlord, in form reasonably acceptable to Tenant, which amendment shall reflect (i) the addition of the Headway Space to the Premises, (ii) the increase in Basic Annual Rent and Additional Rent payable under the Lease, (iii) the increase in Tenant's Pro Rata Share Percentage, and (iv) such other amendments as are reasonably necessary. Such lease amendment shall include a work letter substantially in the form of **Exhibit C** attached to the Lease, provided that such form shall be amended to (i) set forth appropriate dates, (ii) amend the finish allowance to be the amount of finish allowance calculated in accordance with this Rider, and (iii) provide for such other matters as are necessary to reflect the agreements of the parties as set forth in this Rider or otherwise respecting the finish out of the Headway Space. Pursuant to such work letter, Tenant shall construct or cause to be constructed improvements in the Headway Space in accordance with construction plans agreed to by Landlord and Tenant pursuant to the terms of such work letter.

4. Upon substantial completion of the Headway Space improvements, Landlord and Tenant shall execute a Commencement Date Memorandum with respect to the Headway Space in substantially the form of **Exhibit D** attached to the Lease.

5. In the event Tenant fails to timely exercise the First Expansion Option, then as of the first day of the 25th Lease Month: (i) the portion of the Premises located on the 5th floor of the Building shall be as identified on **Exhibit B-1** attached to the Supplemental Lease Provisions (the Agreed Rentable Area of which 5th floor space shall be deemed to be 16,156 square feet for all purposes under the Lease); and (ii) Tenant shall, at Tenant's expense, perform the following work in compliance with applicable Law, which work must be completed prior to the first day of the 28th Lease Month: (1) all work necessary to separate the Headway Space from the portion of the Premises located on the 5th floor of the Building (including the construction of demising walls using Building standard materials and methods); and (2) construction of a multi-tenant layout using Building standard materials and methods (including, without limitation, creating Service Corridors with respect thereto). In the alternative, at Landlord's election, Tenant shall pay to Landlord, within thirty (30) days after written demand, all costs Landlord reasonably estimates will be incurred by Landlord in performing such work, in which event Landlord shall be responsible for performance of any such work (which Landlord shall do at its election unless otherwise required by applicable Law); provided that (i) at any time following the last day of the 24th Lease Month that no demising wall separates the Premises on the 5th floor of the Building from the Headway Space, Tenant shall not encroach into or otherwise use any portion of the Headway Space other than as may be required for reasonable ingress and egress to the Common Areas located on the floor, and (ii) at such time as Landlord deems appropriate, Landlord shall have the right to install a demising wall and common corridor using Building standard materials and methods and in compliance with applicable Law, and Tenant shall cooperate with Landlord as may be reasonably required in connection with any such construction.

B. SECOND EXPANSION OPTION

1. Subject to the terms of this Rider, and provided Tenant has previously exercised the First Expansion Option, Tenant shall have the option (the "**Second Expansion Option**") to lease space on the 6th and 7th floors of the Building (the "**Expansion Space**"). Tenant may exercise the Second Expansion Option via a single exercise for the entirety of the Expansion Space or Tenant may exercise the Second Expansion Option via multiple exercises for portions of the Expansion Space as Tenant's space needs are determined or increase. Tenant shall exercise the Second Expansion Option, if at all, by delivering one or more written notices of such exercise(s) on or before the Outside Exercise Date (each such notice, a "**Second Expansion Notice**"). Tenant shall specify in any such Expansion Notice (i) the amount of additional space (in rentable area) required by Tenant (which amount shall be at least 15,000 square feet but shall not exceed the Agreed Rentable Area of the then remaining Expansion Space), (ii) Tenant's desired location of such additional space (provided that all such space shall be contiguous and no such additional space shall be located on the 7th floor prior to the incorporation of the entire 6th floor into the Premises), and (iii) the date on which Tenant desires Landlord to deliver the additional space to Tenant (which date shall be no later than the day immediately following the Outside Exercise Date). Within fifteen (15) days after Landlord's receipt an Expansion Notice, Landlord shall deliver written notice (any such notice, an "**Expansion Response**") to Tenant either approving or objecting to the location of the additional space. Landlord shall be entitled to object to such location only if the incorporation of such additional space into the Premises would leave any vacant space remaining on the applicable floor not Reasonably Leasable (as

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defined below), in Landlord's reasonable opinion (in which event Tenant shall be required to revise the configuration of the additional space and the foregoing notice and approval process shall be repeated as required). The additional space ultimately selected by Tenant and approved by Landlord shall be the "Applicable Expansion Space". The date on which Landlord shall deliver such Applicable Expansion Space to Tenant shall be no later than one month after the date on which the Applicable Expansion Space is approved by Landlord. If Tenant fails to exercise the Second Expansion Option in the manner set forth in this Rider, the Second Expansion Option shall expire and be of no further force or effect. The term "**Outside Exercise Date**" shall mean the last day of the 24th Lease Month; provided, however, that if Tenant has exercised the First Expansion Option, then the Outside Exercise Date shall mean the last day of the 48th Lease Month.

The term "**Reasonably Leasable**" as used herein means that the space is of such size and is configured in such a manner as to be reasonably marketable to third parties at non-discounted rates. For purposes of this Rider, space shall not be deemed to be Reasonably Leasable unless such space: (a) provides any potential occupant of such space reasonable access to all Building services, and allows Landlord to provide such services in an efficient manner (e.g., considering the manner in which utilities and HVAC services are split on the floor), (b) includes a pro rata amount of exterior windows and exterior exposure on such floor, (c) is configured so as to be in compliance with all applicable codes to permit leasing to third parties, (d) is configured in a manner which will maximize the amount of contiguous space available for lease to other tenants on the applicable floor, and (e) has exposure to the elevator lobby of the applicable floor, if such space comprises at least one-fourth of such floor.

2. The Applicable Expansion Space shall be leased to Tenant upon all terms and conditions of the Lease with the following exceptions:

(a) The Basic Annual Rent for the Applicable Expansion Space will be equal to the product of the Basic Annual Rent per square foot of Agreed Rentable Area applicable to the Premises (at the time such Basic Annual Rent is calculated) under Item 3 of the Basic Lease Provisions, multiplied by the Agreed Rentable Area of the Applicable Expansion Space as set forth above, with such Basic Rent increasing from time to time in accordance with the increases in Basic Rent applicable to the remainder of the Premises.

(b) The Applicable Expansion Space shall be delivered to Tenant in "as is" condition. Tenant shall be entitled to a finish allowance equal to the product of (i) \$42.00, multiplied by (ii) the number of square feet of Agreed Rentable Area in the Applicable Expansion Space, multiplied by (iii) a fraction, the numerator of which is the number of full Lease Months that remain in the initial Term from and after the date Basic Rent commences with respect to the Applicable Expansion Space and the denominator of which is 126.⁴ Such finish allowance shall be disbursed by Landlord substantially in accordance with the disbursement procedures applicable to the Refurbishment Allowance as set forth in Section 15.27 of the Lease.

(c) Basic Monthly Rent for the Applicable Expansion Space will be equal to one-twelfth (1/12th) of the Basic Annual Rent for the Applicable Expansion Space.

(d) Basic Rent and Additional Rent for the Applicable Expansion Space shall commence (the "**Expansion Space Commencement Date**") on the earliest to occur of (i) the date that Tenant commences occupancy of the Applicable Expansion Space for its Permitted Use, (ii) sixty (60) days after Landlord delivers the Applicable Expansion Space to Tenant, or (iii) the day immediately following the Outside Exercise Date. Tenant's improvements to the Applicable Expansion Space shall be deemed to be substantially completed on the date that (i) such improvements have been completed other than for minor finish details or mechanical adjustment, the incompletion of which shall not interfere with Tenant's use and occupancy of the Applicable Expansion Space for the Permitted Use and (ii) Tenant shall have obtained all permits and approvals of governmental authorities exercising jurisdiction required for Tenant to lawfully occupy and use the Applicable Expansion Space for the Permitted Use.

⁴ The caps set forth in Sections 2.1 and 2.6 of the Work Letter with respect to the portion of the Finish Allowance that shall be available for Cabling Costs, Moving Costs and FF&E Costs or that may be applied to reduce Basic Rent shall also apply to the finish allowance to be provided for any Expansion Space, provided that such caps shall be proportionately reduced commensurate with the proportionate reduction in the Finish Allowance.

(e) Tenant's Pro Rata Share Percentage shall be recalculated based on the Agreed Rentable Area of the Premises as of the Expansion Space Commencement Date for the Applicable Expansion Space.

(f) Except as may be necessary to complete improvements in the Applicable Expansion Space, Tenant shall have no right to occupy any portion of the Applicable Expansion Space, and in no event shall Tenant occupy the Applicable Expansion Space, prior to (i) substantial completion of the leasehold improvements to be constructed in the Applicable Expansion Space, and (ii) issuance of a certificate of completion or other document or permit issued by the applicable governmental authority authorizing Tenant's occupancy of the Applicable Expansion Space.

(g) If any of the Expansion Space shall include less than all of the rentable area on the applicable floor of the Building and such Expansion Space shall not be then separately demised, with all common corridors required by applicable Law installed, then Landlord at its sole cost and expense shall construct all such demising walls and common corridors prior to delivering possession of the Expansion Space to Tenant (i) if there are other tenants and occupants on the floor, (ii) if such installation is otherwise required by applicable Law in order for Tenant to obtain any permit or other authorization of governmental authorities required in connection with Tenant's initial alterations and improvements to the Expansion Space and/or in order for Tenant to lawfully occupy and use the Expansion Space for the Permitted Use, or (iii) if Landlord otherwise elects. If such demising walls and common corridors are not required by applicable Law when the Expansion Space is delivered to Tenant but are thereafter required to be installed by applicable Law, whether due to Landlord's leasing other premises on the floor or for any other reason, Landlord shall promptly construct such demising walls and common corridors at its sole cost and expense and with a minimum of disturbance to Tenant. To the extent Tenant occupies any such Expansion Space without same being separately demised, then Tenant shall be permitted reasonable access (i) to utility closets in such Expansion Space, and (ii) over space adjacent to such Expansion Space to the extent necessary for ingress and egress between such Expansion Space and the floor's Common Areas.

3. Within thirty (30) days after Landlord's receipt of a Second Expansion Notice, Landlord and Tenant will enter into an amendment to the Lease prepared by Landlord, and in form reasonably acceptable to Tenant, which amendment shall reflect (i) the addition of the Applicable Expansion Space to the Premises, (ii) the increase in Basic Annual Rent and Additional Rent payable under the Lease, (iii) the increase in Tenant's Pro Rata Share Percentage, and (iv) such other amendments as are reasonably necessary. Such lease amendment shall include a work letter substantially in the form of **Exhibit C** attached to the Lease, provided that such form shall be amended to (i) set forth appropriate dates, (ii) amend the finish allowance to be the amount of finish allowance calculated in accordance with this Rider, and (iii) provide for such other matters as are necessary to reflect the agreements of the parties as set forth in this Rider or otherwise respecting the finish out of the Applicable Expansion Space. Pursuant to such work letter, Tenant shall construct or cause to be constructed improvements in the Applicable Expansion Space in accordance with construction plans agreed to by Landlord and Tenant pursuant to the terms of such work letter.

4. Upon substantial completion of the Applicable Expansion Space improvements, Landlord and Tenant shall execute a Commencement Date Memorandum with respect to the Applicable Expansion Space in substantially the form of **Exhibit D** attached to the Lease.

5. Tenant understands and acknowledges that its rights under this Rider with respect to the Expansion Space located on the 7th floor are subject and subordinate to the rights of an existing tenant under its lease agreement in effect as of the date hereof. In the event Tenant is prevented from exercising its rights under this Rider with respect to any of the Expansion Space located on the 7th floor due to such existing tenant's election to exercise its superior right to such space, Landlord agrees to use its commercially reasonable efforts to substitute other space in the Building to satisfy Tenant's additional space requirements (provided that Landlord shall not be required to substitute space on a floor that is not already configured for multi-tenant use if Tenant requires less than a full floor).

C. GENERAL

1. Notwithstanding any other provision or inference herein to the contrary, Tenant's rights and Landlord's obligations under this Rider shall expire and be of no further force or effect on the earliest of (i) the expiration or earlier termination of the Term of the Lease, or (ii) an assignment of the Lease by Tenant to any other party (excluding an Affiliate). Furthermore, Tenant shall have no rights, and Landlord shall have no obligations, under this Rider at any time there exists a default by Tenant under the Lease beyond the expiration of any applicable notice and cure period.

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2. Time is of the essence in any exercise by Tenant of its rights under this Rider.

3. Landlord acknowledges and agrees that nothing set forth in Rider 3 below shall permit Landlord to market any of the Headway Space or the Expansion Space for lease during any period in which Tenant has the right to lease same pursuant to the provisions of this Rider; provided that during such period Landlord shall be entitled to lease any of the Expansion Space (but not the Headway Space) on a short-term basis without regard to Tenant's rights under this Rider, as long as any such short-term lease does not prevent or impair Landlord's ability to meet its obligations under this Rider.

4. Notwithstanding anything in this Lease to the contrary, with respect to any Expansion Space leased by Tenant which is less a full floor, (i) if such Expansion Space includes the bathrooms and those areas on the floor which would be required for use as common area corridors if the floor were a multi-tenant floor (collectively, the "**Multi-Tenant Common Areas**"), then the Agreed Rentable Area of such Expansion Space shall be measured using the 5% add-on factor applicable to full floors in the Building, and (ii) if such Expansion Space does not include any Multi-Tenant Common Areas, then the Agreed Rentable Area of such Expansion Space shall be measured using a multi-tenant factor which is the greater of (i) 15%, or (ii) the lesser of the Building's then-standard modified multi-tenant factor or the multi-tenant add-on factor as determined in accordance with BOMA.

5. Notwithstanding Section 15.5, Rule 27 or any other provisions of the Lease to the contrary (but subject to Section 4.5 of the Lease), so long as Tenant is the sole occupant on any floor in the Building on which any portion of the Premises is located, Tenant shall have the right to control access to the floor (which right shall include, but not be limited to, installing keyed entry doors immediately off of the elevator lobby for any such floor) and may operate the floor as if it were a single tenant floor.

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SCHEDULE 1
HEADWAY SPACE

The leasable area on 5th Floor of the Building not included in the Premises as described in Exhibit B to the Lease
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RIDER 3
RIGHT OF REFUSAL

1. Prior to leasing to a third party any of the Refusal Space (as defined below), Landlord shall first deliver to Tenant a written statement (“**Statement**”) to Tenant notifying Tenant that Landlord has entered into negotiations with a bona fide prospect (as evidenced by the exchange of written correspondence with a such prospect relating to proposed lease terms) and specifying the amount and location of such space, the anticipated date of tender of possession, the rental rate (including any projected rate increases over the applicable term), and any other principal economic terms. Tenant shall have fourteen (14) days after receipt of the Statement within which to notify Landlord in writing that it elects to lease the applicable Refusal Space (each such written notice is herein referred to as a “**Notice**”). If Tenant elects to lease the applicable Refusal Space within such fourteen (14) day period, then Tenant’s election shall be irrevocable. If Tenant elects not to lease the applicable Refusal Space, Landlord shall have the right to lease such space to any other party; provided, however, that if such space is not leased within 180 days after the date of the Statement, or if the economic benefit derived from any such lease with any prospective tenant is less than 95% of the economic benefit of the lease expansion proposed in the Statement, then Landlord shall again be required to comply with the terms of this Rider prior to leasing all or any portion of the Refusal Space to other parties. Tenant understands and acknowledges that its rights under this Rider with respect to the Refusal Space located on the 7th floor are subject and subordinate to the rights of an existing tenant under its lease agreement in effect as of the date hereof. Failure by Tenant to notify Landlord within such fourteen (14) day period, or any purported election by Tenant to lease any Refusal Space that contains any qualification or condition, shall be deemed an election by Tenant not to lease the applicable Refusal Space. Notwithstanding anything to the contrary set forth herein, in the event the Statement describes a proposed transaction that contemplates the leasing of any space in addition to the Refusal Space, Tenant must agree to lease all such space in order to exercise its rights under this Rider with respect to the Refusal Space. The term “**Refusal Space**” as used herein shall mean the Headway Space and the Expansion Space (excluding any such space leased by Tenant, whether pursuant to Rider 2 or otherwise).
2. If Tenant elects to lease the applicable Refusal Space, then such space shall be leased to Tenant upon the terms and conditions set forth in the Statement; provided, however, that if (i) the lease term proposed in the Statement exceeds the then-remaining Term, and (ii) the rentable area of the applicable Refusal Space identified in the Statement is less than 30,000 square feet, then Tenant may elect to make the lease term applicable to such Refusal Space coterminous with the Term. Such election shall be made in the Notice, if at all, and shall be irrevocable. If Tenant makes such election, then (i) the rental rate structure as set forth in the Statement shall be adjusted, as reasonably determined by Landlord, so that the average effective rental rate over the coterminous term is the same as the average effective rental rate over the lease expansion term proposed in the Statement, (ii) any finish allowance or other allowances or concessions provided under the terms and conditions set forth in the Statement shall be reduced to equal the product of (a) such finish allowance or other allowances or concessions to be provided by Landlord pursuant to the terms and conditions set forth in the Statement, multiplied by (b) a fraction, the numerator of which is the number of full Lease Months that remain in the then-remaining Term from and after the date Basic Rent commences with respect to the applicable Refusal Space and the denominator of which is the number of Lease Months in the transaction reflected the Statement, and (iii) Tenant’s rights under Rider 4 to this Lease (Termination Option) shall be deemed void and of no further force or effect. Tenant shall execute and return a lease amendment (prepared by Landlord and in form reasonably acceptable to Tenant) adding the Refusal Space to the Premises for all purposes under the Lease (including any extensions or renewals) and confirming the rent and other applicable terms specified in the Statement. If Tenant, within 30 days after Landlord provides Tenant with such document, fails to execute and return the required lease amendment (or, in lieu thereof, offer reasonable objections to Landlord’s form of same), then Tenant’s rights and Landlord’s obligations under this Rider shall be voidable at the option of Landlord. Time is of the essence in any exercise by Tenant of its rights under this Rider.
3. Notwithstanding any other provision or inference herein to the contrary, Tenant’s rights and Landlord’s obligations under this Rider shall expire and be of no further force or effect on the earliest of (i) the expiration or earlier termination of the Term of the Lease, (ii) an assignment of the Lease to any other party (excluding an

Affiliate), or (iii) the last day of the 66th Lease Month. Furthermore, Tenant shall have no rights, and Landlord shall have no obligations, under this Rider (i) prior to the expiration of the First Expansion Option and the Second Expansion Option, or (ii) at any time there exists a default by Tenant under the Lease beyond the expiration of any applicable notice and cure period.

4. Tenant shall not disclose any information set forth in the Statement or otherwise provided to Tenant by Landlord in connection with Tenant's exercise of its rights under this Rider (collectively, the "**Statement Information**") to any person or party without the prior written consent of Landlord. This obligation of confidentiality shall not apply to (a) disclosure pursuant to lawful subpoena or order of court of competent jurisdiction (in which event the disclosing party shall notify the other party prior to disclosure to allow sufficient time to seek a protective order if such other party desires), or (b) disclosure to the respective partners (including all partners, directors, officers, employees and agents of such partners), directors, officers, and employees of each party, nor each party's attorneys, accountants, financing sources or other similar third party professions working on behalf such party who need to know the Statement Information for the purpose of performing their duties (provided that all such persons to whom Statement Information is disclosed likewise keep the Statement Information confidential).
5. Landlord acknowledges and agrees that nothing set forth in this Rider shall permit Landlord to market any of the Headway Space or the Expansion Space for lease during any period in which Tenant has the right to lease same pursuant to the provisions of Rider 2 above; provided that during such period Landlord shall be entitled to lease any of the Expansion Space (but not the Headway Space) on a short-term basis without regard to Tenant's rights under this Rider, as long as any such short-term lease does not prevent or impair Landlord's ability to meet its obligations under Rider 2.
6. Notwithstanding anything to the contrary set forth herein, during any period in which Tenant's rights under this Rider are in effect, Landlord shall use its commercially reasonable efforts to offer to lease other available space in the Building prior to negotiating with any prospective third party tenant for any of the Refusal Space. However, in no event shall such commercially reasonable efforts be deemed to impair Landlord's ability to offer any of the Refusal Space to a prospective third party tenant where such prospective tenant expresses a preference for the Refusal Space for any reason, including without limitation (i) cost savings resulting from Landlord's willingness to offer lower rates for the Refusal Space than for space higher in the Building, (ii) the proximity of the Refusal Space to other space leased by such prospective tenant in the Building, (iii) the location of the Refusal Space in the same elevator bank as other space leased by such prospective tenant in the Building, or (iv) the views available from the Refusal Space.

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RIDER 4
TERMINATION OPTION

Tenant shall have a one-time right to terminate the Lease as of the Termination Date (as defined below) pursuant to the following terms and conditions:

(a) Tenant shall exercise such termination right, if at all, by delivering Landlord written notice (the “**Termination Notice**”) on or before the Termination Notice Date, specifying that Tenant elects to terminate the Lease. The “**Termination Notice Date**” shall be the date that is 270 days prior to the Termination Date (as defined below).

(b) Tenant shall not be in default under the Lease beyond any applicable notice and curative periods on the date that Landlord receives the Termination Notice, nor shall Tenant have requested a Refurbishment Allowance as provided in Section 15.27 of the Lease.

(c) The “**Termination Date**” shall be the last day of the 60th Lease Month; provided, however, that if Tenant has exercised the Second Expansion Option and any Expansion Space Commencement Date related thereto occurs after the last day of the 24th Lease Month, then the Termination Date shall be extended to the last day of the Extended Termination Period. The term “**Extended Termination Period**” shall mean the period commencing on the latest applicable Expansion Space Commencement Date and ending on the last day of the calendar month thereafter in which Landlord has received 36 full payments of Basic Monthly Rent, excluding any months in which Basic Monthly Rent is \$0 (e.g., Lease Months 61-66).

(d) Tenant shall pay to Landlord a “**Termination Payment**” (herein so called) equal to the unamortized portion of the Finish Allowance and any other allowances paid to Tenant under the Lease (each a “**Permitted Amortized Expense**”). Notwithstanding anything herein to the contrary, Landlord shall structure all commission agreements with the Broker, any such other broker representing Tenant, the Property Manager and any such other agent or representative of Landlord such that no commission shall be earned or otherwise due with respect to any portion of the Term from and after the Termination Date unless and until Tenant shall waive in writing its termination right pursuant to this Rider 4 or such termination right shall expire of its terms, and as a result no commission shall be a Permitted Amortized Expense. For the purpose of determining the unamortized portion of any Permitted Amortized Expense, such expense shall be amortized on a straight line basis over the period commencing on the later of the Commencement Date or the date that such expense is incurred by Landlord, and continuing through the Expiration Date (exclusive of any renewal terms or other extensions of the Term), using an interest rate of 10% per annum.

(e) The Termination Payment shall be paid to Landlord as follows: 20% contemporaneously with Tenant’s delivery of the Termination Notice to Landlord, 40% within 180 days prior to the Termination Date, and 40% within 30 days prior to the Termination Date.

(f) Tenant’s rights under this Rider shall be voidable at the option of Landlord if (i) Tenant assigns the Lease to any other party (excluding an Affiliate), (ii) a default by Tenant occurs under the Lease beyond the expiration of any applicable notice and cure period following Landlord’s receipt of the Termination Notice but prior to the Termination Date, (iii) Tenant fails to send the Termination Notice as, when and in the manner required by this Rider, or (iv) Tenant fails to pay the Termination Payment to Landlord as, when and in the manner required under this Rider.

Time is of the essence in any exercise by Tenant of its rights under this Rider.

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RIDER 5
CONTRACTION OPTION

Provided the Premises at all times during the Term contain at least the entire 3rd and 4th floors of the Building (containing 61,904 square feet of Agreed Rentable Area), Tenant shall have the one-time right to reduce the Agreed Rentable Area of the Premises in an amount not to exceed the rentable area of a full floor of space within the Premises (provided that the Premises remaining after such space reduction will contain the entire 3rd and 4th floors of the Building and at least 61,904 square feet of Agreed Rentable Area), subject to the following terms and conditions:

(a) Tenant shall exercise such contraction right, if at all, by delivering Landlord written notice (a “**Contraction Notice**”) designating (i) the amount of space (in rentable area) that Tenant desires to give back (not to exceed 30,000 square feet of Agreed Rentable Area, and provided that the remainder of the Premises following such space reduction will contain at least 61,904 square feet of Agreed Rentable Area), (ii) the effective date of such contraction (the “**Contraction Date**”), and (iii) Tenant’s desired location of such give-back space; provided that the location of the give-back space shall be determined in the following order of priority: (1) Tenant shall not be entitled to exclude any space on any full floors contained within the Premises unless it has excluded all portions of the Premises located on any multi-tenant floors; (2) such give-back space shall be located on the highest floor on which Tenant then leases space; (3) such give-back space shall be a single block of contiguous space on each floor on which such space is located; and (4) such contraction shall not cause any space remaining within the Premises to become non-contiguous to any other remaining space on the affected floor. The Contraction Date shall be at least nine (9) months after the date on which Landlord receives the Contraction Notice, but in no event shall the Contraction Date occur prior to the last day of the 36th Lease Month; provided, however, that if Tenant has exercised the Second Expansion Option and any Expansion Space Commencement Date related thereto occurs after the last day of the 24th Lease Month, then the Contraction Date shall not occur prior to the last day of the Extended Contraction Period. The term “**Extended Contraction Period**” shall mean the period commencing on the latest applicable Expansion Space Commencement Date and ending on the last day of the calendar month thereafter in which Landlord has received 36 full payments of Basic Monthly Rent, excluding any months in which Basic Monthly Rent is \$0 (e.g., Lease Months 61-66). Within fifteen (15) days after Landlord’s receipt a Contraction Notice, Landlord shall deliver written notice (any such notice, a “**Contraction Response**”) to Tenant either approving or objecting to the location of the give-back space as identified by Tenant. Landlord shall be entitled to object to such location only if such give-back space is not Reasonably Leasable (as defined below), in Landlord’s reasonable opinion (in which event Tenant shall be required to revise the configuration of the give-back space and the foregoing notice and approval process shall be repeated as required). The space ultimately selected by Tenant and approved by Landlord for exclusion from the Premises shall be the “**Contraction Space**”.

The term “**Reasonably Leasable**” as used herein means that the space is of such size and is configured in such a manner as to be reasonably marketable to third parties at non-discounted rates. For purposes of this Rider, space shall not be deemed to be Reasonably Leasable unless such space: (a) provides any potential occupant of such space reasonable access to all Building services, and allows Landlord to provide such services in an efficient manner (e.g., considering the manner in which utilities and HVAC services are split on the floor); (b) includes a pro rata amount of exterior windows and exterior exposure on such floor; (c) is configured so as to be in compliance with all applicable codes to permit leasing to third parties; (d) is configured in a manner which will maximize the amount of contiguous space available for lease to other tenants on the applicable floor; (e) has exposure to the elevator lobby of the applicable floor, if such space comprises at least one-fourth of such floor; and (f) can be demolished and rebuilt without any material additional cost or premium in excess of customary demolition and construction costs unless Tenant agrees to pay such additional cost or premium.

(b) Once the location of the Contraction Space is determined, Tenant shall, at Tenant’s expense, perform the following work in compliance with applicable Law, which must be completed on or before the Contraction Date: (1) all work necessary to separate the Contraction Space from the remainder of the Premises (including the construction of demising walls using Building standard materials and methods); and (2) if (i) any of the Contraction Space shall be located on a floor which prior to the Contraction Date was solely leased to Tenant and (ii) Tenant shall retain Premises on such floor following the Contraction Date (i.e., the Contraction Space shall not include 100% of the leasable area on such floor), then such work shall include construction of a multi-tenant layout on any partial floor given back by Tenant using Building standard materials and methods (including, without limitation, creating corridors with respect thereto). In the alternative, at Landlord’s election, Tenant shall pay to Landlord, within

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thirty (30) days after written demand, all costs Landlord reasonably estimates will be incurred by Landlord in performing such work, in which event Landlord shall be responsible for performance of any such work (which Landlord shall do at its election unless otherwise required by applicable Law); provided that (i) at any time following the Contraction Date that no demising wall separates the Contraction Space from the adjacent portion of the Premises, Tenant shall not encroach into or otherwise use any portion of the Contraction Space other than as may be required for reasonable ingress and egress to the Common Areas located on the floor, and (ii) at such time as Landlord deems appropriate, Landlord shall have the right to install a demising wall and common corridor using Building standard materials and methods and in compliance with applicable Law, and Tenant shall cooperate with Landlord as may be reasonably required in connection with any such construction. Tenant may not be in default under the Lease beyond any applicable notice and curative periods on the effective date of delivery of the Contraction Notice, nor shall Tenant have elected to exercise its termination option pursuant to Rider 4 above.

(c) Tenant shall pay to Landlord a “**Contraction Payment**” (herein so called) equal to the unamortized portion of the following costs and expenses (each a “**Permitted Amortized Contraction Expense**”) as same are attributable to the Contraction Space on a pro rata basis: (i) the Finish Allowance and any other allowances provided to Tenant under the Lease in connection with any subsequent expansion of the Premises or modifications of the Lease; (ii) the leasing commission paid to Broker in connection with the execution of the Lease and any other brokerage commissions paid to a broker representing Tenant in connection with any subsequent expansion of the Premises or modifications of the Lease; and (iii) the leasing commission paid to any agent or representative of Landlord in connection with the execution of the Lease and any other leasing commissions paid to any agent or representative of Landlord in connection with any subsequent expansion of the Premises or modifications of the Lease. For the purpose of determining the unamortized portion of any Permitted Amortized Contraction Expense, such expense shall be amortized over the period commencing on the later of the Commencement Date or the date that such expense is incurred by Landlord, through and including the Expiration Date (exclusive of any renewal terms or other extensions of the Term), using an interest rate of 10% per annum. One-half of the Contraction Payment shall be paid contemporaneously with Tenant’s delivery of the Contraction Notice to Landlord, and the remainder of the Contraction Payment shall be paid no later than thirty (30) days prior to the Contraction Date.

(d) Tenant shall enter into an amendment to the Lease (prepared by Landlord and in form reasonably acceptable to Tenant) reflecting the exclusion of the Contraction Space from the Premises, including adjusting Basic Rent, Tenant’s Pro Rata Share Percentage, and Tenant’s parking allocations in proportion to the reduction in the Agreed Rentable Area of the Premises. Tenant shall execute such document within 30 days after Landlord provides Tenant with the form of same (or, in lieu thereof, offer reasonable objections to Landlord’s form of same). On or before the Contraction Date, Tenant shall surrender the Contraction Space in accordance with the terms and conditions set forth in Section 1.3 of the Lease for redelivery of the Premises.

(e) Tenant’s rights under this Rider shall be voidable at the option of Landlord at any time prior to the Contraction Date if (i) Tenant assigns the Lease to any other party (excluding an Affiliate), (ii) a default by Tenant occurs under the Lease beyond any applicable notice and cure period following Landlord’s receipt of the Contraction Notice but prior to the Contraction Date, (iii) Tenant fails to send the Contraction Notice as, when and in the manner required under this Rider, or (iv) Tenant fails to pay the Contraction Payment to Landlord as, when and in the manner required under this Rider. Time is of the essence in any exercise by Tenant of its rights under this Rider.

Renaissance Tower/ Priority Fulfillment Services, Inc.

GUARANTY

1. Guaranty. To induce BINYAN REALTY LP (“**Landlord**”), to enter into the Lease (the “**Lease**”) dated on or about the date hereof, with PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation (“**Tenant**”), for space in the office building known as Renaissance Tower, located at 1201 Elm Street, Dallas, Texas, the undersigned “**Guarantor**” executes and delivers this Guaranty of Lease (the “**Guaranty**”) pursuant to which Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord (a) payment to Landlord when due of (i) all rent and other charges due thereunder; (ii) all amounts payable by reason of any indemnity, breach of warranty or event of default by Tenant under the Lease; and (iii) all costs incurred by Landlord in enforcing its rights and remedies under the Lease and/or this Guaranty, including actual and reasonable attorneys’ fees, court costs and investigation expenses; and (b) performance of all of Tenant’s other obligations under the Lease (collectively, “**Guaranteed Obligations**”). This is a continuing guaranty of payment and not of collection and Guarantor’s liability is primary and not secondary. Landlord may, at its option, proceed against Guarantor without first commencing an action or obtaining a judgment against Tenant or any other party.

2. Waivers and Releases.

a. Guarantor waives marshaling of assets and liabilities, sale in inverse order of alienation, presentment, demand for payment, protest, notice of acceptance of this Guaranty, notice of nonpayment, notice of dishonor, notice of acceleration, notice of intent to accelerate and all other notices, demands, suits or other actions otherwise required as a condition to Landlord’s exercise of its rights under the Lease or this Guaranty. Guarantor’s liability hereunder shall not be released by Landlord’s receipt, application or release of security given for performance of any such obligations, nor shall Guarantor be released by reason of any lien held or executed upon Tenant and/or its assets by any landlord party.

b. This Guaranty shall in no way be affected by (i) any extension of time for payment or performance of any Guaranteed Obligations; (ii) supplementation or amendment (material or otherwise) of the Lease, or renewal or extension thereof, or increase in the size of the leased premises (whether within the building or the property); (iii) any failure, omission, delay or lack of diligence by Landlord or any other person or entity, to enforce, assert or exercise any right or remedy of Landlord under the Lease or this Guaranty; (iv) settlement or compromise of any Guaranteed Obligation; (v) release or discharge of Tenant in any creditor’s receivership, bankruptcy or other proceedings; (vi) impairment, limitation or modification of the liability of Tenant (or its estate in bankruptcy), or of any remedy for the enforcement of Tenant’s liability under the Lease, resulting from the operation of any present or future provision of the United States Bankruptcy Code or other statute or from the decision of any court; (vii) rejection or disaffirmance of the Lease in any such proceedings; (viii) assignment, sublease or other transfer of the Lease or the leased premises, or any interest therein, by Landlord or Tenant; (ix) any disability or other defense of Tenant; or (x) cessation of Tenant’s liability for any cause whatsoever.

c. Until all Guaranteed Obligations are fully performed, Guarantor (i) has no right of subrogation against Tenant due to any payment or performance by Guarantor; (ii) waives any right to enforce any remedy Guarantor may now or hereafter have against Tenant due to any such payment or performance; and (iii) subordinates any liability or indebtedness of Tenant now or hereafter held by Guarantor to the Guaranteed Obligations in favor of Landlord.

3. Representations and Warranties. Guarantor represents and warrants, as a material inducement to Landlord to enter into the Lease, that (a) this Guaranty and each instrument securing this Guaranty have been duly executed and delivered and constitute legally enforceable obligations of Guarantor; (b) there is no action, suit or proceeding pending or, to Guarantor’s knowledge, threatened against or affecting Guarantor, at law or in equity, or before or by any governmental authority, which might result in any materially adverse change in Guarantor’s business or financial condition; (c) as of the date hereof, Guarantor’s financial condition is adequate to secure Guarantor’s obligations under this Guaranty; (d) execution of this Guaranty shall not render Guarantor insolvent; (e) from and after the date hereof, Guarantor shall not take any action, such as assuming additional liabilities, divesting assets or otherwise, which would impair Guarantor’s ability to perform its obligations under this Guaranty; and (f) Guarantor has a bona fide interest in Tenant’s financial success. Guarantor shall, within fifteen (15) days of Guarantor’s receipt of the written request of Landlord or any mortgagee of Landlord, without additional

consideration, deliver an estoppel certificate, consisting of reasonable statements required by Landlord or any current or prospective mortgagee or purchaser of any interest in the Property, which statements may include, but shall not be limited to, a statement verifying this Guaranty is in full force and effect.

4. Notice. Any notice or communication hereunder shall be given in writing by, and deemed received upon, posting in a U.S. Postal Service receptacle, postage prepaid, registered or certified mail, return receipt requested, or by expedited courier, where proof of delivery can be shown, to Landlord as specified in the Lease, and to Guarantor at:

500 North Central Expressway, Suite 500
Plano, TX 75074
Attention: Chief Financial Officer

5. Interpretation. This Guaranty shall be governed by and construed in accordance with applicable law. The proper place of venue to enforce payment or performance under this Guaranty shall be the county or other jurisdiction in which the leased premises are located. The representations, covenants and agreements set forth herein shall continue and survive the termination of the Lease and/or this Guaranty. Unless otherwise expressly provided in this Guaranty, all capitalized terms shall have the same meanings as in the Lease. The masculine and neuter genders each include the masculine, feminine and neuter genders. This instrument may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord. If Guarantor consists of more than one person or entity, the word "Guarantor" shall apply to each such party, each of whom shall be jointly and severally liable hereunder. The words "Guaranty" and "guarantees" shall not be interpreted to limit Guarantor's primary obligations and liability hereunder.

6. Consent to Jurisdiction. In any legal proceeding regarding this Guaranty, including enforcement of any judgments, Guarantor irrevocably and unconditionally (a) submits to the jurisdiction of the courts of law in the county or district in which the property is located; (b) accepts the venue of such courts and waives and agrees not to plead any objection thereto; and (c) agrees that (i) service of process may be effected at the address specified in Paragraph 4 above, or at such other address of which Landlord has been properly notified, and (ii) nothing herein shall affect Landlord's right to effect service of process in any other manner permitted by law.

7. Successors and Assigns. This Guaranty shall inure to the benefit of Landlord and its successors and assigns, and shall be binding upon Guarantor and its executors, administrators, heirs, successors and assigns. Guarantor shall not assign any obligation hereunder without Landlord's prior written consent. If any Guarantor who is a living person dies while this Guaranty is in force, then such deceased Guarantor's heirs, executors, administrators and representatives shall not make any distribution or disposition of assets from the estate without first making provisions acceptable to Landlord for the satisfaction of such deceased Guarantor's obligations (and contingent obligations) hereunder.

IN WITNESS WHEREOF, Guarantor executes this Guaranty as of the Effective Date.

GUARANTOR:

PFSWEB, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

LEASE AGREEMENT

Between

CCI-MILLENNIUM, L.P.

(“Landlord”)

and

PRIORITY FULFILLMENT SERVICES, INC.

(“Tenant”)

December 8, 2011

Date

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "**Lease**") is hereby made and entered into on this 8th day of December, 2011, between CCI-MILLENNIUM, L.P., a Texas limited partnership ("**Landlord**"), and PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**").

IN CONSIDERATION of the mutual covenants, as set forth herein, Tenant and Landlord hereby agree as follows:

PREMISES

(a) Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the rental and on the terms and conditions hereinafter set forth the Complex (as hereinafter defined), consisting of the Building, the Land and the Parking Area (as such terms are hereinafter defined). Subject to the terms and conditions of this Lease, Tenant shall have the exclusive right of use and occupancy of the Complex and the Building, including, without limitation, the roof of the Building and all common areas of the Building and the Complex, twenty four (24) hours per day, seven (7) days per week. Such use may include, without limitation, the installation of satellite dishes and ancillary equipment, generators, heating, ventilation and air-conditioning equipment, and/or solar panels and ancillary equipment on the roof of the Building or elsewhere in the Complex so long as such uses comply with all applicable statutes, codes, laws, rules, regulations, orders and decrees of governmental authorities exercising jurisdiction over the Complex, and the encumbrances of record described on **Exhibit "J"** attached hereto (collectively, "**Laws**") and all applicable terms and provisions of the Lease. Notwithstanding the foregoing provisions of this **Section 1.1(a)**, Tenant shall have no right to occupy or otherwise use any portion of the Must-Take Space, hereinafter defined, until such time as Tenant takes occupancy thereof pursuant to **Section 1.2(c)** hereinbelow.

(b) In no event shall Landlord make any use of the Parking Area, any of the Building's or the Complex's common areas, the roof of the Building, the storage areas of the Building, or any other areas of the Building or Complex for any purpose unrelated to Tenant's use and occupancy, nor shall Landlord lease, license or otherwise suffer or permit any persons or entities to use or occupy any portion of the Complex, without Tenant's prior written consent, which Tenant may withhold in its sole and absolute discretion.

(c) The total Net Rentable Area (as hereinafter defined) of the Building is approximately 97,496 square feet of Net Rentable Area (as hereinafter defined) as indicated on the plan attached hereto as **Exhibit "A"** (hereinafter referred to as the "**Premises**") in the office building (the "**Building**") located at 505 Millennium, in Allen, Texas 75013. The tract of land (the "**Land**") on which the Building is located is described by metes and bounds on **Exhibit "B-1"** attached hereto and is further depicted on the survey attached hereto at **Exhibit "B-2"**.

TERM

1.2 (a) Subject to and upon the terms and conditions set forth in this Lease, or in any Exhibit or Addendum hereto, the term of the Lease (the "**Term**") shall be one hundred twenty-five (125) months, beginning on the Commencement Date (hereinafter defined) and ending at midnight on the last day of the month in which the one hundred twenty-fifth (125th) monthly anniversary of the Commencement Date shall occur ("**Expiration Date**"). For purposes of this Lease, the term "**Commencement Date**" shall mean the later to occur of (a) Substantial Completion of the Work, as defined in the Work Letter attached hereto as **Exhibit "C"**, and Landlord's delivery of a final certificate of occupancy for the Initial Premises permitting the use and occupancy thereof for the Permitted Use (as hereinafter defined), or (b) March 1, 2012. Tenant shall be entitled to have access to the Premises prior to the Commencement Date for the purpose of installing Tenant's office furniture, trade fixtures, telephone and computer wiring, and certain other items of personal property of Tenant, subject to all of the terms and provisions of this Lease, other than the payment of Base Rent and Tenant's Share (defined below) of Annual Operating Cost (defined below).

(b) Tenant initially shall take possession of and pay Rent on approximately 75,000 square feet of Net Rentable Area of the Premises (in the location identified by cross hatching on **Exhibit "A"**) (hereinafter referred to as the "**Initial Premises**") on the Commencement Date. From and after the Commencement Date, Tenant shall have the right to take possession of and occupy the remaining rentable area of the Building, consisting of approximately 22,496 square feet of Net Rentable Area (hereinafter referred to as the "**Must-Take Space**"). Tenant may take possession of and occupy all of the Must-Take Space at a single time, or at Tenant's option Tenant may take possession of and occupy the Must-Take Space in phases. If Tenant elects to take possession of and occupy the Must-Take Space in phases, the size and location of the portion of the Must-Take Space to be included in each such expansion phase (each a "**Must-Take Space Phase**"), and the dates upon which the expansion shall occur, shall be

determined by Tenant in its sole discretion. Tenant must take possession of and pay Rent upon one hundred (100%) percent of the Must-Take Space by no later than the third (3rd) anniversary of the Commencement Date.

(c) Upon taking possession of the Must-Take Space or a Must-Take Space Phase, as applicable, whether before or on the third (3rd) anniversary of the Commencement Date, all of the provisions of this Lease, including, but not limited to, the payment of Rent, shall be applicable to the Must-Take Space or the Must-Take Space Phase, as applicable; provided, however, that Tenant shall not be obligated to pay Base Rental or Tenant's Share of Operating Cost in excess of the Expense Stop for the Must-Take Space or the Must-Take Space Phase, as applicable, until the earlier of (i) the third (3rd) anniversary of the Commencement Date or (ii) the earlier of (a) the date Tenant shall commence its normal business operations in the Must-Take Space or the Must-Take Space Phase, as applicable, or (b) the date identified by Tenant by notice to Landlord as the date Tenant intends to commence its normal business operations in the Must-Take Space or Must-Take Space Phase, as applicable. Tenant shall provide Landlord with no less than forty five (45) days' notice of the date Tenant intends to take possession of and commence its normal business operations in the Must-Take Space or Must-Take Space Phase, as applicable. The date or each date, as applicable, upon which Tenant's obligation to pay Base Rent and Tenant's Share of Operating Cost in excess of the Expense Stop for the Must-Take Space or the Must-Take Space Phase, as applicable, is hereinafter referred to as a "**Must-Take Space Rent Commencement Date**". Notwithstanding anything herein to the contrary, Tenant's mere possession of and use of the Must-Take Space or any applicable Must-Take Space Phase to perform alterations and improvements to prepare such space for Tenant's initial occupancy shall not trigger the Must-Take Space Rent Commencement Date.

(d) Upon each Must-Take Space Rent Commencement Date, Tenant's Share shall be increased in accordance with the definition of Tenant's Share set forth in Section 1.3(e) below and the annual Base Rental amount shown in Section 1.3(a) below for the months prior to the 37th month of the Term shall be increased by an amount equal to the product of the Net Rentable Area of the Must-Take Space, or if Tenant is then leasing less than all of the Must-Take Space, the Must-Take Space Phase, as applicable, multiplied by the applicable rental rate per square foot shown in said Section 1.3(a). Landlord and Tenant each agree to execute and deliver to the other an agreement in the form of **Exhibit "D"** attached hereto setting forth the location of and Net Rentable Area of the Must-Take Space, or the Must-Take Space Phase, as applicable, Tenant's Share following the addition of such Must-Take Space or Must-Take Space Phase, as applicable, to the Premises, and the Annual Base Rental and Monthly Base Rental for the Premises, as so expanded by the Must-Take Space or the Must-Take Space Phase, as applicable, for the months prior to the thirty-seventh (37th) month of the Term. The Term, with respect to the Must-Take Space, shall be coterminous with the Term for the Initial Premises, and shall expire on the Expiration Date.

(e) In no event shall Tenant be deemed to have taken possession of the Must-Take Space for any other reason, including, but not limited to (i) inspecting the Must-Take Space or any portion thereof, (ii) exhibiting the Must-Take Space to architects, designers, contractors, engineers or other persons in connection with preparations for alterations and/or improvements to the Must-Take Space or any portion thereof, (iii) passing through the Must-Take Space or any portion thereof to gain access to other areas of the Premises (including, without limitation, Tenant's loading dock and associated shipping and receiving areas), (iv) performing alterations or improvements to the Must-Take Space, or (v) limited, temporary use of the Must-Take Space, e.g., for the temporary storage of office supplies, furniture or construction materials while awaiting the completion of alterations and/or improvements to other areas of the Premises. In the event Landlord discovers that Tenant is actually using portions of the Must-Take Space for purposes of conducting its normal business operations therein without paying Rent for such portions of the Must-Take Space, then (1) Tenant shall be deemed to have taken possession and occupied such portions of the Must-Take Space, (2) the Must-Take Space Rent Commencement Date for such portion of the Must-Take Space shall be deemed to have occurred upon the date Landlord provides notice to Tenant of such discovery, (3) Tenant shall pay to Landlord an early occupancy fee in the amount of one (1) month of Base Rental attributable to such portions of the Must-Take Space within thirty (30) days after written notice from Landlord of the events triggering the Must-Take Space Rent Commencement Date with respect to such portions of the Must-Take Space, and (4) the payment of Base Rent and Tenant's Share of Operating Costs in excess of the Expense Stop for such Must-Take Space shall commence on the Must-Take Space Rent Commencement Date therefor. Tenant hereby acknowledges that Landlord shall not be obligated to provide any services with regard to the Must-Take Space including, but not limited to, the services described in Article 7 of this Lease until such time as Tenant shall have taken possession of and occupied the Must-Take Space in question; provided, however, that in no event shall the foregoing be deemed to excuse Landlord from its obligations to provide normal maintenance of and repairs to the Must-Take Space (subject to the cost sharing therefor in the following sentence), or Landlord's obligations to repair and restore casualty or other damage which Landlord is required to repair and restore pursuant to this Lease.

(f) Notwithstanding anything above to the contrary, Landlord shall deliver the Initial Premises with the Work Substantially Complete and in the Required Delivery Condition no later than March 1, 2012 (the “**Required Delivery Date**”). Delivery of possession shall not occur unless and until the space which constitutes the Initial Premises is ready so that Tenant may conduct its business in a normal manner and a Certificate of Occupancy (or its equivalent) permitting the use and occupancy of the Initial Premises for the Permitted Use has been issued.

(g) Notwithstanding anything in this Lease to the contrary, if Landlord fails to deliver the Initial Premises with the Work Substantially Complete by the Required Delivery Date (as same may be extended as set forth in Section 1.2(f) above) due solely to acts or omissions of Landlord or its employees, agents or contractors (but excluding the contractor or any of the contractors, subcontractors or materialmen involved in the performance of the Work) (“**Landlord Delays**”), Base Rental shall abate at a rate of one day’s Base Rental for each such day of delay in delivering possession of the Premises. The Required Delivery Date shall not be extended for any reason other than Landlord Delays.

(h) Notwithstanding anything in this Lease to the contrary, if Landlord fails to deliver the Initial Premises with the Work Substantially Complete by June 15, 2012 (the “**Delivery Date Deadline**”) solely because of Landlord Delays, Tenant, at Tenant’s option, may cancel this Lease and except with respect to the parties indemnity obligations which shall expressly survive the expiration or sooner termination of the Lease, both parties shall be relieved from any performance of their respective obligations hereunder. The Delivery Date Deadline shall be extended on a day for day basis solely for actual delays in the Substantial Completion of the Work caused solely by Tenant Delays, if any.

VARIABLES

1.3 The following terms, amounts, or information are referred to, utilized and/or defined elsewhere in this Lease:

(a) **Base Rental:**

<u>Months</u>	<u>Rate/SF/Year</u>	<u>Annual Base Rent</u>	<u>Monthly Base Rent</u>
1-29	\$17.33	\$1,299,948.60	\$108,329.05
30-36	\$18.23	\$1,367,448.60	\$113,954.05
37-49	\$17.89	\$1,744,256.64	\$145,354.72
50-52*	\$5.70	\$ 555,506.64	\$ 46,292.22
53	\$17.89	\$1,744,256.64	\$145,354.72
54-61	\$18.34	\$1,788,129.84	\$149,010.82
62*	\$6.15	\$ 599,379.84	\$ 49,948.32
63-73	\$18.34	\$1,788,129.84	\$149,010.82
74*	\$6.15	\$ 599,379.84	\$ 49,948.32
75-77	\$18.34	\$1,788,129.84	\$149,010.82
78-85	\$19.04	\$1,856,376.96	\$154,698.08
86*	\$6.85	\$ 667,626.96	\$ 55,635.58
87-97	\$19.04	\$1,856,376.96	\$154,698.08
98	\$6.85	\$ 667,626.96	\$ 55,635.58
99-101	\$19.04	\$1,856,376.96	\$154,698.08
102-125	\$19.74	\$1,924,624.20	\$160,385.35

The Base Rental amounts set forth hereinabove for months fifty (50), fifty-one (51), fifty-two (52), sixty-two (62), seventy-four (74), eighty-six (86) and ninety-eight (98) of the Lease Term reflect a Base Rental credit granted to Tenant by Landlord in the amount of \$99,062.50 for each such month; provided, however, in the event Tenant exercises its option to terminate the Lease pursuant to Section 44.1, then Tenant shall not be entitled to Base Rental credits for months fifty (50) through fifty-two (52), and in such event, the monthly Base Rent for such months shall be \$145,354.72. The Base Rental amounts for months one (1) through thirty-six (36) shall be adjusted accordingly in the event Tenant takes possession of and occupies all or any portion of the Must-Take Space prior to the thirty-seventh (37th) month of the Term. In such event, the Monthly Base Rental shall be increased by an amount equal to the product of (i) the number of square feet of Net Rentable Area of Must-Take Space being taken at the time in question, times (ii) \$15.85/Square Foot/Year for each month the Must-Take Space is taken during months 1-29, and \$16.75/Square Foot/Year for each month the Must-Take Space is taken during months 30-36, divided by twelve (12). If the Must-Take Space Rent Commencement Date for any such Must-Take Space Phase is other than the first of the month, such increase in the Monthly Base Rent for the month in which the Must-Take Space Rent Commencement Date occurs shall be prorated accordingly.

(b) **Controllable Portion of the Expense Stop:** The Controllable Portion of the Expense Stop shall be \$297,362.80, which amount is equal to the product of \$3.05 per square foot

multiplied by the total Net Rentable Area of the Building. The breakdown in the Controllable Portion of the Expense Stop and in the Expense Stop is set forth in **Exhibit "M"** annexed hereto and incorporated herein by reference.

- (c) **Expense Stop:** The Expense Stop shall be \$487,480.00, which amount is equal to the product of \$5.00 times the total Net Rentable Area of the Building. The Expense Stop is equal to the parties' agreed estimate of the Operating Cost for the Complex for calendar year 2012 assuming the Complex (i) was 100% leased at fair market rents and fully assessed, and (ii) was operated in a manner consistent with comparable first class office buildings in the surrounding area during all normal business hours.
- (d) **Electrical Costs:** Tenant shall be responsible for Tenant's Share (defined below) of the Building's Electrical Costs (defined below) for the entire Term of the Lease.
- (e) **Tenant's Share:** Subject to the provisions of Section 5.1(a), 76.93% (Initial Premises); 100% when all Must-Take Space has been occupied by Tenant, or in the event Tenant takes the Must-Take Space in phases, the percentage derived by dividing the Net Rentable Area in the Initial Premises plus the Net Rentable Area of the Must-Take Space which Tenant has taken possession of and occupied, divided by the Net Rentable Area of the Building.
- (f) Notice to Tenant shall be addressed as follows:
Priority Fulfillment Services, Inc.
500 North Central Expressway
Plano, TX 75074
Attention: Chief Financial Officer
- (g) **Representing Brokers:** Peloton Commercial Real Estate representing the Landlord and Cushman and Wakefield of Texas, Inc. representing the Tenant.
- (h) **First Month's Rent:** \$99,062.50.
- (i) **Security Deposit:** \$99,062.50.
- (j) **Complex:** the Building and the Land, including, without limitation, the Parking Areas and all other improvements to the Land.
- (k) **Parking Areas:** the parking areas on the Land as shown on **Exhibit "B-2"** attached hereto and such additional parking areas, if any, as are added to the Land during the Term.

RENTABLE AREA

2.1 The term "**Net Rentable Area**" as used herein shall refer to (i) in the case a floor in which the Premises include all leaseable area on the floor, the area measured from the outside surface of the outer glass walls, excluding only the areas for building stairs, fire towers, elevator shafts, flues, vents, stacks, pipe shafts, and vertical ducts (but including any such service areas which are for specific use of the particular Tenant such as special stairs or elevators), and a pro rata portion of the Building's machine rooms, mechanical and electrical rooms, mail rooms, vending rooms, and ground floor public lobby, atrium and required ground floor public exit corridor area, and (ii) in the case of a floor containing any portion of the remaining Must-Take Space not yet incorporated into the Premises, the area calculated within the boundaries defined by an exterior building wall bounding the Premises (measured to the outside surface of the outer glass walls), the center line of any common wall separating the Premises from rentable areas and the exterior of any walls separating the Premises from any public corridors or other public common areas on such floor, excluding only the areas for building stairs, fire towers, elevator shafts, flues, vents, stacks, pipe shafts, and vertical ducts (but including any such service areas which are for specific use of the particular Tenant such as special stairs or elevators), plus a pro rata portion of the area on such floor used for elevator lobbies, public corridors, restrooms, mechanical rooms, telephone closets, vending areas and other similar facilities for the use of all premises on the particular floor and a pro rata portion of the Building's machine rooms, mechanical and electrical rooms, mail rooms, vending rooms, and ground floor public lobby, atrium and required ground floor public exit corridor areas.

2.2 No deductions from Rentable Area shall be made for columns or projections or structural portions necessary to the Building. The "Net Rentable Area" in the Premises has been calculated on the basis of the foregoing definition and shall be deemed to be the square footage set forth in Section 1.1 above. Neither the Rent payable hereunder nor any other obligation of Tenant hereunder shall be reduced or increased by a determination that the Rentable Area shall be more or less as a result of minor variations resulting from actual construction and completion of the Premises for occupancy, so long as such work is done in accordance with the terms and provisions hereof.

2.3 For purposes of this Lease, the Initial Premises and the Building shall be measured in accordance with the Building Owners and Management Association (BOMA) Method, American National Standard (ANSI Z65.1 2010) for single tenant buildings, as modified by Section 2.1 and Section 2.2 above. All references to rentable area (or Net Rentable Area, as applicable) and usable area as used in this Lease shall refer to rentable area (or Net Rentable Area, as applicable) and usable area calculations derived by the application of BOMA as so modified. Landlord and Tenant agree that for purposes of this Lease, the Net Rentable Area of the Building shall be deemed to be 97,496 square feet.

BASE RENTAL

3.1 Tenant promises to pay Landlord's agent at its office at PM Realty Group, 6600 LBJ Freeway, Suite 192, Dallas, Texas 75240, Attention: Miranda Drymon, or at such other place as Landlord designates to Tenant in writing, in lawful money of the United States of America, the Base Rental specified in Section 1.3(a) hereinabove. Tenant shall also pay as additional rent all other sums of money as shall become due and payable by Tenant to Landlord under this Lease (herein called "**Additional Rent**"), including, but not limited to, Tenant's Share of Operating Cost and Electrical Costs. The Base Rental and any Additional Rent may at times be collectively referred to in this Lease as "**Rent**."

3.2 Such Base Rental installments, together with any adjustments of rent provided for herein then in effect, shall be due and payable on the first (1st) day of each calendar month during the initial term of this Lease and during any extensions or renewals thereof, monthly in advance without demand or notice, and without deduction, court claims, offset or abatement other than as provided in this Lease. If the term of the Lease commences on any day other than the first (1st) day of a month or terminates on other than the last day of a month, then the installment of Base Rental for such month or months shall be prorated and the installment or installments so prorated shall be paid in advance. All installments of Rent remaining unpaid more than ten (10) days after Tenant's receipt of notice that the installment(s) is(are) past due shall accrue a late charge equal to ten percent (10%) of the unpaid amount until paid; provided, however, after Landlord has provided Tenant one (1) such notice in any calendar year during the Term with respect to payment of Base Rental or Additional Rent due in equal monthly installments, the late charge shall thereafter accrue on any delinquent installment of Base Rental or any such installments of Additional Rent in such calendar year if such installment is not paid when due. Except as provided in Section 5.5 of this Lease to the contrary, any payments owed by Tenant to Landlord, and likewise any payments owed by Landlord to Tenant, shall survive the expiration, termination or cancellation of this Lease.

OPERATING COST

4.1 "**Operating Cost**" shall mean, subject to the Excluded Operating Cost (as hereinafter defined), all actual, reasonable, out-of-pocket, third-party expenses, costs and disbursement (but not replacement of capital investment items, except as provided in subsection (g) hereinbelow, nor specific costs especially billed to and paid by Tenant) of every kind and nature which Landlord shall pay or become obligated to pay because of or in connection with the ownership and operation of the Building, the Land, the Parking Areas and all other portions of the Complex, which shall be computed on the accrual basis and shall consist of all actual, reasonable, out-of-pocket, third-party expenditures by Landlord to maintain all facilities in operation at the Commencement Date and such additional facilities in subsequent years as may be determined by Landlord to be necessary or beneficial. Subject to the Excluded Operating Costs, Operating Cost may include, but shall not be limited to, the following:

- (a) Wages and salaries of all employees engaged in the direct operating and maintenance or security of the Complex and of personnel who may provide traffic control relating to ingress and egress between the parking facilities and public streets. To the extent that an employee or service is not exclusive to the Building, only a pro rata portion of the wages or the costs of the service shall be included in Operating Expenses. All taxes, insurance and benefits relating to employees providing these services shall be included.
- (b) All supplies and materials used in operation and maintenance of the Complex, and all keys and access cards required by tenants of the Building.
- (c) Cost of all insurance relating to the Complex, including the cost of casualty, rent abatement and liability insurance applicable to the Complex and personal property of Landlord located at the Complex and used in connection therewith, as set forth in Section 21 of this Lease.
- (d) Cost of all maintenance, janitorial and service agreements for the Complex and equipment therein including, but not limited to, alarm service, security service, window cleaning, elevator maintenance, landscape maintenance and trash removal.

(e) All taxes, assessments and governmental charges whether federal, state, county or municipal, and whether they be by taxing districts or authorities presently taxing the Complex, or by others, subsequently created or otherwise, and any other taxes and assessments attributable to the Complex or its operation including, but not limited to, margin taxes on Base Rental and Additional Rent (collectively, "**Real Estate Taxes**"), excluding, however, (i) margin tax, if any, attributable to revenues from sources other than Landlord's normal business operations at the Complex, including, but not limited to, insurance proceeds, condemnation or eminent domain awards, revenue resulting from the sale of the Complex or any portion thereof or interest therein and revenues resulting from any financing of the Complex or any portion thereof or interest therein, (ii) fines, penalties and interest incurred in connection with any late payment of Real Estate Taxes, (iii) income taxes, excise taxes, gift taxes, inheritance taxes, death taxes, excess profit taxes, franchise taxes and capital taxes, (v) impact fees and other fees imposed in connection with the development of the Complex, (vi) mortgage recording taxes, (vii) taxes imposed on account of a transfer of ownership of the Complex or any portion thereof or interest therein and (ix) taxes (other than existing margin taxes) imposed or measured by Landlord's revenue from the operation of the Complex, unless such tax is assessed in lieu of an ad valorem tax. It is agreed that Tenant will be responsible for ad valorem taxes on its personal property. All assessments imposed during the Term shall be calculated as if paid in the maximum number of installments and only such installments coming due during a particular year of the Term shall be included in the Real Estate Taxes for such year, to the extent only that the applicable governmental authority allows such assessments to be paid in installments.

(f) Reasonable cost of repairs and general maintenance (excluding repairs and general maintenance paid by proceeds of insurance or otherwise resulting from risks insured by insurance maintained by Landlord or which would have been insured under insurance policies required to be maintained by Landlord pursuant to this Lease, or by Tenant or other third parties, and alterations attributable solely to tenants of the Building other than Tenant).

(g) Amortization with a market rate of interest of the cost of installation of capital investment items which may be required by governmental authority due to a change in applicable Laws after the Commencement Date. All such costs shall be amortized over the reasonable life of the capital investment items by an additional charge to the Rent and paid by Tenant as Additional Rent, with the reasonable life and amortization schedule being determined in accordance with generally accepted accounting principles and in no event to extend beyond the reasonable life of the Complex.

(h) A management fee not to exceed the customary and normal charge for providing such services by other management firms within the Dallas metropolitan area, but in no event in excess of three percent (3%) of the gross revenues of the Complex.

(i) Reasonable out-of-pocket maintenance and service fees by property owners associations, or such other associations, for the up-keep of common areas of the Complex.

Notwithstanding anything in this Lease to the contrary, in no event shall Operating Cost include any of the costs and expenses set forth on **Exhibit "E"** attached hereto (the "**Excluded Operating Cost**"), all of which are expressly excluded from Operating Cost.

Landlord shall use its best efforts to minimize such costs of operating and maintaining the Building and Complex in a manner consistent with first class office buildings and in accordance with accepted principles of management and good accounting principles.

4.2 Tenant's Right to Perform Certain Services. Notwithstanding the above, Tenant shall have the right but not the obligation from time to time during the Term to contract for the following services: janitorial, security and landscape maintenance, subject to Landlord's prior approval of the contractor and the service contract, such approval not to be unreasonably withheld, delayed or conditioned. In the event Tenant desires to contract directly for such services, Tenant shall give Landlord notice of such desire and Landlord shall provide Tenant with the earliest opportunity to terminate Landlord's provider and Tenant shall take over such service on the date following the termination date of Landlord's provider. Landlord shall have the right to approve Tenant's proposed service provider, such approval shall not be unreasonably withheld, conditioned or delayed. During the period Tenant contracts for any such services in lieu of Landlord's service, the costs of providing such services shall be excluded from the Expense Stop and from the Operating Cost during such period for purposes of determining the adjustment to Base Rental required under Section 5.1 below.

4.3 Replacement of Property Manager.

4.3.1 Landlord acknowledges that Tenant intends to use the Premises for its national headquarters, that Tenant is in the business of providing a high-end service within its industry and that brand

image is therefore material to Tenant's business, that the operation, maintenance and/or repair of the Complex could affect Tenant's brand image and value as well as its ability to keep and attract clients, investors, prospective business partners and employees, and that therefore the operation, maintenance and repair of the Complex is material to Tenant's decision to lease the Premises for its headquarters facility. Landlord further acknowledges and agrees that given that Tenant (i) is the sole tenant of the Complex, and (ii) will be responsible for all or substantially all of the costs and expenses of operating, maintaining and repairing the Complex to a standard in excess of a first-class standard, Tenant is entitled to have the Complex operated to such higher standard as Tenant deems desirable to promote its business objectives. If at any time during the Term Tenant is dissatisfied with the operation, maintenance and/or repair of the Complex, Tenant shall provide written notice to Landlord of such dissatisfaction ("**Tenant's Dissatisfaction Notice**"). Tenant's Dissatisfaction Notice shall contain sufficient particulars as to the reasons for Tenant's dissatisfaction with the operation, maintenance and/or repair of the Complex so that Landlord may address and correct such causes of Tenant's dissatisfaction. Upon receipt of any Tenant's Dissatisfaction Notice, Landlord shall use commercially reasonable and diligent efforts to correct the causes for Tenant's dissatisfaction specified in Tenant's Dissatisfaction Notice, and Tenant shall reasonably cooperate with Landlord in its efforts to correct such causes, including, without limitation, by attending such conference calls and/or meetings with Landlord and/or its property management company as may be necessary or desirable to better understand the reasons for Tenant's dissatisfaction and to explore possible solutions.

4.3.2 Tenant acknowledges that Landlord and/or its asset manager intends to retain a single property management company to manage multiple properties in Landlord's and/or its asset manager's portfolio, that Landlord anticipates that such arrangement will provide certain cost, efficiency and service benefits to Landlord and that replacement of the Complex's property management company could potentially reduce certain of such benefits. Tenant accordingly agrees that it will not seek replacement of the Complex's property management company unless Tenant in good faith believes that (i) the then-current operation, maintenance and/or repair of the Complex is adversely affecting either the health, safety, well being or happiness of its employees, Tenant's existing business operations, its brand image and/or its prospects for future business opportunities and (ii) replacement of the Complex's property management company is likely to result in an improvement in the management of the Complex and the correction of Tenant's dissatisfaction with the operation, maintenance and/or repair of the Complex. Subject to the foregoing, if despite Tenant's and Landlord's good-faith efforts to work with the Complex's property management company to correct the matters set forth in Tenant's Dissatisfaction Notice, Landlord has been unable to correct such matters to Tenant's reasonable satisfaction within ninety (90) days of Tenant's delivery of Tenant's Dissatisfaction Notice, Tenant shall have the right upon thirty (30) days' notice to require that Landlord replace the Complex's property management company with a property management company identified on a list to be provided by Tenant at such time or with such other property management company as shall be reasonably acceptable to Tenant. Tenant agrees that there shall be no less than three (3) property management companies included on Tenant's list of prospective property management companies and that all such property management companies shall be reputable property management companies. In the event Tenant shall require replacement of the Complex's property management company, then within such thirty (30) day period Landlord shall terminate the existing property management company's agreement to manage the Complex and shall enter into a property management agreement with the property management company selected by Landlord from Tenant's list, or with such other property management company as shall be reasonably acceptable to Tenant. Such property management agreement shall contain such terms as Tenant shall reasonably require so long as (i) the term of such property management agreement does not extend beyond the Term of the Lease, as same may be extended pursuant to this Lease or by agreement of the parties and (ii) Landlord may terminate such property management agreement at any time without obligation to pay any fee or surcharge to the property manager.

4.3.3 Notwithstanding anything in this Lease to the contrary, Landlord shall have the right at any time during the Term of this Lease to replace any property management company retained by Landlord by operation of Section 4.3.2 with a property management company reasonably acceptable to Tenant.

OPERATING COST PASS THROUGH

5.1 Increased Operating Cost shall be calculated and paid in accordance with the following:

(a) Tenant's Base Rental includes a component which on a per square foot basis is equal to the Expense Stop on a per square foot basis. Tenant will pay, during the term of this Lease, Tenant's Share of any increases in Operating Cost over the Expense Stop. Notwithstanding the foregoing provision, in no event shall Tenant's Share of any increases in Controllable Operating Cost, hereinafter defined, over the Controllable Portion of the Expense Stop, increase more than six percent (6%) over the Controllable Operating Cost (subject to such cap) for the prior year. For purposes of this provision, the term "**Controllable Operating Cost**" shall mean all Operating Cost other than Real Estate Taxes, Tenant Excess Cost (as hereinafter defined) and the cost of utilities and insurance. As used herein, the term "**Tenant Excess Cost**" shall mean such actual increase, if any, in the reasonable out-of-pocket costs and expenses (exclusive of Excluded Operating Costs) which shall result directly from Tenant's requirement

that the Complex be operated to a standard above the standard for comparable first-class office buildings in the surrounding area. By way of example only, if the typical window washing schedule for a first class office building in the surrounding area is annually, and starting in calendar year 2015 Tenant requires that Landlord wash the windows on a quarterly basis, Tenant shall pay the actual, reasonable, out-of-pocket, third-party costs of the three extra washings per year. With regard to Tenant Excess Cost, the term "**Tenant Share**" shall mean one hundred percent (100%).

(b) The term "**Annual Operating Cost**" shall mean, with respect to each calendar year during the term of the Lease, the annual Operating Cost actually incurred by Landlord for said year computed in accordance with the provisions of Section 4.1 and subject to the cap described in Section 5.1(a).

(c) On or before November 30th of each calendar year during the Term, Landlord shall deliver to Tenant Landlord's preliminary budget for Annual Operating Cost for the coming calendar year (such budget, as finally approved or deemed approved by Tenant, "**Landlord's Budget**"). If Landlord shall request Tenant's input into the preparation of Landlord's Budget prior to Landlord's delivery of Landlord's Budget to Tenant, Tenant agrees to reasonably cooperate with Landlord to prepare Landlord's Budget. In addition, after Landlord's delivery of Landlord's Budget, if Tenant shall so request, Landlord or its property manager shall meet and confer with Tenant at the Premises at a time that is mutually and reasonably acceptable to both parties to review the proposed Landlord's Budget. By no later than December 15th of that year, Tenant shall notify Landlord whether Tenant approves or disapproves of all or any portion of Landlord's proposed budget, citing the specific items of which Tenant disapproves, if any. Tenant's failure to so notify Landlord by such date shall be deemed Tenant's approval of Landlord's proposed budget for that coming calendar year. Tenant's approval of Landlord's proposed budget will not be unreasonably withheld, conditioned or delayed. If Tenant disapproves of all or any portion of Landlord's proposed budget as to matters not increasing Tenant's costs or prospective costs, and Tenant's disapproval is not unreasonable, then Landlord shall consider, in good faith, Tenant's concerns. If Tenant disapproves all or any portion Landlord's proposed budget as to matters increasing Tenant's costs or prospective costs, (whether or not such matters also affect other tenant(s)), and Tenant's disapproval is not unreasonable, then, by not later than thirty (30) days prior to commencement of the applicable year, Landlord shall either: (i) reduce or otherwise change the disapproved item(s) in a manner reasonably acceptable to Tenant or (ii) delete the disapproved item(s) from Landlord's proposed budget, in which event Landlord shall not include any portion thereof as Operating Cost under this Lease. Landlord shall deliver to Tenant a copy of the Landlord's Budget upon the final determination thereof.

(d) For each calendar year during the Term of this Lease, Landlord shall provide Tenant in writing a statement of the projected Tenant Excess Cost for the coming year and a comparison (with detail reasonably satisfactory to Tenant) of the Expense Stop with the projected Annual Operating Cost for the coming year as reasonably determined by Landlord and as set forth in Landlord's Budget, and Tenant shall pay monthly as Additional Rent for such year which shall include a prorated portion of the projected Tenant Excess Cost and Tenant's Share of the excess, if any, of the projected Annual Operating Cost for such year over the Expense Stop. Landlord shall, within one hundred twenty (120) days (or as soon thereafter as possible) after the close of each calendar year, provide Tenant with a statement of (i) the actual Tenant Excess Cost for such calendar year (with detail reasonably satisfactory to Tenant), (ii) the actual Annual Operating Cost for such year (with detail reasonably satisfactory to Tenant) and (iii) a calculation (based thereon) prepared by Landlord of Tenant's Share of the excess, if any, of the actual Annual Operating Cost for such year over the Expense Stop. Such statement shall be prepared in accordance with generally accepted cash basis accounting principles applicable to the operation of commercial real estate properties, consistently applied, and shall be certified by Landlord as being accurate. If the aggregate amount of the actual Tenant Excess Cost for such year, and Tenant's Share of the excess, if any, of the Annual Operating Cost for such year over the Expense Stop, is greater than the amount previously paid by Tenant for such expenses for such year, Tenant shall pay to Landlord within thirty (30) days after Tenant's receipt of the statement from Landlord the amount of such excess. However, if the aggregate amount of the actual Tenant Excess Cost for such year, and Tenant's Share of the excess, if any, of the Annual Operating Cost for such year over the Expense Stop, is less than the amount theretofore paid by Tenant for such expenses for such year, any overpayments shall be credited to the Rent coming due from Tenant; provided, however, that if the excess shall exceed \$5,000, or if the Rent scheduled to come due during the remaining Term of the Lease shall be insufficient to offset such credit, Landlord shall reimburse such excess with Landlord's delivery of its statement for the Actual Operating Cost for the prior year. Landlord's obligation to pay such excess to Tenant shall survive the expiration or sooner termination of the Term of this Lease.

(e) Notwithstanding anything in this Lease to the contrary, until such time as Tenant shall lease one hundred (100%) percent of the Must-Take Space, the sharing of Operating Cost in excess of the Expense Stop for the Must-Take Space shall be as follows:

(1) Tenant's Share shall be one hundred percent (100%) of the following Operating Cost: janitorial services, elevator, day porter service, trash removal, security service, landscaping, miscellaneous cleaning and water (collectively, the "**Exclusive Tenant Costs**"). For purposes of determining the amount to be paid by Tenant pursuant to Section 5.1(a) above with respect to the Exclusive Tenant Costs, the Expense Stop for the Exclusive Tenant Costs shall be deemed to be \$158,918.48 (said amount being equal to \$1.63 per square foot multiplied by the Net Rentable Area of the Building).

(2) Tenant's Share shall be the percentage set forth in Section 1.3(e) hereinabove for all other Operating Cost. For purposes of determining the amount to be paid by Tenant pursuant to Section 5.1(a) above with respect to such other Operating Cost, the Expense Stop for such other Operating Cost shall be deemed to be \$328,561.52 (said amount being equal to \$3.37 per square foot multiplied by the Net Rentable Area of the Building).

5.2 (A) Commencing on the Commencement Date, and continuing monthly thereafter during the Lease Term, Tenant shall pay to Landlord, or directly to the utility provider, one hundred percent (100%) of the actual cost of all electricity usage charges, fees and assessments incurred by Landlord for the Complex ("**Electrical Costs**"). Tenant shall pay such Electrical Costs to Landlord within thirty (30) days of Tenant's receipt of Landlord's invoice therefore accompanied by supporting invoices from the provider. Subject to the applicable provisions of this Lease, Tenant shall have the right to install and operate energy saving devices in the Premises at Tenant's sole cost and expense and Landlord agrees to cooperate with Tenant in connection therewith, at no cost to Landlord. Landlord further agrees that upon Tenant's request, Landlord or its property manager shall meet and confer with Tenant at the Premises at a time that is mutually and reasonably acceptable to both parties to review proposals received from alternate electricity providers and to select such proposal and provider as shall be reasonably acceptable to both parties to supply electrical energy to the Complex.

(B) Landlord and Tenant agree that in the event Tenant shall perform or cause to be performed any alterations or improvements (including, without limitation, the Work) to, or within, the Premises or Complex which would cause an owner or occupant of the Premises or Complex to be entitled to an "Energy Rebate" (hereinafter defined), then, subject to Landlord's approval of such program and its effect/impact on the Building, such approval not to be unreasonably withheld, conditioned or delayed, Tenant shall be solely entitled to the benefit of such Energy Rebate. As used herein, an "**Energy Rebate**" shall be deemed to be any rebate, refund, voucher, credit, tax relief, abatement, or other monetary inducement (such as, for example only, energy efficiency incentives, property tax abatements, sales tax refunds, tax credits, governmental grants, utility rebates or refunds) given by a governmental, non-governmental, private or public utility, or other entity as a result of efforts to conserve energy or other utilities or cause property or processes to be more environmentally friendly. If any such Energy Rebate is required to be paid or credited directly to Landlord, then: (i) Landlord shall elect to take the Energy Rebate in a lump sum, or if that is not permitted, then in the shortest number of installments possible, so as to permit Tenant to recoup the full amount of the Energy Rebate during the Term of this Lease, and (ii) within thirty (30) days after Landlord's receipt of the Energy Rebate, Landlord shall deliver a check to Tenant for such amount, or in the alternative, Tenant shall be entitled to offset the full amount of such Energy Rebate against the next succeeding installment(s) of Rent then payable under the Lease.

5.3 Nothing contained in this Section 5 shall be construed at any time so as to reduce the monthly installments of Base Rental payable hereunder below the amount set forth in Section 3 of this Lease.

5.4 Landlord shall retain all books and records pertaining to Operating Cost and Electrical Cost for no less than five (5) years following the calendar year in which the cost was incurred. Upon ten (10) days prior notice, Tenant at its expense shall have the right, within ninety (90) days after receipt of Landlord's statement provided for in subsection 5.1(c) above, at all reasonable times (but not more frequently than once during any twelve (12) month period) to audit Landlord's books and records with a Certified Public Accountant relating to any year or years for which payments on account of Operating Cost or Electrical Costs become due. In the event of an error in Landlord's favor, Landlord shall refund the overcharge to Tenant within thirty (30) days after Tenant's demand therefor, and if the overcharge exceeds three (3%) percent of Tenant's Share of increases in Operating Cost or in Electrical Costs, Landlord shall pay to Tenant the reasonable expenses of the audit within thirty (30) days after Tenant's demand therefor, which obligation shall survive the expiration or sooner termination of the Term of this Lease, failing which Tenant shall have the rights and remedies to which it may be entitled under this Lease or at law or in equity.

5.5 Notwithstanding anything herein to the contrary, in no event shall Tenant be obligated to pay or reimburse Landlord for increased Operating Cost or Electrical Cost which is invoiced to Tenant more than twelve (12) months after the cost is incurred.

USE, COMPLIANCE WITH LAWS AND REGULATIONS

6.1 The Premises are to be used and occupied by the Tenant for the purpose of commercial office space and all uses ancillary thereto that are consistent with a first class office building, and for no other purpose whatsoever without Landlord's written consent.

A. Except to the extent resulting solely from Tenant's particular manner of use of the Premises (as opposed to mere use of the Premises for office purposes and uses ancillary thereto consistent with a first class office building), and except for compliance with the Disabilities Acts (as hereinafter defined in Section 6.1(B) below) within the Premises, exclusive of common areas, Landlord shall be responsible for compliance, at Landlord's sole cost and expense, with all Laws which are applicable to all or any part of the physical condition and occupancy of the Premises, the Building, the Land, the Parking Area or other areas of the Complex or additions thereto. Landlord represents and warrants that to the best of Landlord's knowledge, the Building, the Land, the Parking Areas and other areas of the Complex are in compliance with all Laws as of the date of this Lease, and will be in such compliance as of the Commencement Date. Landlord shall notify Tenant of any violation notices or waivers of building or life safety codes or outstanding insurance carrier recommendations with respect to the Premises, the Building, the Land, the Parking Areas and other areas of the Complex.

B. Subject to Landlord's obligations under Section 6(A) above, Tenant shall be responsible for compliance with all Laws which are applicable to Tenant's particular manner of use of the Premises (as opposed to mere use thereof for general office purposes and uses ancillary thereto consistent with a first class office building) and Tenant agrees not to commit on the Premises any nuisance or other act or thing against public policy which violates any Law. Tenant will not engage in any activity which would cause Landlord's fire and extended coverage insurance to be canceled or the rate therefore to be increased (or at Landlord's option, will pay any such increase); will not commit any act which injures or depreciates the Building, and will not commit or permit waste in the Premises or Building. Tenant shall be responsible for the cost of all work required within the Premises to comply with the retrofit requirements of the Americans with Disabilities Act of 1990 and the Texas Accessibility Standards, and all rules, regulations, and guidelines promulgated thereunder, as the same may be amended from time to time (collectively, "Disability Laws"), necessitated by any installations, additions, or alterations made in or to the Premises at the request of or by Tenant or by Tenant's use of the Premises. Landlord shall be responsible for compliance with Disability Laws with respect to the common areas of the Complex.

6.2 Tenant agrees to comply with the Building Rules and Regulations contained in Exhibit "F" attached hereto and made a part hereof, and with such other reasonable rules and regulations as may be hereafter adopted by Landlord for the safety, care and cleanliness for the Premises and Complex and the preservation of good order therein, taking into account that Tenant is the only tenant of the Building. Landlord shall have the right to alter or amend such rules and regulations in a reasonable manner from time to time, taking into account that Tenant is the only tenant of the Building, and all of such changes shall be carried out and observed by Tenant after receipt of written notice of such changes from Landlord. Notwithstanding, the foregoing, the Rules & Regulations will not be modified in any way which would increase Tenant's financial obligations, or reduce its rights or Landlord's obligations, under this Lease. In the event of a conflict between the Rules and Regulations and this Lease, the Lease will prevail. Notwithstanding anything herein to the contrary, if Tenant shall in good faith dispute the reasonableness of any Rule or Regulation, or the application thereof to Tenant, Tenant shall comply with the disputed Rule or Regulation(s) until such time as a final resolution shall occur.

SERVICES FURNISHED BY LANDLORD

7.1 Landlord will use its best efforts to cause the utilities providers to furnish the electricity, water and gas utilized for operating any and all facilities serving the Premises.

7.2 Landlord shall furnish, or shall use its best efforts to cause public utilities, to furnish, Tenant, as part of the Operating Cost of the Complex, the following services during the term of this Lease:

(a) Subject to mandatory governmental rules and regulations from time to time existing, air conditioning and heating ("HVAC") in season at such temperatures and in such amount as Tenant in its sole opinion shall deem necessary or appropriate, and at such times as Tenant shall require, so long as Tenant pays the entire cost thereof, including the actual, reasonable, out-of-pocket charges for any additional maintenance and replacement costs in excess of what would be normal and customary for a building such as the Building, shall be included as an Operating Expenses and not subject to the cap/limitation in Section 5.1(a).

(b) Hot and cold water at those points of supply provided for general use of all tenants in the Building.

(c) Janitorial services in accordance with **Exhibit "G"** attached hereto or such schedule of janitorial services delivered by Tenant prior to the Commencement Date for attachment as **Exhibit "G"**. Tenant reserves the right to change the **Exhibit "G"** janitorial services from time to time during the Term upon thirty (30) days' notice to Landlord.

(d) Routine maintenance, painting and electric lighting service for all public areas and special services areas of the Building in the manner and to the extent standard in keeping with typical buildings of comparable size, age and quality in the general vicinity of the Building.

(e) Proper facilities to furnish sufficient electrical power for building standard lighting, computers, dictating equipment, calculating machines and other office equipment of similar low electrical consumption. Lighting levels shall not exceed mandatory guidelines under applicable Laws as established by applicable governmental authority. Upon obtaining Landlord's prior written consent, Tenant shall have the right to upgrade the Building's electricity system and to have additional power supply cables installed increasing the electricity supplied to the Building to the extent Tenant deems necessary or desirable, at Tenant's sole cost and expense. Landlord shall reimburse Tenant at the end of the Term for the unamortized costs, plus interest at the Base Rate, of installing any such upgrades and installations.

(f) Replacement of fluorescent lamps and ballasts in Building standard ceiling mounted fixtures installed by Landlord and incandescent bulb replacement in all public areas.

(g) Such keys for each corridor door entering the Premises and Building access card keys as Tenant shall deem necessary or appropriate in its sole discretion, and Tenant shall pay Landlord for all such keys and access cards, based on Landlord's actual, reasonable, out-of-pocket cost to provide such key and access cards to Tenant. Upon termination of this Lease, Tenant shall surrender all keys and access cards to the Building

(h) Equipment for Landlord's security program for the Building.

7.3 Notwithstanding anything to the contrary contained herein, Tenant shall have the right to (i) to withhold Rent and any other charges payable hereunder for the period of time following seventy-two (72) consecutive business hours after Tenant has given notice to Landlord of the failure of any "critical service", defined as electricity, HVAC, water (including chilled water or condenser water) or elevator service to the Premises or any material portion thereof, or whether or not such failure affects the entire Premises, if Tenant's call center, operations desk or equipment room shall not be operational due to any such failure, and such failure is the result of the negligence or willful misconduct of Landlord. Such Rent and any other charges payable hereunder shall abate from the expiration of such seventy-two (72) consecutive business hour period until the first business day following the restoration of such critical service. As to any other service to be provided by Landlord, Tenant shall have the right to withhold Rent and any other charges payable hereunder for the period of time following thirty (30) days after Tenant has given notice to Landlord of the failure of such service and such service shall not be restored within such thirty (30) day period. Such Rent and any other charges payable hereunder shall abate from the expiration of such thirty (30) day period until the first business day following the restoration of such service.

LEASEHOLD IMPROVEMENTS ADDITIONS & FIXTURES

8.1 Subject to Landlord's performance of such work, if any, required to deliver possession of the Premises to Tenant, prior to the performance of any of the Work (as defined in Paragraph 1 of **Exhibit "C"** attached hereto), in the Required Delivery Condition (as defined in Paragraph 6 of **Exhibit "C"** attached hereto), and further subject to Landlord's representations and warranties set forth in this Lease and to Landlord's performance of the Work in accordance with the terms of **Exhibit "C"** annexed hereto, Tenant accepts the Premises, the Building and the Complex in its current "AS IS" condition, and acknowledges that Tenant is not relying on any representations or warranties by any person regarding the Premises, the Building and/or the Complex other than the representations and warranties of Landlord set forth in this Lease.

REPAIR AND MAINTENANCE

9.1 Landlord shall provide for the cleaning, maintenance, repair and replacement as necessary, including painting, of the entirety of the Building and Complex, including, without limitation, (i) the roof, exterior walls, foundation and other structural elements of the Building and the Complex, (ii) the mechanical, electrical, plumbing, heating, ventilation, air-conditioning, life-safety and other base-building equipment and systems within the Building and Complex (including, without limitation, all underground utility lines up to the point of connection to the utility companies' point of connection for the Complex),

and (iii) the public portions of the Building and Complex, including all Parking Areas and landscaping of the Complex. Landlord shall provide all such services as and when necessary to keep the Building to the standard equivalent to other first class office buildings in the surrounding area. A first class office building shall be deemed to be one which that is (a) professionally managed and operated in a manner suitable for headquarters operations of public companies and full floor or multiple floor offices of image conscious regional companies and high level professionals and consultants, (b) kept in excellent condition and repair at all times, and (c) meets or exceeds the maintenance and operations standards used for similar first class office buildings in the metropolitan/suburban area where the Building is located.

9.2 Landlord shall perform all cleaning, repair, maintenance and replacement work in a good and workmanlike manner and with a minimum of disturbance to Tenant and its normal business operations. Upon Tenant's written request Landlord shall delay and/or reschedule the performance of any such work to accommodate client functions or other activities at the Premises; provided, however, that Landlord shall have no liability to Tenant, nor shall Landlord be deemed in default of its obligations under the terms of this Lease, because of any delays resulting from Tenant's request to so delay or reschedule any such work. Upon Tenant's request, Landlord and its property management company shall meet with Tenant from time to time to review the property management company's performance and to give Tenant an opportunity to make suggestions for improvements and other changes. Landlord agrees to use its best efforts to cause the property management company to comply with any and all reasonable Tenant suggestions for improvements and other changes in the cleaning, repair, maintenance and replacement work in and about the Building and Complex.

9.3 In the event Tenant shall deliver notice to Landlord of a specific item of required maintenance or repair to the Building or Complex, Landlord shall undertake to perform the specified maintenance and/or repair promptly, but in no event more than five (5) business days after Landlord's receipt of Tenant's notice unless the nature of the maintenance or repair is such that it cannot be completed within five (5) business days (in which event the required maintenance and/or repair shall be completed by Landlord as soon as reasonably practicable thereafter). Tenant shall have the right and option of requiring that required maintenance and repair work be performed on an expedited basis using overtime or other premium pay labor, which additional cost of which, if any, shall be included in Operating Cost.

9.4 If any maintenance, repair or other activities to be performed by Landlord or its employees, agents, contractors or representatives shall require the interruption of electricity or other utilities or services, or shall otherwise be likely to cause noise, dust or other disruption likely to be disruptive to Tenant or its normal business operations, Landlord shall, other than in the event of an emergency, provide Tenant with no less than five (5) business days' notice of any such work to be performed and the likely impacts of same. Upon receipt of any such notice, Tenant shall have the right to require that all or certain portions of such work designated by Tenant be performed at such dates and times as Tenant shall require; except as provided hereinabove, Tenant, at Tenant's sole cost and expense, shall be obligated to maintain and repair the interior of the Premises in good condition.

9.5 Notwithstanding anything in this Lease to the contrary, Tenant shall have the option, but not the obligation, to contract for the performance all or any portion of the cleaning, maintenance repair and/or replacement work to be performed by Landlord using such contractors as Tenant shall designate and as shall be approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. Tenant shall perform all such work at its sole cost and expense; provided, however, that if any of such work shall involve any items of Excluded Operating Cost, Landlord shall reimburse Tenant for the actual, reasonable, out-of-pocket costs of such items of Excluded Operating Cost within thirty (30) days of Tenant's delivery to Landlord of a written request for reimbursement accompanied by supporting invoices. If Landlord shall fail to pay any of such invoiced costs within such thirty (30) day period, which obligation shall survive the expiration or sooner termination of the Term of this Lease, Tenant shall have the rights and remedies to which it may be entitled under this Lease or at law or in equity. During the period Tenant contracts for any such services in lieu of Landlord's service, the costs of providing such services shall be excluded from the Expense Stop and during such period for purposes of determining the increase in Operating Costs required to be paid by Tenant as Additional Rent under Section 5.1 above.

9.6 Subject to Section 23.1 of this Lease, Tenant agrees, at its own cost and expense, to repair or replace any damage or injury, except normal wear and tear and casualty damage to the Premises, the Building or Complex, or any part thereof, solely caused by the negligence or intentional misconduct of Tenant or Tenant's agents, employees, invitees or visitors; provided, however, Tenant shall make no such repairs without Landlord's prior express written consent, not to be unreasonably withheld, conditioned or delayed, and provided further, if Tenant fails to make such required repairs or replacements within thirty (30) days after Landlord's approval of such repairs (as such period shall be extended for repairs which cannot be made within thirty (30) days using commercially reasonable and diligent efforts so long as Tenant commences its repair within ten (10) days of receipt of Landlord's approval of the repairs), then Landlord may make such repairs or replacements and Tenant shall repay Landlord the actual reasonable, out-of-pocket cost thereof, plus a five percent (5%) overhead fee, within thirty (30) days of Tenant's receipt of written demand. Tenant shall have the right to competitive bid repairs and replacements and

the commencement of work on the preparation of a bid package shall be deemed to be the commencement of repair work for purposes of this Section 9.6 so long as Tenant thereafter shall proceed with commercially reasonable diligence to bid the work, award the contract and oversee the repair work to completion.

9.7 Landlord shall maintain the life safety and security systems of the Building and shall comply with all Laws pertaining to such systems. Landlord shall periodically conduct evacuation drills on such schedule as the property management company shall deem appropriate. Any problems discovered during these drills shall be resolved jointly by Landlord and Tenant.

FIRE AND CASUALTY

10.1 If the Complex or any portion thereof is partially or totally destroyed by fire or other casualty (hereinafter collectively referred to as the “**Casualty**”), then within thirty (30) days after Landlord receives written notice describing the destruction or damage in reasonable detail, Landlord shall give to Tenant a written certification from Landlord’s licensed architect (hereinafter “**Notice**”) setting forth Landlord’s architect’s best estimate of the time reasonably necessary to repair and restore the damage.

(a) If the estimated repair period set forth in the Notice is more than six (6) months from the date of the Casualty, then Tenant may elect to terminate this Lease by delivering written notice of its election to terminate to Landlord not more than thirty (30) days from the date of Tenant’s receipt of Landlord’s Notice. If Tenant elects to terminate this Lease pursuant to this subsection (a), the termination will be effective as of the date of the Casualty.

(b) If the estimated repair period set forth in the Notice is more than six (6) months from the date of the Casualty and Tenant does not exercise its right in Section 10.1(a) to terminate the Lease, and Landlord then fails to complete the repairs within the estimated repair period set forth in the Notice, Tenant again may elect to terminate this Lease at any time thereafter upon thirty (30) days’ notice, and unless Landlord shall complete the required repairs within such thirty (30) day period this Lease shall terminate without further notice upon the expiration of such thirty (30) day period.

(c) If Landlord does not receive timely notice of Tenant’s election to terminate this Lease, Tenant shall be deemed to have elected to continue this Lease in full force and effect, subject to abatement of Rent as provided in Section 10.3 below.

(d) If the Lease shall be terminated pursuant to this Section 10.1, Landlord and Tenant each shall be released from all obligations and liabilities under the Lease except for such obligations and liabilities which expressly shall survive the expiration or sooner termination of the Lease term.

10.2 Provided this Lease shall not be terminated pursuant to Section 10.1, Landlord shall, in good faith and with commercially reasonable and diligent efforts, endeavor to restore or replace the damaged or destroyed portions of the Complex, including without limitation all of the Work and other alterations and improvements to the Premises, to substantially the same condition that existed immediately prior to the Casualty within the time estimated in Landlord’s Notice. Tenant shall have the right to require Landlord to make changes to the Premises in the course of, and as part of, such rebuilding or restoration work. If the net cost and expense of such rebuilding or restoration work is increased solely as a result of such changes (taking into consideration any and all actual reduced and additional costs resulting from such changes and/or other cost savings arising therefrom) and such costs are not covered by applicable insurance proceeds, then Tenant shall pay to Landlord, as Additional Rent, the amount of such net increase, which amount shall be due and payable within thirty (30) days after Landlord has delivered to Tenant backup information evidencing such increase (including, without limitation, receipted invoices) as may be reasonably required by Tenant (but in no event earlier than the occurrence of the date on which possession of the restored areas of the Premises are delivered to Tenant). To the extent that Landlord’s substantial completion of such rebuilding or restoration work is delayed solely as a result of such changes (taking into consideration any and all reasonable time savings to Landlord resulting from such changes), then the date upon which Tenant’s obligation to pay Rent with respect to the affected portion of the Premises shall be appropriately adjusted to the extent of such net delay.

10.3 If the Premises are completely destroyed or so damaged by the Casualty that the Premises cannot reasonably be used by Tenant for the purposes provided herein, and this Lease is not terminated as above provided, then there shall be a total abatement of the Rent until the Premises and all other areas of the Complex are made usable for Tenant’s normal business operations. If the Premises are partially destroyed or damaged by the Casualty so that the Premises can only be partially used by Tenant for the purpose herein provided, then there shall be a partial abatement in the Rent corresponding to the time and extent for which such Premises cannot be used by Tenant for its normal business operations.

10.4 Notwithstanding anything herein to the contrary, if Landlord shall fail to prosecute the repair and restoration of the Building and the Complex with commercially reasonable and diligent efforts, or fails to complete the restoration within six (6) months after the date of the Casualty, and such failure is not cured within thirty (30) days after notice from Tenant of such failure, Tenant shall have the right, but not the obligation, in addition to and not in lieu or reduction of Tenant's other rights and remedies for such failure, to (i) assume control of such repair and restoration, either with the contractors selected by Landlord or by such contractors as Tenant shall select and as shall be approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed, (ii) seek to obtain specific performance of Landlord's repair and restoration obligations pursuant to the laws of the state in which the Complex is located; or (iii) terminate this Lease upon thirty (30) days' notice to Landlord. In the event Tenant shall elect to assume control of the repair and restoration work, Landlord shall assign such design professional, construction and other contracts to Tenant as Tenant shall require, and/or Landlord shall provide such direction to Landlord's contractors as Tenant shall reasonably deem necessary and appropriate, and Landlord further shall provide such other and further cooperation as Tenant shall reasonably require in connection with Tenant's assumption of control of such repair and restoration work and the prosecution thereof, and shall transfer and assign to Tenant all property insurance proceeds received and not previously disbursed and all unliquidated property insurance claims.

10.5 If the Premises are substantially destroyed by fire or other casualty during the last two (2) years of the Term to the extent of more than one third (1/3) of the Net Rentable Area thereof, Tenant shall have the right to terminate this Lease as of the date of such damage or destruction by giving notice within thirty (30) days following such damage or destruction.

10.6 Notwithstanding anything in this Lease to the contrary, if Landlord shall fail within thirty (30) days of the occurrence of any Casualty to deliver evidence reasonably satisfactory to Tenant of Landlord's access to funds sufficient to complete the timely repair of the damage caused by the Casualty and to restore the Premises, the Building and the Complex to their pre-existing condition, or as near thereto as shall be commercially practicable, Tenant shall have the right to terminate this Lease immediately, or at any time thereafter, upon delivery of notice of termination prior to Landlord's delivery of such evidence to Tenant. If (i) any of the funds proposed by Landlord to complete such repair and restoration are insurance proceeds and (ii) pursuant to the terms of any mortgage, deed of trust or ground lease encumbering the Complex or any portion thereof such insurance proceeds must be paid to any holder of any such mortgage, deed of trust or ground lease, Landlord's evidence must include, in addition to evidence that the insurance and other proceeds, if any, are sufficient to complete the required repair and restoration work, the agreement of such holder(s) to make such insurance proceeds available to Landlord to complete the required repair and restoration on terms that are reasonably acceptable to Tenant.

GRAPHICS AND SIGNS

11.1 Landlord will provide and install, at Tenant's cost, all plaques, letters, and numerals on entrance doors for the Premises, on the Building Directory, on the Complex's monuments and on the reserved parking signs (if any); all such plaques, letters, and numerals shall be in the Building Standard Graphic or such other graphic as Tenant shall specify subject to Landlord's consent, not to be unreasonably withheld, conditioned or delayed. In addition thereto, Tenant shall be entitled to exclusive building signage and monument signage, the design and location of which must be approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed, so long as the signs do not require structural alterations to the Building (and in the event of signs requiring structural alterations, Landlord shall not unreasonably withhold, condition or delay its consent to such signage), so long as any such signage is approved by all applicable governmental authorities having the right of approval of same. Any such signage will be installed, maintained, operated and removed at the sole cost and expense of Tenant, however, Tenant shall have no obligation to pay any rental or other fee for such rights.

11.2 Landlord will not erect or install any signs in or about the Building, the Land or the Complex without Tenant's consent, which Tenant may grant or withhold in its sole and absolute discretion. Notwithstanding the foregoing, during the last six (6) months of the Term Landlord shall be permitted to erect one or more signs in front of the Complex along Millennium Drive and Century Parkway advertising the Premises for let.

SUBORDINATION AND ESTOPPEL

12.1 Landlord represents and warrants to Tenant that the only mortgagee and/or ground lessor holding a superior interest in and to the Building or the Complex, or any portion thereof or interest therein, is Independence Bank (the "**Superior Interest Holder**"). Tenant's obligation to perform its rental and other covenants and other obligations under this Lease shall be subject to Tenant's receipt of a non-disturbance agreement (an "**SNDA**") in the form of **Exhibit "I"** annexed hereto executed in recordable form from the Superior Interest Holder.

12.2 Upon Tenant's receipt of an SNDA executed in recordable form by each future mortgagee or ground lessor granted a mortgage, deed of trust or ground lease interest in the Premises, the Complex or any portion thereof or interest therein, Tenant's rights and interests under this Lease in and to the Premises shall be subject and subordinate to the lien of all deeds of trust, first mortgages and to all ground leases or other similar and related documents pursuant to a "sale-lease back" transaction, and to all renewals, modifications, consolidations, replacements and extensions thereof ("**Security Documents**") heretofore or hereafter executed by Landlord covering the Premises, the Building, or the Land, or any parts thereof, to the same extent as recorded prior to the execution of this Lease.

12.2 After the delivery to Tenant of a notice from Landlord that it has entered into one or more Security Documents and an SNDA from the holder of such Security Documents, then during the term of the Security Documents, Tenant shall deliver to the holder or holders of all Security Documents a copy of all notices to Landlord of alleged defaults and shall grant to such holder or holders the right to cure all defaults, if any, of Landlord hereunder within the same time period provided in this Lease for curing such defaults by Landlord, and, except with the prior written consent of the holder of the Security Documents, not to be unreasonably withheld, conditioned or delayed, shall not (i) amend this Lease, (ii) surrender or terminate this Lease except pursuant to a right to terminate expressly set forth in this Lease, or, (iii) pay any Rent more than one month in advance or pay any Rent or other amounts payable hereunder other than strict accordance with the terms hereof.

12.3 The provisions of this subsection shall be self-operative and shall not require further agreement by Tenant; however, at the request of Landlord, Tenant shall execute such further documents in form reasonably acceptable to Tenant as may be required to evidence, and set forth for the benefit of the holder of any Security Documents, the obligations of Tenant hereunder.

12.4 At any one time and from time to time, within fifteen (15) days after notice from Landlord, Tenant shall execute, acknowledge and deliver to the Landlord a written statement, which may be relied upon by a prospective purchaser, ground tenant, mortgagee, or assignee of any mortgage of the Building or Land or of the Landlord's interest therein, certifying that, if true, 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 and stating the modifications), and the date to which the Rent has been paid in advance, if any, and stating whether or not to the best knowledge of Tenant, the Landlord is in default in keeping, observance or performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default.

12.5 At any one time and from time to time, within thirty (30) days after notice from Tenant, Landlord shall execute, acknowledge and deliver to the Tenant a written statement, which may be relied upon by a prospective assignee, subtenant, lender or purchaser of Tenant's business or of any interests in Tenant, certifying that, if true, 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 and stating the modifications), and the date to which the Rent has been paid in advance, if any, and stating whether or not to the best knowledge of Landlord, the Tenant is in default in keeping, observance or performance of any covenant, agreement, term, provision or condition contained in this Lease and, if so, specifying each such default.

ASSIGNMENT AND SUBLETTING

13.1 Except as otherwise provided below, Tenant shall not assign all or any portion of this Lease, nor sublease the Premises or any part thereof, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

13.2 In the event Tenant should desire to assign this Lease or sublease the Premises or any part thereof for all or substantially all of the remaining Term, Tenant shall give Landlord notice of such desire and the date Tenant intends to vacate the Premises or the applicable portion thereof ("**Tenant's Initial A&S Notice**"). In the case of a proposed sublease of less than all of the Premises, the applicable portion of the Premises which Tenant desires to sublease shall be expressly identified in Tenant's Initial A&S Notice.

13.3 Landlord shall have a period of thirty (30) days following receipt of Tenant's Initial A&S Notice to notify Tenant in writing that Landlord elects to recapture the Premises or, in the case of a proposed subletting, the applicable portion thereof identified in Tenant's Initial A&S Notice, and terminate this Lease with respect thereto. If Landlord shall fail to provide notice within such thirty (30) day period that Landlord is exercising its right of recapture, Landlord shall be deemed to have elected not to exercise such right. In no event shall Landlord have any right to recapture the Premises or any portion thereof in connection with a subletting for less than substantially all of the remaining Term of the Lease.

13.4 If Landlord shall timely provide notice of its exercise its option to recapture the Premises or the applicable portion thereof described in Tenant's Initial A&S Notice, the Lease as to the Premises or such portion of the Premises shall be deemed to be terminated effective as of the date set forth in Tenant's

Initial A&S Notice as the date Tenant intends to vacate the Premises or the applicable portion thereof. Landlord and Tenant shall promptly execute an amendment to this Lease in form reasonably acceptable to both parties memorializing such termination. If Landlord's recapture and such termination shall affect less than the entire Premises, the Base Rental and Tenant's Share shall be proportionally reduced and such amendment shall properly reflect such reduction in the Base Rental and Tenant's Share. If the termination shall be for less than all of the Premises, Tenant further agrees to provide, at its own expense, direct access from any subletting space which is less than a full floor to a public corridor of the Building. All plans and specifications for any alterations which may be necessary to provide such access shall be submitted by Tenant to Landlord for its prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

13.5 If Landlord shall timely provide notice that it is not exercising its right of recapture, or if Landlord shall be deemed to have elected not to exercise its right of recapture by failing to provide timely notice of its exercise of such right, then, subject to Landlord's right to review and reasonably approve the proposed assignment or sublease transaction, Tenant shall have the right for a period of two hundred seventy (270) days following the expiration of Landlord's thirty (30) day recapture period to enter into an assignment or sublease transaction for the Premises or the portion thereof described in Tenant's Initial A&S Notice. If prior to entering into any such assignment or sublease transaction Tenant shall provide notice to Landlord ("**Tenant's Second A&S Notice**") of the name of the proposed assignee or subtenant, the nature and character of the business of the proposed assignee or subtenant, the term, use, rental rate, and other material terms of the proposed assignment or subletting transaction, including, without limitation, evidence reasonably satisfactory to Landlord that the proposed assignee or subtenant is financially responsible, then, subject to Landlord's obligation not to unreasonably withhold, condition or delay its consent, Landlord shall provide notice to Tenant within fifteen (15) days of Landlord's receipt of Tenant's Second A&S Notice of whether or not Landlord consents to the proposed assignment or sublease transaction. If Landlord shall approve the proposed assignee or subtenant and the proposed assignment or sublease transaction, then provided Tenant shall enter into an assignment or sublease in form reasonably acceptable to Landlord within the afore-mentioned two hundred seventy (270) day period, Tenant shall have the right to enter into the assignment or sublease transaction described in Tenant's Second A&S Notice. For any approved sublease transaction which is for less than a full floor, Tenant agrees to provide, at its own expense, direct access from any subletting space which is less than a full floor to a public corridor of the Building. All plans and specifications for any alterations which may be necessary to provide such access shall be submitted by Tenant to Landlord for its prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

13.6 No assignment or subletting by Tenant (including to a Permitted Transferee defined hereinbelow) shall relieve Tenant of any obligations under this Lease. Consent of Landlord to a particular assignment or other transaction shall not be deemed consent to any other or subsequent transaction.

13.7 If Landlord consents to any subletting or assignment by Tenant as hereinabove provided, and subsequently any category of Rent received by Tenant under any such sublease is in excess of the same category of Rent payable to Landlord under this Lease, or any additional consideration is paid to Tenant by the assignee or sublessee under any such assignment or sublease, the Landlord shall be entitled to receive fifty percent (50%) of such excess rents under any sublease, or fifty percent (50%) of such additional consideration for any assignment to be due and payable by Tenant to Landlord as Additional Rent hereunder, which is in excess of Tenant's costs of the transaction, including, without limitation, broker commissions, costs of improvements, improvement allowances and lease takeover expenses. Notwithstanding anything herein to the contrary, Landlord shall not be entitled to receive any portion of such excess rents or additional consideration if the subtenant or assignee is a Permitted Transferee, as defined in Section 13.8 below.

13.8 Notwithstanding anything in this Section 13 to the contrary, no Landlord consent is required for, and Landlord shall not have any right of recapture or to share in any profit in connection with (a) any transfer of ownership or interests in Tenant or any direct or indirect parent of Tenant, or any public offering or other issuance of stock of Tenant or any affiliate of Tenant, or for (b) any sublease or assignment to any entity (i) into or with which Tenant or any direct or indirect parent of Tenant is merged or consolidated, (ii) which acquires ownership interests in Tenant or any direct or indirect parent of Tenant by way of sale, transfer or issuance of ownership interests, (iii) which acquires all or substantially all of Tenant's or any direct or indirect parent's assets by purchase, merger or other means; (iv) controlled by, controlling or under common control with Tenant and/or (v) that is a franchisee of Tenant (each such entity, a "**Permitted Transferee**").

13.9 If Tenant assigns Tenant's interest in this Lease, then Landlord, when giving notice to said assignee or any future assignee in respect of any default, shall also give a copy of such notice to the Tenant named in this Lease (the "**Original Tenant**"), and no notice of default shall be effective until a copy thereof is so given to Original Tenant. Original Tenant shall have the same period after receipt of such notice to cure such default as is given to Tenant therefor under this Lease. If this Lease is terminated because of: (a) an Event of Default of such assignee, or (b) the rejection, disaffirmation, or other

termination of this Lease by or on behalf of the assignee pursuant to any proceeding in bankruptcy under any applicable Laws, then Landlord shall promptly give to Original Tenant notice thereof, and Original Tenant shall have the right, exercisable by notice given to Landlord within fifteen (15) days after receipt by Original Tenant of Landlord's notice, to enter into a new lease of the Premises with Landlord ("**New Lease**"), provided that the Original Tenant shall have remedied all Events of Default of the assignee hereunder, unless such Events of Default are personal to the assignee and/or not reasonably susceptible of cure by the Original Tenant, in which event the Original Tenant shall not be obligated to cure such Events of Default as a condition to the exercise of its rights under this Section 13.9. Upon the Original Tenant's curing of any such Event of Default of the assignee as aforesaid, Landlord shall assign to the Original Tenant all of Landlord's rights against such assignee (whether arising as a result of bankruptcy court proceedings or otherwise). In the event the Original Tenant elects not to enter into a New Lease, or fails to respond to Landlord within the 15 day period described above, then the rights of Original Tenant under this Section 13.9 shall terminate and no longer be of any force or effect. The term of said New Lease shall begin on the date of termination of this Lease and shall continue for the remainder of the Term (including any Renewal Terms, if exercised by the Original Tenant). Such New Lease shall otherwise contain the same terms and conditions as those set forth herein, except for requirements which are no longer applicable or have already been performed. It is the intention of the parties hereto that such New Lease shall have the same priority relative to other rights or interests in or to the Premises and the Complex as this Lease. The provisions of this Section 13.9 shall survive the termination of this Lease for the reasons set forth in subsections 13.9(a) and (b) above, and shall continue in full force and effect thereafter to the same extent as if this Section 13.9 were a separate and independent contract between Landlord and the Original Tenant. From the date on which the Original Tenant shall serve Landlord with the aforesaid notice of the exercise of its right to a New Lease, the Original Tenant shall have quiet and undisturbed use and enjoyment of the Premises and the Complex and all appurtenances thereto, as contemplated in this Lease.

CONDEMNATION

14.1 Landlord shall deliver to Tenant promptly (but in no event later than three (3) business days after Landlord's receipt of same) a copy of any notice of any impending or threatened exercise of the right of condemnation or eminent domain affecting the Complex or any portion thereof. If, during the Term (or any renewal or extension) of this Lease, all of the Premises, Parking areas or means of access to the Premises or Parking areas shall be appropriated, or damaged by any public, quasi public, or private party under the right of condemnation or eminent domain, or due to a private sale in lieu of such right, this Lease may be terminated by Landlord or Tenant and the Rent shall be abated during the unexpired portion of this Lease, effective as of the date of possession or damage. In addition, if during the Term (or any renewal or extension) of this Lease, if there has been substantial impairment of Tenant's access to or use of the Premises due to the exercise of condemnation or eminent domain, or due to a private sale in lieu of such right, this Lease may be terminated by Tenant and the Rent shall be abated during the unexpired portion of this Lease, effective as of the date of possession or damage. If this Lease is not terminated, the Base Rental and Additional Rent thereafter to be paid shall be equitably reduced from the date of possession or damage and Landlord at its sole cost and expense shall promptly restore the Premises and Complex to their prior condition, or as near thereto as shall be commercially practicable; provided, however, if Landlord shall fail to prosecute the repair and restoration of the Building and the Complex with commercially reasonable and diligent efforts, or fails to complete the restoration within five (5) months after the date of the exercise of any such right of condemnation or eminent domain, and such failure is not cured within thirty (30) days after notice from Tenant of such failure, Tenant shall have the right, but not the obligation, in addition to an abatement or reduction of Tenant's other rights and remedies for such failure, to (i) assume control of such repair and restoration, either with the contractors selected by Landlord or by such contractors as Tenant shall select and as shall be approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed, (ii) seek to obtain specific performance of Landlord's repair and restoration obligations pursuant to the laws of the state in which the Complex is located; or (iii) terminate this Lease by thirty (30) days' notice to Landlord. If Tenant shall elect to assume control of any such repair and restoration work, Landlord shall assign such design professional, construction and other contracts to Tenant as Tenant shall require, and/or Landlord shall provide such direction to Landlord's contractors as Tenant shall reasonably deem necessary and appropriate, and Landlord shall provide such other and further cooperation as Tenant shall reasonably require in connection with Tenant's assumption of control of such repair and restoration work and the prosecution thereof, and shall transfer and assign to Tenant all proceeds of the applicable exercise of the right of condemnation or eminent domain, or any private sale in lieu thereof, previously received and not previously disbursed, and all unliquidated claims or rights of payment in connection with any such exercise of the right of condemnation or eminent domain, or any private sale in lieu thereof.

14.2 In the event of a taking resulting in a termination of this Lease under Section 14.1, the parties hereto, and each of their respective mortgagees, agree to cooperate in applying for and in prosecuting any claim for such taking and further agree that the aggregate net award, after deducting the reasonable expenses of Landlord, Tenant, and any fee or leasehold mortgagee, excluding attorneys' fees, incurred in connection therewith, shall be paid and distributed as follows, and in the following order of priority:

(a) Landlord shall be entitled to an amount equal to the value, on the date of the taking, of the Land taken, as if vacant and unimproved and available for its best or most economic use, giving effect to the existence of this Lease.

(b) Landlord shall be entitled to an amount of the award equal to the then unamortized cost of the Work paid for by use of the allowances provided under **Exhibit "C"** attached hereto.

(c) Tenant shall be entitled to an amount of the award equal to the then unamortized cost of the Work paid for by Tenant and other alterations performed by Tenant, and for Tenant's relocation costs.

(d) Landlord shall be entitled to the balance of the award.

14.3 Notwithstanding anything in this Lease to the contrary, if Landlord shall fail within thirty (30) days of the exercise of any such right of condemnation or eminent domain, or any private sale in lieu thereof, to deliver evidence reasonably satisfactory to Tenant of Landlord's access to funds sufficient to complete the timely repair of the damage caused by such exercise or sale and to restore the Premises and the Building to their pre-existing condition, or as near thereto as shall be commercially practicable, Tenant shall have the right to terminate this Lease immediately or at any time thereafter prior to Landlord's delivery of such evidence to Tenant upon delivery of notice thereof to Landlord. If (i) any of the funds proposed by Landlord to complete such repair and restoration are proceeds from the exercise of any such right of condemnation or eminent domain, or private sale in lieu thereof, and (ii) pursuant to the terms of any mortgage, deed of trust or ground lease encumbering the Complex or any portion thereof such proceeds must be paid to any holder of any such mortgage, deed of trust or ground lease, Landlord's evidence must include, in addition to evidence that the funds available to Landlord are sufficient to complete the required repair and restoration work, the agreement of such holder(s) to make such proceeds available to Landlord to complete the required repair and restoration on terms that are reasonably acceptable to Tenant.

LIEN FOR RENT

15.1 *Intentionally Omitted.*

DEFAULT BY TENANT

16.1 Each of the following acts or omissions of Tenant or of any guarantor of Tenant's obligations shall constitute an "**Event of Default**":

(a) Default in the payment of any sum to be paid by Tenant under this Lease beyond fifteen (15) days after written notice from Landlord to Tenant of such default;

(b) Default in the performance of any of the other covenants or conditions which Tenant is required to observe and to perform and such default continues without cure for thirty (30) days (or such longer period as may be reasonably necessary provided Tenant commences to cure within such thirty (30) day period and proceeds diligently to completion) after written notice from Landlord to Tenant of such default.

(c) The interest of Tenant under this Lease is levied on under execution or other legal process, or a petition is filed by or against Tenant or any guarantor to declare Tenant or such guarantor a bankrupt or to delay, reduce or modify Tenant's or such guarantor's debts or obligations or a petition is filed to reorganize or modify Tenant's or any guarantor's capital structure if Tenant or guarantor be a corporation or other entity, or Tenant or any guarantor is declared insolvent according to law, or a general assignment of Tenant's or guarantor's property is made for the benefit of creditor's, or a receiver or trustee is appointed for Tenant or any guarantor or their property (provided that no such levy, execution, legal process or petition filed against Tenant or a guarantor shall constitute a breach of this Lease if Tenant or guarantor shall contest the same in appropriate proceedings and shall remove or vacate the same within ninety (90) days from the date of its creation, service of filing).

(d) Tenant abandons the Premises and ceases paying Rent and complying with its obligations to maintain the Premises and the insurance required of Tenant pursuant to Article 21 of this Lease; provided, however, it shall be an Event of Default if such abandonment by Tenant continues for one hundred twenty (120) consecutive days.

16.2 Upon the occurrence of an Event of Default, Landlord may, at its option, have any one or more of the following described remedies, in addition to all other rights and remedies provided at law or in equity:

(a) Landlord upon no less than three (3) business days' notice to Tenant may terminate this Lease and repossess the Premises, and be entitled to recover as damages a sum of money equal to the total of (i) the actual, reasonable, out-of-pocket cost of recovering the Premises, (ii) the unpaid Rent earned at the time of termination, plus interest thereon at the rate of nine percent (9%) per annum (the "**Default Rate**") from the due date until the date paid, (iii) the balance of the Rent for the remainder of the term less the fair market value of the Premises for said period, both discounted to present value based on a ten percent (10%) discount factor, and (iv) any other sum of money and damages owed by Tenant to Landlord.

(b) Landlord upon no less than three (3) business days' notice to Tenant may terminate Tenant's right of possession, and may repossess the Premises by forcible entry or detainer or otherwise without demand or notice of any kind to Tenant and without terminating this Lease, in which event Landlord shall immediately attempt to relet the Premises, using commercially reasonable diligence, and may relet the same for the account of Tenant for such Rent and upon such terms as shall be satisfactory to Landlord in its reasonable discretion. For the purpose of such reletting, Landlord is authorized to decorate or to reasonably make any repairs, changes, alterations or additions in or to Premises that reasonably may be necessary or convenient. If the Premises are not relet despite Landlord's use of commercially reasonable and diligent efforts, the Rent payable hereunder shall continue without abatement. If the Premises are relet and a sufficient sum shall not be realized from such reletting after paying (i) the unpaid Base Rental and Additional Rent due hereunder earned but unpaid at the time of reletting plus interest at the Default Rate, (ii) the actual, reasonable, out-of-pocket cost of recovering possession, (iii) the reasonable cost and expense of such decoration, repair, change, alteration and addition, as amortized over the term of the replacement lease and with only the amortized costs coming due during the scheduled term of this Lease (assuming no early termination) being charged to Tenant's account, and (iv) the actual, reasonable, out-of-pocket expense of such reletting (including reasonable brokerage fees) and of the collection of the Rent accruing therefrom to satisfy the Rent provided for in this Lease to be paid, then Tenant shall pay to Landlord as damages any such deficiency upon demand therefore from time to time.

(c) Tenant agrees that such reletting shall not be construed as an election on the part of the Landlord to terminate this Lease unless a written notice of such election is given by Landlord to Tenant.

Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease on account of Tenant's previous breach.

16.3 Except as may otherwise be provided by applicable Law, failure of Landlord to declare any default immediately upon occurrence thereof, or delay in taking action in connection therewith, shall not waive such default, but Landlord shall have the right to declare any such default at any time within reason and take such action as might be lawful or authorized hereunder, either in law or in equity.

16.4 In the event Tenant defaults beyond applicable notice and cure periods in the performance of any of the terms, covenants, agreements or conditions contained in this Lease and Landlord places the enforcement of this Lease, or any part thereof, or the collection of any Rent due, or to become due hereunder, or recovery of the possession of the Premises in the hands of an attorney, or files suit upon the same, Tenant agrees to pay Landlord reasonable, out-of-pocket attorney's fees and expenses actually incurred by Landlord.

ACCESS BY LANDLORD

17.1 Landlord, its officers, general partners, agents and representatives, subject to any security regulations imposed by Tenant or by any governmental authority, shall have the right to enter all parts of the Premises at normal business hours and scheduled in advance with Tenant (except in emergencies when no notice beyond what is expedient under the circumstances is required) to inspect, clean, maintain and make repairs and replacements to the Building or Premises which Landlord reasonably may deem necessary or desirable to provide any service which Landlord is obligated to furnish to Tenant, or, during the one hundred eighty (180) days prior to the expiration of this Lease, and provided Tenant has not exercised its rights to renew as set forth herein, to show the Premises to prospective new tenants, and Tenant shall not be entitled to any abatement or reduction of Rent by reason thereof. Landlord agrees to use good faith efforts not to unreasonably disrupt Tenant or Tenant's business operations while performing any such inspection, cleaning, maintenance, repairs or replacements. Any core drilling or other activities likely to disturb Tenant or its normal business operations shall be scheduled in advance with Tenant and shall take place on such dates and at such times as shall be reasonably acceptable to Tenant. Tenant shall have the right to have a representative present at all times Landlord or any of its employees, agents, contractors or representatives are present in the Premises. Any pipes or other installations shall be made within columns or behind finished walls, floors or ceilings and shall not result in any reduction in the usable area of the Premises. If Tenant's normal business operations shall be

adversely affected by any of activities within the Premises by Landlord or its employees, agents or contractors, and such period of interruption shall continue for more than seventy two (72) consecutive business hours or more than ten (10) days in any given thirty (30) day period, then from and after the expiration of the applicable period the Base Rental and all Additional Rent due under Article 5 shall be proportionally abated based upon the portion of the Premises affected by Landlord's activities within the Premises.

TENANT REMEDIES FOR DEFAULT BY LANDLORD

18.1 In the event of any default by Landlord, Tenant will give Landlord written notice specifying such default with reasonable particularity. Except in cases of emergency, in which event Tenant shall have the right to cure Landlord's default and receive reimbursement of its actual, out-of-pocket costs and expenses within thirty (30) days of delivery of written request for reimbursement accompanied by supporting invoices, Landlord shall have thirty (30) days after receipt of Tenant's notice to cure any default and such additional time as is reasonably necessary to cure any default not curable within thirty (30) days with the exercise of due diligence by Landlord, provided Landlord has commenced its cure within 15 days and thereafter diligently prosecutes its cure to completion. If Landlord shall fail to cure its default within such thirty (30) day period (as same may be extended as set forth above), Tenant shall have the right, but not the obligation, in addition to, and not in lieu of reduction of Tenant's other rights and remedies under this Lease or at law or in equity, to (i) cure Landlord's default and receive reimbursement of its actual, out-of-pocket costs and expenses within thirty (30) days of delivery of written request for reimbursement accompanied by supporting invoices, (ii) to bring suit for the collection of any amounts for which Landlord is in default, and/or (iii) to seek an injunction of Landlord's default and/or specific performance for any covenant or agreement of Landlord without terminating this Lease. In addition to the foregoing, if solely because of Landlord's breach, and not events of force majeure, Tenant (i) shall be deprived of commercially reasonable access to and/or egress from the Premises for a period in excess of five (5) consecutive business days, or (ii) such breach shall have a material, adverse impact on Tenant's ability to conduct its normal business operations in all or any material portion of the Premises for a period in excess of five (5) consecutive business days, then if Landlord shall fail to cure its breach within the applicable notice and cure periods set forth above, Tenant shall have the right to terminate this Lease on thirty (30) days' notice to Landlord, and unless Landlord shall cure its breach within such thirty (30) day period, this Lease shall automatically terminate upon the expiration of such thirty (30) day period and Tenant shall owe no further obligation or liability to Landlord beyond such obligations and liabilities as shall expressly survive the expiration or sooner termination of the Term of this Lease. All obligations of Landlord hereunder will be construed as covenants, not conditions, and all such obligations will be binding upon Landlord only during the period of its possession and ownership of the Buildings and not thereafter, but shall then be the obligation of whomsoever owns and is in possession of the Building; provided, however, that in no event shall Landlord be released from its liability for obligations and/or liabilities pre-dating the transfer of ownership of the Building unless the transferee shall expressly assume such obligations and/or liabilities in a writing reasonably acceptable to Tenant. Notwithstanding anything herein to the contrary, Landlord acknowledges that if any default in the performance of Landlord's obligations under this Lease shall directly affect only relatively small areas of the Premises providing necessary services to other areas of the Premises (including, without limitation, mechanical rooms, electrical closets or server rooms), then if such Landlord default shall result in a loss of service having a material, adverse effect on Tenant's ability to conduct its normal business operations in all or any material portion of the Premises, Tenant shall have the rights set forth above in this Section 18.1 notwithstanding that Landlord's breach directly affected only a relatively small area of the Premises or only certain equipment therein.

HOLDING OVER

19.1 In the event of holding over by Tenant after expiration or termination of this Lease without the written consent of Landlord, Tenant shall pay as liquidated damages for the entire holdover period an amount equal to one hundred fifty percent (150%) of the Base Rental and Additional Rental for which Tenant is obligated during the last month of the Term. No holding over by Tenant after the Term of this Lease shall operate to extend the Lease. In the event of any unauthorized holding over, Tenant shall indemnify Landlord against all claims for damages by any other tenant to whom Landlord may have leased all or any part of the Premises covered hereby effective upon the termination of this Lease; provided, however, that in no event shall Tenant have any such liability with respect to any period of holdover of sixty (60) days or less. Any holding over with the consent of Landlord in writing shall thereafter continue this Lease as a month to month tenancy, cancelable upon thirty (30) days written notice by Landlord. In no event shall Tenant have any liability for consequential, exemplary or punitive damages in connection with any holding over by Tenant in the Premises or any portion thereof which is less than sixty (60) days.

ASSIGNMENT BY LANDLORD

20.1 Landlord shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in the Building and property referred to herein, and in such event and upon its

transferee's assuming Landlord's obligations hereunder, any such transferee shall have the benefit of Landlord's rights, and be subject to Landlord's obligations hereunder as of the date of such transfer; provided that no further liability or obligation shall accrue against Landlord hereunder after the transfer's effective date. In no event shall Landlord be released from liability for obligations or liabilities which accrued prior to the effective date of transfer unless and to the extent such obligations and/or liabilities shall be expressly assumed by the transferee in writing.

INSURANCE

21.1 Landlord shall maintain in full force and effect a Special Form (so-called "All Risk") commercial property insurance policy or policies on the Building and any improvements thereto or the Complex constructed or owned by Landlord, including Building Standard Improvements, the Work and any additions and improvements by Tenant which have become or are to become the property of Landlord upon vacation of the Premises by Tenant. Such property insurance shall be maintained on a replacement cost basis, in an amount adequate to cover the full insurable replacement value of all of the Building and all alterations and improvements thereto, including the Work and other alterations and improvements made by or on behalf of Tenant, and other insurable improvements in the Complex; provided, however, in no event shall such insurance cover Tenant's personal property. Said insurance shall be maintained with a solvent insurance company authorized to do business in Texas and rated A-/VII or better by Best's, and payments for losses thereunder shall be made solely to Landlord's mortgagee holding the first priority mortgage or deed of trust on the Building, or if none to Landlord.

21.2 Landlord shall maintain a policy or policies of comprehensive general liability insurance with the premiums thereon fully paid on or before the due dates, issued by and binding upon a solvent insurance company authorized to do business in Texas and rated A-/VII or better by Best's, such insurance to afford minimum protection of not less than \$10,000,000.00 in respect of personal injury or death in respect of any one occurrence and of not less than \$3,000,000.00 for property damage in any one occurrence. Such insurance may be satisfied by a combination of insurance dedicated exclusively to the Complex and of one or more umbrella insurance policies so long as the limits for the dedicated policy(ies) of insurance shall not be less than \$2,000,000 in respect of personal injury or death in any one occurrence and \$1,000,000 for property damage in any one occurrence. Landlord shall name Tenant and its subtenants and assigns, as their interests may appear, as additional insureds on Landlord's general liability policies of insurance.

21.3 Tenant shall, at all times during the Term of this Lease, at its own expense, maintain a policy or policies of insurance with premiums fully paid in advance, issued by and binding upon a solvent insurance company licensed to do business in the State of Texas and being rated A-/VII or better by Best's, insuring all of Tenant personal property, including removable trade fixtures located in the Premises against loss or damage by fire, explosion or other hazards and contingencies for the full insurance value thereof.

21.4 Tenant shall, at all times during the Term of this Lease, at its own expense, maintain a policy or policies of comprehensive general liability insurance with the premiums thereon fully paid in advance, issued by and binding upon a solvent insurance company licensed to business in the State of Texas and being rated A-/VII or better by Best's, such insurance to afford minimum protection of not less than \$3,000,000.00 in the event of bodily injury or death to any number of persons in any one occurrence, and with limits of not less than \$1,00,000.00 for property damage in any one occurrence.

21.5 The policy or policies of general liability insurance to be maintained by Tenant shall name Tenant, Landlord and Landlord's property manager as an additional insured as their interest may appear. Policies cannot be amended or modified as to Landlord without fifteen (15) days prior written notice to Landlord.

21.6 Tenant shall deliver certificates of insurance in form reasonably satisfactory to Landlord prior to occupancy of the Premises by Tenant, and during the Term of this Lease not less than ten (10) days prior to the expiration of existing policies. If Tenant shall fail to provide a required certificate(s) of insurance within such ten (10) day period, such failure shall not be deemed to be a breach of this Lease so long as Tenant shall deliver such certificate(s) within ten (10) days of Tenant's receipt of notice from Landlord of such failure. Tenant shall cause its insurers to provide thirty (30) days (ten (10) days in the event of non-payment of premium) prior notice to Landlord of cancellation or non-renewal of any policy required of Tenant hereunder.

21.7 All insurance required to be maintained by Landlord under this Lease shall be maintained with insurance companies qualified to do business in the state of Texas, and rated at least A-/VII by the most current Best's Key Rating Guide (or its equivalent, if such Guide ceases to be published). Upon written request from Tenant during the Term, Landlord shall deliver certificates of insurance in form reasonably satisfactory to Tenant. Landlord shall cause its insurers to provide thirty (30) days (ten (10) days in the event of non-payment of premium) prior notice to Tenant of cancellation or non-renewal of any policy required hereunder.

HOLD HARMLESS

22.1 Subject to Section 23.1 and Section 48.1, and excluding claims resulting from Landlord's breach of its obligations under this Lease or the negligence or willful misconduct of Landlord or its employees, agents or contractors, Tenant shall indemnify, defend and hold Landlord and Landlord's employees, officers, partners and agents harmless from and against any and all losses, costs, damages, liabilities or expenses including, but not limited to, reasonable attorney's fees and court costs, arising out of any claims of any person or persons on account of (i) any occurrence in, upon or at the Premises or resulting from the occupancy or use thereof by Tenant or any person or persons holding thereunder; (ii) any occurrence in the Building outside of the Premises or in the common areas arising as a result of the negligence or willful misconduct of Tenant or Tenant's employees, agents or contractors, (iii) breach of any of its obligations pursuant to this Lease, or (iv) the failure to comply with any Law now or hereafter in force, by Tenant or its employees, agents or contractors, or any person or persons holding or claiming by, through or under Tenant, where Tenant is obligated to comply with such Law pursuant to the terms of this Lease. Landlord shall have no responsibility to prevent, and shall not be liable to Tenant for liability or loss to Tenant, its employees, agents, invitees or licensees, arising out of losses due to theft, burglary or damages to persons or property done by persons gaining access to the Premises or the Building or Parking Areas, except in each case to the extent due to any negligence or willful misconduct on the part of Landlord.

22.2 Subject to Section 23.1 and Section 48.1, Landlord shall indemnify, defend and hold Tenant and Tenant's employees, officers, partners and agents harmless from and against any and all losses, costs, damages, liabilities or expenses including, but not limited to, reasonable attorney's fees and court costs, arising out of (i) any claims of any person or persons on account of any occurrence in the Complex outside of the Premises, not arising as a result of Tenant's negligence or willful misconduct, (ii) any claims of any person or persons on account of any occurrence in the Premises resulting from the acts or omissions of Landlord or any of its employees, agents or contractors, unless and to the extent arising as a result of Tenant's negligence or willful misconduct, (iii) breach of any of its obligations pursuant to this Lease, or (iv) Landlord's violation of law, statute, ordinance, or governmental rule, regulation, or requirement now or hereafter in force, by Landlord or its employees, agents or contractors, or any person or person holding or claiming by, through or under Landlord. Tenant shall have no responsibility to prevent, and shall not be liable to Landlord for liability or loss to Landlord, its employees, agents, invitees or licensees, arising out of losses due to theft, burglary or damages to persons or property done by persons gaining access to the Premises or the Building or Parking Areas, except in each case to the extent due to any negligence or willful misconduct on the part of Tenant.

WAIVER OF SUBROGATION

23.1 Landlord and Tenant each hereby waives any and all rights or recovery, claim, action or cause of action, against the other, its principals, shareholders, partners, members or other holders of equity interests, and its officers, directors, agents or employees, for any loss or damage that may occur to the Premises, or any improvements thereto, or to the Building, the Parking Areas or any other areas of the Complex or any personal property of either party therein, by reason of fire, the elements, or any other cause which is insured against by such party under Section 21 or which could be insured against under the terms of the fire and extended coverage insurance policies required by this Lease, or business interruption insurance policies regardless of cause or origin, including negligence of the other party hereto, its principals, shareholders, partners, members or other holders of equity interests, and its officers, directors, agents or employees, and covenants that no insurer shall hold any right of subrogation, against such other party. Landlord and Tenant shall cause their respective fire and extended coverage insurance policies or business interruption policies to be endorsed to provide for continued coverage where there is a waiver of subrogation.

NOTICES

24.1 Wherever in this Lease it shall be required or permitted that notice, approval, advice, consent or demand be given or served it shall not be deemed to have been duly given or served unless in writing and hand delivered or by certified or registered mail, or any receipted courier services addressed to the addresses of the parties as specified below. Notice shall be deemed given when received, or refusal thereof, or upon the first attempted delivery in accordance with the foregoing approved methods which cannot be completed due to the intended recipient's failure to provide notice of a change in address.

Notice to the Landlord shall be addressed as follows:

PM Realty Group
Attn: Miranda Drymon
6600 LBJ Freeway, Suite 192
Dallas, Texas 75240

Notice to the Tenant shall be addressed as stated in Section 1.3(f) of this Lease.

Either party may change such address by written notice forwarded, in accordance with this Section 24.1 to the other.

PEACEFUL ENJOYMENT

25.1 Tenant shall, and may peacefully have, hold and enjoy the Premises, subject to the other terms hereof, so long as this Lease shall be in full force and effect, or Tenant shall not have been disposed by any manner provided by applicable Law.

LIMITATION OF LANDLORD'S LIABILITY

26.1 Tenant specifically agrees to look solely to Landlord's interest in the Building and the rents, issues, profits and proceeds thereof for the recovery of any judgment against Landlord, it being agreed that Landlord, its shareholders, directors, partners, employees, officers and agents shall not be personally liable for any such judgment. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive or other equitable relief against Landlord or Landlord's successors in interest, or any suit or action in connection enforcement or collection of amounts which may become owing or payable under or on account of insurance maintained by Landlord. In no event whatsoever shall Landlord ever be liable for consequential, special or punitive damages.

ACCEPTANCE AND CARE OF PREMISES

27.1 Subject to Landlord's representations, warranties and covenants set forth in this Lease, and to Landlord's performance of the Work and its delivery of the Premises in the Required Delivery Condition and with a valid and subsisting certificate of occupancy permitting the use and occupancy of the Premises for the Permitted Use, Tenant agrees that by taking possession of the Premises, Tenant accepts the Premises in their existing condition and as suitable for Tenant's use and purposes. Tenant agrees not to commit or allow any waste or damage to be committed on any portion of the Premises, and at termination of this Lease, by lapse of time or otherwise, to surrender the Premises to Landlord in as good condition as at commencement date of possession the Tenant, ordinary wear and tear and damage due to casualty, condemnation or the acts or omissions of Landlord or its employees, agents and/or contractors excepted, and upon termination of this Lease, Landlord shall have the right to re-enter and resume possession of the Premises in any manner provided by applicable Law.

FORCE MAJEURE

28.1 If either party shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, regulations, or other cause without fault and beyond control of the party obligated (financial inability excepted), then upon written notice, the performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for the period of delay; provided, however, that such party shall exercise its best efforts to remedy any such cause preventing performance.

BROKER

29.1 Each party represents that it has dealt only with the Brokers named in Section 1.3(g), as broker in connection with this Lease and that insofar as each party knows no other broker negotiated this Lease or is entitled to any commission in connection therewith. Each party agrees to indemnify and hold the other party harmless against any claims (including court costs and reasonable attorney fees) for commissions by any other broker claiming the right to receive a commission or other compensation as a result of claimed dealings with the indemnifying party. Landlord agrees to pay the Brokers in accordance with the terms of separate written commission agreements, copies of which are attached hereto as Exhibit "L" and made a part hereof for all purposes, and to indemnify, defend and hold harmless Tenant from and against any and all liability, claims, actions, causes of action, loss, damages, costs and/or expenses resulting from or relating in any way to any claim for commission or other compensation made by the Brokers in connection with this Lease.

FIRST MONTH'S RENT AND SECURITY DEPOSIT

30.1 On the date hereof, Tenant has deposited with Landlord the amount stated in Section 1.3(h), which amount shall be applied against the first month's rent due hereunder on the Date hereof. In

addition, Tenant has deposited the amount stated in Section 1.3(i) (the "**Security Deposit**") as security for Tenant's faithful performance of Tenant's obligations herein contained. If Tenant defaults in any manner (including the payment of Rent or any other sums due hereunder) in the performance of Tenant's obligations herein contained, and such default shall continue in excess of applicable notice and cure periods, Landlord may use, apply or retain as liquidated damages all or any portion of the Security Deposit to the extent required for the payment of any Rent or other sum in default or for the payment of any actual, reasonable, out-of-pocket sum or expense to which Landlord may become obligated by reason of such default, or, subject to Section 47.1 below, to compensate Landlord for any loss or direct damage which Landlord may suffer thereby; provided, however, that should Landlord's proven damages be in excess of said Security Deposit, Landlord may proceed to recover the same as provided for under the terms of this Lease and by Law. Landlord shall not be required to separately account for the Security Deposit nor to maintain a separate account therefore. The Security Deposit or so much thereof as has not theretofore been used or applied by Landlord, shall be returned to Tenant within forty-five (45) days after the expiration or earlier termination of this Lease.

NO MERGER

31.1 The voluntary or other surrender of this Lease by Tenant, or mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, operate as an assignment to it of any or all subleases or subtenancies.

SUCCESSORS AND ASSIGNS

32.1 This Lease shall be binding upon and inure to the benefit of the successors and assigns of Landlord, and shall be binding upon and inure to the benefit of Tenant, its successors, and permitted assigns.

NUMBER, GENDER

33.1 The pronouns of any gender shall include gender, other and either the singular or plural shall include the other. In the event there is more than one Tenant, the obligations to be performed shall be joint and several.

TIME IS OF THE ESSENCE

34.1 Time is of the essence in the performance of all obligations of Landlord and of Tenant hereunder for which a time of performance is specified.

MAXIMUM RATE

35.1 Tenant and Landlord agree that with regard to those provisions of the Lease providing for the payment of interest, the rate to be charged shall not exceed the applicable indicated rate ceiling as defined in Chapter 303 of the Texas Finance Code.

APPLICABLE LAW

36.1 The provisions of this Lease and the rights of the parties hereunder shall be governed by the Laws of the State of Texas without regard to principals of conflicts of law.

PARKING

37.1 Landlord will provide Tenant with the exclusive right to use of all parking spaces in the Complex, which shall be provided in the ratio of no less 5 spaces per 1,000 square feet of Net Rentable Area within the Complex, at no cost to the Tenant during the Term of the Lease. Tenant will abide by all applicable Laws governing the use of such parking spaces.

WHOLE AGREEMENT

38.1 This Lease including the Exhibits which are attached and apart hereof, constitutes the whole agreement of the parties and shall in no way be conditioned, modified or supplemented except by a written amendment or separate written agreement executed by both parties. No oral statements or prior written material not specifically incorporated herein shall be of any force or effect. Tenant agrees that in entering into and taking this Lease, it relies solely upon the representations and agreements contained in this Lease and no other.

RECORDING

39.1 At the request of either party, the parties shall promptly execute and record, at the cost of the requesting party, a short form memorandum setting forth the names of the parties to this Lease, the date of execution, the Term, the Commencement Date, the Expiration Date, a description of the Premises, any outstanding options and any other information the parties agree to include or is required by statute governing such short form memoranda. A form of short form memorandum is attached hereto as **Exhibit "I"**.

SEVERABILITY

40.1 If any clause or provision of this Lease is illegal, invalid, or unenforceable, under present or future laws effective during the term hereof, then the remainder of this Lease shall not be affected thereby, and in lieu of each clause or provision that is illegal, invalid or unenforceable, there shall be an added clause or provision as similar in terms as may be possible and be legal, valid and enforceable.

LIENS BY TENANT

41.1 Tenant shall not cause any mechanic's, materialman's or other liens to be fixed or placed against the Premises, the Building or the Land and agrees promptly following receipt of notice of same to discharge (either by payment or by filing of the necessary bond, or otherwise) any such lien which is placed against any of the foregoing as the result of an alleged act or omission of Tenant.

HAZARDOUS MATERIALS

42.1 The term "**Hazardous Substances**" as used herein shall include any substances declared to be hazardous to human health or the environment or toxic under any law or regulation now or hereafter enacted or promulgated by any governmental authority having jurisdiction. Tenant shall not cause, or permit its agents, licensees or employees to use, generate, release, manufacture, produce, process, store or dispose of any hazardous substance on or from the Premises, except as specifically disclosed to and approved by Landlord in writing. Hazardous Substances shall not include any materials kept on the Premises, in those limited quantities necessary for the cleaning of offices and operation or maintenance of office equipment and in compliance with all applicable Laws. Tenant will indemnify, defend and hold Landlord harmless from any liability, loss, cost or damage resulting from its violation of this Section 42.1. The obligations of Tenant under this Section 42.1 shall survive the expiration or termination of this Lease.

42.2 Notwithstanding anything above to the contrary, Landlord covenants and warrants to Tenant that to the best of Landlord's knowledge, except as may otherwise be disclosed in the ESA, defined hereinbelow, there has not been a past and there is no current release or threats of release of any Hazardous Substance (including asbestos) in the Building or elsewhere in the Complex. Landlord covenants and agrees that it will not store, use and dispose of any Hazardous Substance on or about the Building or the Complex, and Landlord covenants and agrees to indemnify, protect, defend and save Tenant harmless from and against any and all claims, demands, liabilities, and costs arising from damage or injury, actual or claimed, of whatsoever kind and character, to property and persons, occurring or allegedly occurring in, on or about the Premises, the Building or the Complex arising as a result of (i) any Hazardous Substances existing in the Building or the Complex as of the Commencement Date, and/or (ii) any Hazardous Substances which become present in, under or about the Building or Complex solely by reason of the acts of Landlord. In no event however shall Tenant have any liability to Landlord as a result of Hazardous Substances becoming present in, under or about the Building or Complex by reason of the acts of third parties (other than agents, licensees or employees of Tenant) and Landlord, at Landlord's sole cost and expense, shall remove or remediate any such Hazardous Substances as required by applicable Laws.

42.3 Prior to the Lease Commencement Date, Landlord provided Tenant with copies of that certain Phase I Environmental Site Assessment, EFI Project No. 98410-13486 dated October 28, 2010 prepared by EFI Global and that certain Phase II Environmental Assessment, EFI Project No. 98410-13487 dated October 25, 2010 prepared by EFI Global (collectively, "**ESA**") in Landlord's possession.

42.4 Except as otherwise specifically provided for herein, Landlord represents and warrants and covenants to and with Tenant as follows:

(A) During the period in which Landlord has owned the Building, there have been no decrees, injunctions, judgments, orders or writs of an environmental nature relating to the Building or the Complex or their uses, and there are no current lawsuits, claims, proceedings or investigations of an environmental nature relating to the Building or the Complex or their uses.

(B) To the best of Landlord's knowledge, there are no indoor air pollution or air quality problems in the Building or in the Building's HVAC system(s). Landlord shall notify Tenant of any indoor air quality problem is discovered or reported in the Building or relating to the HVAC system(s) and immediately undertake to correct such problem at its sole cost and expense.

(C) If an ESA confirms any environmental hazards in the Building or the Complex, or if Landlord defaults under any of the provisions of this Article 43, and such default imposes a material danger to the health or safety of Tenant's employees, then Landlord shall have thirty (30) days following written notice from Tenant to initiate action to cure the same and remove such danger and shall thereafter proceed diligently to complete such cure and remove such danger at its sole cost and expense. In the event that Landlord fails to commence its action within thirty (30) days, or fails to diligently proceed thereafter with such action, and cure the same to completion within ninety (90) days following any such written notice from Tenant, then Tenant may, if it so elects, cancel this Lease after written notice to Landlord, whereupon Tenant shall have no further obligations under the Lease (including no further obligations to pay Rent) after the date which Tenant vacates the Premises.

GENERATOR

43.1 Subject to the provisions of this Section 44.1, and subject to any restrictions imposed by Law or any applicable restrictive covenants, Tenant shall have the right, at no additional Rent to install, maintain and operate a separate generator, conduit and cabling connecting same to the Premises and a gasoline line and/or propane storage tank, for Tenant's sole use and purpose to be placed in a location selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. The installation, maintenance, operation and removal (including any damage to the Complex as a result thereof) of the generator shall be at the sole cost and expense of Tenant, and Landlord agrees that Tenant may use a portion of the Tenant Improvement Allowance to pay for the costs and expenses attributable solely to the concrete pads for the generator. The generator shall not become the property of Landlord, unless Tenant shall elect to abandon same in place. Subject to Section 48.1 below, Tenant shall indemnify, defend and hold Landlord harmless from and against any loss, cost, expense, liability, claim or other action arising out of Tenant's installation, operation, utilization, replacement and maintenance and removal (including any damage to the Complex as a result thereof) of such generator. Landlord represents, warrants and covenants to and with Tenant that (i) to the best of Landlord's knowledge, as of the date hereof there are no covenants, conditions, restrictions or other matters of record which prohibit or restrict, other than to a de minimis extent, the use of an exterior or interior generator at the Complex and (ii) Landlord shall not suffer or permit any such covenants, conditions, restrictions or other matters of record during the Term.

TERMINATION OPTION

44.1 Provided that no Event of Default is continuing at the time of exercising its option and on the Termination Date, hereinafter defined, Tenant shall have the option to terminate this Lease, effective upon the last day of the sixtieth (60th) month after the Commencement Date (the "**Termination Date**") provided that Tenant gives written notice of its election to terminate the Lease to Landlord at least ten (10) months prior to the Termination Date, and simultaneously therewith, delivers to the trustee under the most senior deed of trust encumbering the Building and/or Land, or to Landlord if there is not then currently any deed of trust encumbering any of the Building or Complex, in good funds, a termination payment (the "**Termination Payment**") in an amount equal to the sum of (i) the unamortized amount of all rental concessions, the Tenant Improvement Allowance, the Space Planning Allowance, the Landscaping Allowance and the Additional Allowance, if applicable, as of the Termination Date plus (ii) an amount equal to two (2) months Base Rental at the rate applicable as of the Termination Date. For purposes of determining the unamortized amount of the foregoing allowances, each advance thereon shall be deemed to be a separate loan made at an interest rate of nine percent (9%) per annum which is self-amortizing with equal monthly payments of principal and interest over the remainder of the Term. In addition to the Termination Payment, (i) all alterations and improvements installed in the Premises pursuant to the terms of the Work Letter attached hereto as Exhibit "C" shall remain in the Premises and become the property of Landlord upon the Termination Date, and (ii) unless the Baseline Construction Costs (as hereinafter defined) for performing the Work and any other alterations or improvements made by Tenant to the Premises or any other areas of the Complex shall equal or exceed Two Million Four Hundred Thirty Seven Thousand Four Hundred and 00/100 (\$2,437,400.00) Dollars in the aggregate (such amount being equal to \$25.00 per square foot of Net Rentable Area in the Building), all furniture and office equipment initially installed in the Premises, less any items thereof which shall be disposed of by Tenant prior to the Termination Date for any reason other than for purposes of avoiding the surrender of same to Landlord (including, without limitation, any such disposition due to damage, defect, obsolescence or Tenant no longer having need for the item), shall remain in the Premises and become the property of Landlord upon the Termination Date. As used herein, the term "**Baseline Construction Costs**" shall mean the aggregate sum of (i) all hard construction costs paid or incurred to complete the Work and any other alterations or improvements to the Premises or other areas of the Complex made by Tenant, (ii) all fees, reimbursements and other amounts paid to architects, engineers and other design professionals to prepare plans and specifications for the Work and any such other alterations or improvements made by Tenant, and (iii) all construction management fees paid or incurred in connection with the performance of the Work or any such other alterations or improvements made by Tenant.

EXPANSION OF COMPLEX

45.1 Landlord and Tenant agree to meet and confer and negotiate in good faith to expand the Net Rentable Area Complex, and lease such expansion premises to Tenant for a fair-market rental, if at anytime after Tenant leases all of the Must-Take Space Tenant, at its option, notifies Landlord that Tenant desires to lease additional premises at the Complex. Notwithstanding anything in this Lease to the contrary, in no event shall Tenant be obligated to seek to expand at the Complex rather than at any of Tenant's then-existing locations or by leasing new premises at any other locations, including, without limitation, locations in the immediate vicinity of the Complex.

CERTAIN LANDLORD REPRESENTATIONS, WARRANTIES AND COVENANTS

46.1 To induce Tenant to execute this Lease, and in consideration thereof, Landlord covenants, warrants and represents to Tenant as follows:

(a) As of the date of this Lease Landlord has, and as of the Commencement Date Landlord shall have, good and indefeasible fee simple title to the entire Complex, free and clear of all easements, restrictions, liens, encumbrances, leases and the like, except for the encumbrances described on Exhibit "J" attached hereto, true, correct and complete copies of the which have been delivered to Tenant prior to the execution and delivery of this Lease;

(b) Except for the Superior Interest Holder, no third party consents or approvals are required in order for Landlord to enter into this Lease, or for the performance of the Work (excluding, as of the Effective Date, governmental permits and approvals for the Work);

(c) The Complex now has, and on the Commencement Date shall have, access to and from Millennium Drive and Century Parkway, as shown on Exhibit "B-2" attached hereto, which are public rights of way dedicated for the passage of vehicular traffic;

(d) This Lease does not violate the provisions of any instrument heretofore executed and/or binding on Landlord, or affecting or encumbering the Complex, or the Premises, and no rights granted by Landlord to Tenant under the terms of this Lease conflict with any rights granted by Landlord to any other person or entity;

(e) None of the existing building improvements on the Complex encroach upon or, to the best of Landlord's knowledge, otherwise violate the terms and provisions of any easements, restrictive covenants or other documents or instruments of record with respect to the Complex;

(f) Landlord has paid all Real Estate Taxes, assessments and other costs and expenses due in connection with the Complex or any portions thereof, including, without limitation, assessments due under any property owners' association or agreement, Landlord has not received notice that it is in breach of any agreement, instrument or other document of record with respect to the Complex or any portion thereof, or with respect to any other agreement, instrument or other document binding upon Landlord with respect to the Complex or any portion thereof, which breach has not been fully cured within applicable cure periods, and to Landlord's best knowledge it is not in breach or default of any such agreement, instrument or other document;

(g) Landlord shall not enter into and/or record against the Complex or any portion thereof any agreements, instruments or other documents binding upon Tenant or otherwise affecting the use and occupancy of the Complex, or any portion thereof which (i) restricts, interferes with or otherwise adversely affects Tenant's right to use and occupy the Building or any other areas of the Complex as permitted pursuant to this Lease, (ii) increases Tenant's costs of using and occupying the Building or any other portion of the Complex, (iii) restricts, interferes, with or adversely affects the existing or future delivery of utilities or other services to the Building or any other areas of the Complex, or (iv) decreases any of Landlord's obligations under this Lease, or which restricts, interferes with or otherwise adversely affects Landlord's ability to perform its obligations under this Lease;

(h) Landlord shall deliver a true, correct and complete copy of any notice received by Landlord in connection with any of the existing or future encumbrances of record with respect to the Building or any other area of the Complex within five (5) days of Landlord's receipt thereof. Landlord, without Tenant's consent, which Tenant may grant or withhold in its sole and absolute discretion, shall not cast any vote, agree to any amendment or take any other action with respect to that certain Allen Central Business Park Declaration of Protective Covenants, effective August 10, 1994, made by the Allen Economic Development Corporation as declarant, recorded on August 10, 1994 as Instrument No. 94-0074942 in the Collin County Clerk's Office, which vote, amendment or other action would or could result in (i) a restriction, interference with or other adverse effect upon Tenant's right to use and occupy the Building or any other areas of the Complex as permitted pursuant to this Lease, (ii) an increase in Tenant's costs of using and occupying the Building or any other portion of the Complex, (iii) restriction upon, interference with or adverse effect upon the existing or future delivery of utilities or other services to the Building or any other areas of the Complex, or (iv) a decrease in any of Landlord's obligations under this Lease or a restriction, interference with or other adverse effect upon Landlord's ability to perform its obligations under this Lease;

(i) Landlord has not received notice that the Building or any other areas of the Complex are in violation of any applicable Laws which violation has not been cured, and all fees, fines or other amounts payable in connection with any such violation, if any, has been paid in full, and to the best of Landlord's knowledge neither the Building nor any other areas of the Complex are in violation of any such Laws; and

(j) The person signing this Lease on Landlord's behalf has fully authority to do so and to bind Landlord to the terms, covenants and conditions of this Lease.

WAIVER OF CONSEQUENTIAL DAMAGES

47.1 Notwithstanding anything in this Lease to the contrary, in no event shall Tenant be liable to Landlord for indirect, consequential, special or exemplary damages whether by reason of a failure to perform (or a default) by Tenant hereunder or otherwise, except pursuant to Section 19.1.

REASONABLENESS

48.1 If the consent, authorization or approval of either party hereto is required for the other party to take any action under this Lease (a "**Required Consent**"), then except as otherwise provided in this Lease to the contrary, such approval, consent or authorization shall not be unreasonably withheld, conditioned or delayed. Additionally, if any matter is required to be determined by a party in exercising its discretion, judgment, or opinion, then the same will be exercised reasonably and in good-faith by the party required to make such determination. If a party delivers a written request for the other party's Required Consent, and the other party fails to respond within the time period specifically provided by the terms of this Lease or, if no specific time period is so provided, within ten (10) business days thereafter, then the other party's Required Consent shall be deemed to be given.

RENEWAL OPTIONS

49.1 Tenant shall have two (2) options to renew the Term of this Lease, each renewal term being for a period of five (5) years, in accordance with the terms of Exhibit "K" attached to this Lease.

NO RESTORATION OBLIGATION

50.1 Notwithstanding anything in this Lease to the contrary, in no event shall Tenant have any obligation to remove the Work or any other alterations or improvements made to the Premises or other areas of the Building or Complex during the Term and/or to restore the Premises or other areas of the Building or Complex to its condition prior to the performance of the Work or any other alterations or improvements made during the Term. The foregoing is not intended to and shall not release Tenant from its obligation to remove its personal property, trade fixtures and signs from the Premises, Building and other areas of the Complex on which same may be located at the end of the Term and repair any damage caused by such removal, and to surrender the Premises in the condition that it existed after the Work and all other alterations and improvements were completed, normal wear and tear, and damage caused by casualty, condemnation or the acts or omissions of Landlord or its employees, agents or contractors, excepted.

SOLAR ENERGY SYSTEM

51.1 Tenant shall have the exclusive right, at Tenant's sole cost and expense, to erect and maintain on the roof of the Premises, a passive solar array for the production of electricity (the "**Solar System**"), provided that Tenant: (i) obtains Landlord's prior approval of its plans for the installation of the Solar System, such approval not to be unreasonably withheld, conditioned or delayed, (ii) uses a contractor designated or approved by Landlord for all roof penetrations so as not to violate or invalidate any roof warranties maintained by Landlord, (iii) maintains the area where roof penetrations are made while the Solar System is present, (iv) repairs any damage to the roof caused by the making of the roof penetrations, including, but not limited to, the repair of the roof penetrations upon the removal of any component of the Solar System, and (v) erects and maintains the Solar System in accordance with applicable Laws. The Solar System shall be deemed to be part of Tenant's property. Landlord acknowledges and agrees that Tenant or its transferees shall be the exclusive owner and operator of the Solar System and Landlord shall have no right, title or interest in such equipment or any component thereof, notwithstanding that any such equipment may be physically mounted or adhered to the roof of the Building. Landlord acknowledges and agrees that, notwithstanding the Solar System's presence as a fixture on the Premises, Tenant or transferee is the sole and exclusive owner of: (i) the electricity generated by the Solar System, (ii) the environmental attributes of the Solar System, and (iii) any and all credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled, resulting from the environmental or related attributes of the Solar System. Without the express written consent of Tenant, Landlord shall not make or publish any public statement or notice regarding any environmental incentive relating to the Solar System or any environmental attribute of the Solar System or the energy output from the Solar System. Tenant shall be fully responsible for any and all damage caused to the

roof, the Building or to any property or persons in or around the Building, and Tenant shall indemnify, defend and hold Landlord harmless from and against any loss, cost, expense, liability, claim or other action arising out of Tenant's installation, operation, utilization, replacement, maintenance and removal of such Solar System. Upon the expiration or earlier termination of this Lease, upon written request from Landlord, Tenant shall remove the Solar System and shall repair any damage to the roof caused thereby, all at Tenant's sole cost and expense.

TENANT'S PROPERTY

52.1 The Work and any further alterations or improvements made to the Premises or elsewhere in the Complex by Tenant during the Term, together with any replacements thereof, shall be and remain the property of Tenant throughout the Term, and Tenant alone shall be entitled to the benefits of ownership thereof, including, but not limited to, depreciation of same as an asset for tax purposes. Upon the expiration of the Term, or earlier termination of this Lease, all such alterations and improvements (but, subject to Section 44.1 above, excluding Tenant's personal property and trade fixtures), shall become the property of Landlord. Notwithstanding anything in this Lease to the contrary, upon the expiration or sooner termination of the Term of this Lease, Tenant shall have the right, but not the obligation, to remove any parking area shade cover installations, and any supplemental or emergency power generator(s), installed by Tenant. Tenant shall promptly repair any damage caused by the removal of any such property.

LANDLORD'S ALTERATIONS

53.1 Landlord shall not make any alterations or improvements to the Building or Complex, including, without limitation, any change in the access to and/or egress from Building or Complex, without Tenant's prior written consent, not to be unreasonably withheld, conditioned or delayed so long as the alterations or improvements do not conflict with Tenant's rights under the Lease; provided however, that upon reasonable prior notice to Tenant (other than in connection with minor alterations performed in connection with routine maintenance and repairs, for which no notice is required), Landlord shall be entitled to perform such alterations to the Building and Complex during the Term as shall be necessary for Landlord to perform its maintenance, repair and other obligations under the Lease.

CONTINUOUS ACCESS

54.1 No entrances, exits, approaches and means of ingress and egress to, from, and/or within the Premises or the Complex shall be interrupted or disturbed by any act or omission of Landlord during the Term, except: (i) in the event of an emergency, or as may be otherwise required by applicable Laws, in which event Landlord shall use reasonable efforts to give Tenant advance notice of same and to minimize interference to Tenant's normal business operations in the Premises as a result thereof; or (ii) in the event that Landlord is required to temporarily close the common areas to prevent a dedication thereof or an accrual of any rights in any person or the public generally therein, or in order to perform Landlord's maintenance obligations under this Lease; provided that such closure shall be scheduled in advance with Tenant and shall occur on such dates and times as shall be reasonably and mutually acceptable to Landlord and Tenant, and any such closure shall be the minimum period necessary to prevent a deduction or accrual of rights in any person or the public generally or, as applicable, to perform Landlord's maintenance obligations under this Lease.

UTILITY EASEMENTS

55.1 Subject to the prior approval by Landlord, not to be unreasonably withheld, conditioned or delayed, Tenant shall have the right, from the date hereof, and continuing thereafter during the Term, to grant to utility companies (public or private) providing said utility lines, facilities and/or service to the Premises, perpetual, non-exclusive rights and easements to install, replace, relocate, repair, operate and maintain lines, pipes, wires, conduits and other facilities on, under, over, across and within the Premises and the Complex, as may from time to time be necessary to supply the Premises with adequate utility service, together with the right of ingress and egress and other rights appurtenant thereto. Landlord shall, within ten (10) days after request by Tenant, execute, acknowledge and deliver to Tenant such instruments as shall be reasonably acceptable to Landlord, as may be required to grant such easements and otherwise give effect to the provisions of this Section.

GOVERNMENTAL ACTION AFFECTING COMPLEX

56.1 Landlord shall promptly forward to Tenant any notice or other communication received by Landlord from any owner of property adjoining or adjacent to the Complex or from any municipal or other governmental authority, in connection with any hearing or other administrative proceeding relating to any proposed zoning, building code, signage, or related variance affecting the Complex or any adjoining or adjacent property, which, if granted, could adversely affect Tenant's use or occupancy of the Premises, the conduct of Tenant's business therein, Tenant's

rights and benefits under this Lease or Landlord's delivery of services or performance of any other obligations of Landlord pursuant to this Lease. Landlord, at its sole cost and expense, shall appear in such proceeding and shall contest such proposed variance. If Landlord fails so to appear and contest such proposed variance after receiving five (5) days' notice from Tenant (or such shorter notice as may be practicable under the circumstances), then Tenant shall be entitled (but shall not be obligated to), in its own name and/or in the name of Landlord, to appear in such proceeding, in which event Landlord shall fully cooperate with Tenant, provide such information, and execute any documents or other instruments as Tenant may reasonably request in connection with any such proceeding.

GUARANTY

57.1 Tenant's performance of its rental and other obligations pursuant to this Lease have been guaranteed by Tenant's parent, PFSWeb, Inc., pursuant to a guaranty in the form of that attached hereto as Exhibit "N", which parent guaranty was executed and delivered by PFSWeb, Inc. contemporaneously with the parties' execution and delivery of this Lease.

COUNTERPARTS

58.1 This Lease may be executed in one or more counterparts, each of which shall be deemed an original and which together shall be deemed to be one and the same document and agreement.

*[Remainder of Page Intentionally Left Blank;
Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have executed this instrument in duplicate by proper persons thereunto duly authorized to do the day and year first written above.

LANDLORD:

CCI-MILLENNIUM, L.P.,
a Texas limited partnership

By: CCI-MILLENNIUM GP, LLC,
a Texas limited liability company,
its General Partner

By: _____
Name: _____
Title: _____

TENANT:

PRIORITY FULFILLMENT SERVICES, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

EXHIBIT "A"

OUTLINE OF THE PREMISES

EXHIBIT "B-1"
505 Millennium

LEGAL DESCRIPTION

Being a tract of land situated in the William Perrin Survey, Abstract No. 708 and being a portion of Lot 2, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet K, Page 763 of the Plat Records of Collin County, Texas (PRCCT) and being a portion of a tract of land conveyed to Prentiss Properties Acquisition Partners, L.P. as recorded in Volume 4271, Page 0378 of the Land Records of Collin County, Texas LRCCT) and being more particularly described as follows;

BEGINNING at a 1/2 inch iron rod found at the most northwesterly corner of said Lot 2, Block 1, said point being found in the southerly Right-of-Way line of MILLENNIUM DRIVE (85' Right-of-Way);

THENCE departing the westerly line of said Lot 2, Block 1 and along the southerly Right-of-Way line of said MILLENNIUM DRIVE as follows;

South 75 deg 58 min 19 sec East a distance of 222.35 feet to a 1/2 inch Iron rod found for the beginning of a curve to the right having a radius of 1957.50 feet and having a chord bearing of South 74 deg 31 min 39 sec East and a chord length of 98.68 feet;

Continuing along said curve to the right through a central angle of 02 deg 53 min 19 sec and an arc length of 98.89 feet to on "X" cut found in concrete pavement for the point of tangency;

South 73 deg 05 min 00 sec East a distance of 288.40 feet to a 1/2 inch iron rod found for corner, said point being the beginning of a corner-clip;

THENCE departing the southerly Right-of-Way line of said MILLENNIUM DRIVE and along said corner-clip South 28 deg 23 min 20 sec East a distance of 26.73 feet to a 1/2 inch iron rod found for corner, said point being found in the westerly Right-of-Way line of CENTURY PARKWAY (85' Right-of-Way), said point being the beginning of a non-tangent curve to the left having a radius of 5742.50 feet and having a chord bearing of South 15 deg 10 min 00 sec and a chord length of 228.22 feet;

THENCE departing said corner-clip and along the westerly Right-of-Way line of said CENTURY PARKWAY as follows;

Continuing along said non-tangent curve to the left through a central angle of 02 deg 16 min 38 sec and an arc length of 228.24 feet to a 1/2 inch iron rod found for the point of tangency;

South 14 deg 01 min 41 sec West a distance of 120.00 feet to a 1/2 inch iron rod found for the beginning of a curve to the left having a radius of 1142.50 feet and having a chord bearing of South 09 deg 20 min 42 sec West and a chord length of 186.56 feet;

Continuing along said curve to the left through a central angle of 09 deg 21 min 59 sec and an arc length of 186.77 feet to a 1/2 inch iron rod found for the point of tangency;

South 04 deg 39 min 42 sec West a distance of 203.47 feet to a 1/2 inch iron rod found for the beginning of a curve to the right having a radius of 1057.50 feet and having a chord bearing of South 09 deg 03 min 29 sec West and a chord length of 162.13 feet;

Continuing along said curve to the right through a central angle of 08 deg 47 min 34 sec and an arc length of 162.29 feet to an "X" cut set on a concrete sidewalk for corner, said point being the most northerly corner of a tract of land conveyed to the City of Allen as recorded in Volume 5571, Page 001760 (LRCCT);

THENCE departing the westerly Right-of-Way line of said CENTURY PARKWAY and along the westerly line of said City of Allen tract as follows;

South 24 deg 42 min 53 sec West a distance of 39.24 feet to an "X" cut found on a concrete sidewalk for corner;

South 19 deg 19 min 55 sec West a distance of 99.88 feet to an "X" cut found on a concrete sidewalk for corner;

South 64 deg 19 min 55 sec West a distance of 29.14 feet to an "X" cut found on a concrete sidewalk for corner, said point being found in the northerly Right-of-Way line of BETHANY DRIVE (110' Right-of-Way) and being the beginning of a non-tangent curve to the left having a radius of 786.42 feet and having a chord bearing of North 74 deg 28 min 04 sec West and a chord length of 23.47 feet;

THENCE departing the westerly line of said City of Allen tract and along the northerly Right-of-Way line of said BETHANY DRIVE continuing along said non-tangent curve to the left through a central angle of 01 deg 42 min 36 sec and an arc length of 23.47 feet to an "X" cut found an a concrete sidewalk for corner;

THENCE departing the northerly Right-of-Way line of said BETHANY DRIVE North 14 deg 01 min 41 sec East passing through a 1/2 inch iron rod found for the most southeasterly corner of Bethany Tech Center Addition, an addition to the City of Allen as recorded in Cabinet F, Page 273 (PRCCT) at a distance of 1.36 feet continuing along the common line of said Lot 2, Block 1 and the said Bethany Tech Center Addition for a total distance of 426.42 feet to a 1/2 inch iron rod found for corner, said point being the most northeasterly corner of said Bethany Tech Center Addition;

THENCE along the common line of said Lot 2, Block 1 and the Bethany Tech Center Addition North 75 deg 58 min 19 sec West passing through a 1/2 inch iron rod found for the most northeasterly corner of Lot 6, Block 1 of the Allen Tech Center Addition, an addition to the City of Allen as recorded in Cabinet L, Page 4 (PRCCT) at a distance of 400.00 feet continuing along the Comino line of said Lot 2, Block 1 and Lot 6, Block 1 for a total distance of 623.15 feet to a 1/2 inch iron rod found for corner, said point being the most southeasterly corner of Lot 1R, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet I, Page 588 (PRCCT);

THENCE along the Comino line of said Lot 2, Block 1 and Lot 1R, Block 1 North 14 deg 04 min 56 sec East a distance of 662.73 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 9.973 acres or 434,438 square feet of land more or less.

EXHIBIT "B-2"
SURVEY OF THE LAND

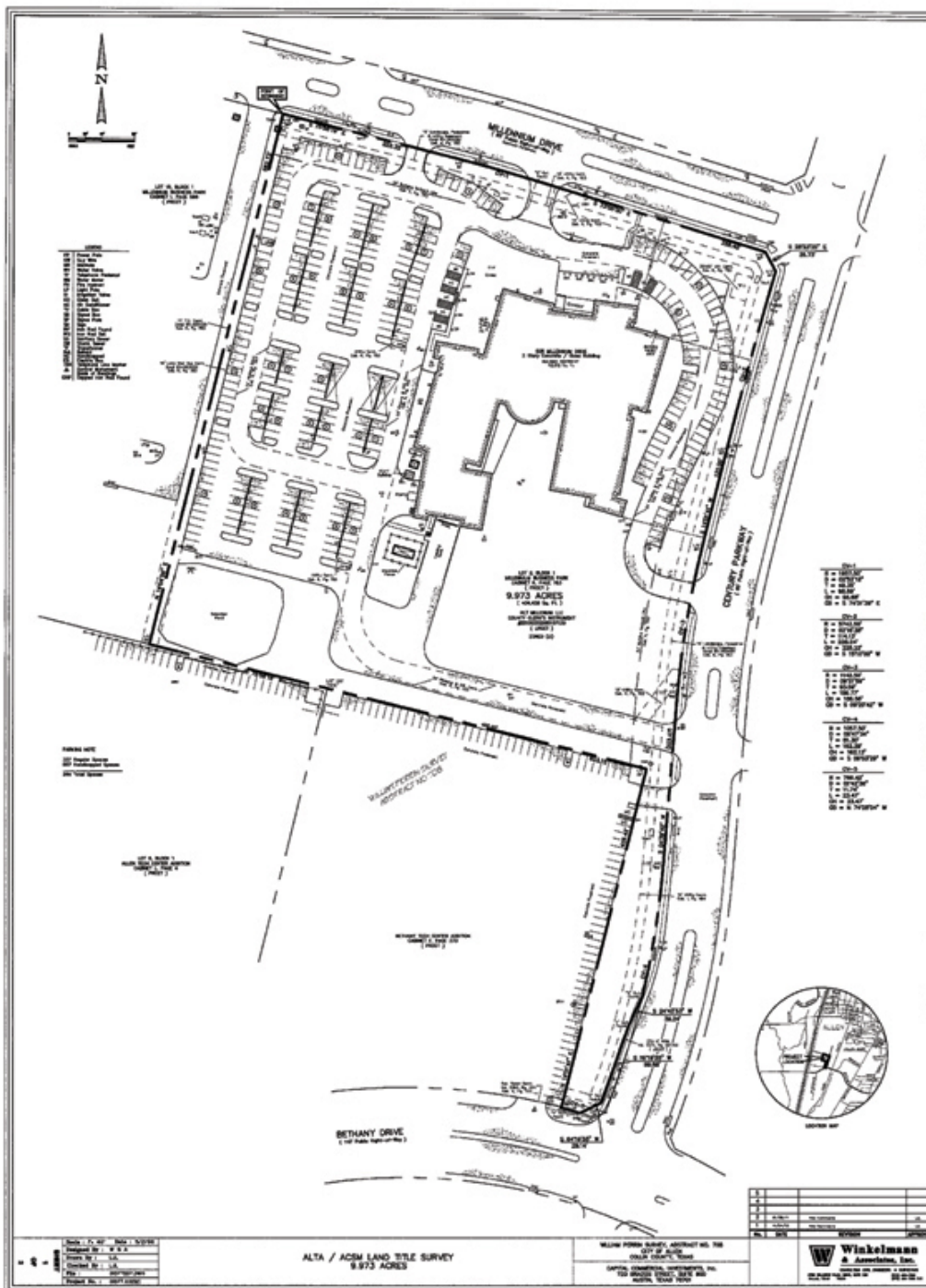


EXHIBIT "C"
WORK LETTER

This Work Letter is attached to and forms a part of the Lease Agreement dated as of December _____, 2011 (the "**Lease**"), by and between CCI-MILLENNIUM, L.P., a Texas limited partnership ("**Landlord**"), and PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**"), pertaining to all Net Rentable Area (the "**Premises**") in the office building located at 505 Millennium, in Allen, Texas 75013 (the "**Building**"). Except where clearly inconsistent or inapplicable, the provisions of the Lease are incorporated into this Work Letter, and capitalized terms used without being defined in this Work Letter shall have the meanings given them in the Lease.

The purpose of this Work Letter is to set forth the respective responsibilities of Landlord and Tenant with respect to the design and construction of all alterations, additions and improvements that Tenant may deem necessary or appropriate to prepare the Premises for initial occupancy by Tenant under the Lease.

Landlord and Tenant agree as follows:

1. Tenant and Landlord acknowledge that Tenant previously delivered to Landlord for its approval, and Landlord approved, Construction Drawings (as hereinafter defined) prepared by Tenant's architect Corgan Associates, Inc. (hereby approved by Landlord) of the improvements that Tenant proposes to install in the Initial Premises (or in the case of signage, telecommunications equipment, emergency generators and other improvements to any portion of the Building outside of the Premises). The Construction Drawings included the partition layout, ceiling plan, electrical outlets and switches, telephone outlets, drawings for any modification to the mechanical and plumbing systems of the Building, and plans and specifications for the construction of the improvements called for under this Exhibit with such detail as shall be required for Tenant to obtain permits for such improvements in accordance with all applicable Laws. As used herein, "**Construction Drawings**" shall mean the final working drawings along with the MEPs approved by Landlord and Tenant, as amended from time to time by any approved changes thereto, and "**Work**" shall mean all improvements to be constructed in accordance with and as indicated on the Construction Drawings. Landlord's Approval of the Construction Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use, purpose, or condition, or that such drawings comply with any applicable Law, but shall merely be the consent of the Landlord to the performance of the Work. Landlord and Tenant shall indicate approval of the Construction Drawings by signing each page thereof. All material changes in the Work must receive the prior written approval of Landlord, not to be unreasonably delayed, withheld or conditioned, and in the event of any such approved change Tenant shall, upon completion of the Work, furnish Landlord with an accurate, reproducible "as-built" plan (e.g., sepiä) of the improvements as constructed, which plan shall be incorporated into this Lease by this reference for all purposes.

2. (a) Prior to commencement of the Work, or in connection therewith, Landlord, at Landlord's sole cost and expense, shall (a) repair and replace all damaged windows in the Premises to match existing windows, (b) cause all heating, ventilation, air-conditioning, mechanical, electrical and plumbing systems within and/or serving the Building to be in good working order, (c) remove all computer racks and all portions of the existing uninterrupted power supply system located in open areas of the Premises (i.e., exclusive of wiring and other components installed within walls, below floors or above ceilings), including, without limitation, all batteries for such system contained in any such racks, and (d) perform such other work, if any, as shall be required to satisfy the Required Delivery Condition (as hereinafter defined in Paragraph 6 of this **Exhibit "C"**). If the windows used in the initial construction of the Building are no longer manufactured or available for immediate and/or timely purchase, and at a reasonable cost, Landlord shall install the following replacement windows as necessary which have the same or better performance specifications as the original windows and which match the original windows as closely as possible: one inch (1") overall insulated, VP 26 - 13 = one-fourth inch (1/4") solarblue glass with VP - 13 coating.

(b) Landlord shall enter into a contract for the Work (the "**GC Contract**") with Mapp Construction, LLC (the "**General Contractor**") and shall diligently prosecute the Work in accordance with the Construction Drawings and deliver possession of the Premises to Tenant with the Work Substantially Complete on or before the Commencement Date set forth in Section 1.3 of this Lease. The terms of the GC Contract shall be subject to Tenant's prior review and approval which review and approval shall not be unreasonably withheld or delayed. If a delay in the Substantial Completion of the initial improvements by March 1, 2012 occurs because of (w) delays in approvals required of Tenant pursuant to this Work Letter, (x) any change by Tenant to the Construction Drawings, (y) any specification by Tenant of materials or installations in connection with the Construction Drawings which are in addition to or other than Landlord's standard finish-out materials or which materials, because of long lead-time requirements or shortage of supply/availability, will delay Substantial Completion of the

Work beyond March 1, 2012, and/or (z) any other cause within Tenant's reasonable control (any such event, a "**Tenant Delay**"), then Tenant's obligation to pay Rent shall commence March 1, 2012. The term "**Substantial Completion**" or "**Substantially Completed**" shall mean that, in the opinion of the architect or space planner that prepared the Construction Drawings (the "**Design Professional**"), the Work has been completed substantially in accordance with the Construction Drawings, subject to completion of minor items of finish or mechanical adjustment that do not materially interfere with Tenant's use and occupancy of the Premises for the permitted uses and Tenant's normal business operations, and the Premises are available for occupancy by Tenant, except that, in the event of Tenant Delays that cause the Work not to be completed by March 1, 2012, the date of Substantial Completion shall be deemed to be March 1, 2012. Landlord shall endeavor to provide Tenant with no less than fifteen (15) days notice of the date Landlord anticipates that the Work will be Substantially Completed and possession of the Initial Premises will be delivered thereby triggering the Commencement Date. Within sixty (60) days after the Commencement Date, Tenant shall submit to Landlord in writing a punch list of items needing completion or correction. Landlord shall use commercially reasonable efforts to promptly complete such items, but in no event shall completion be delayed more than sixty (60) days after Landlord receives such notice. If Landlord fails to complete any item on said punch list within said 60-day period, Tenant shall have the right to complete such item(s) using its own contractors and receive reimbursement from Landlord for the reasonable costs and expenses within thirty (30) days of demand accompanied by supporting invoices, or absent timely reimbursement, to offset such costs and expenses against the Base Rental. If reasonably required by Tenant, any portion of Landlord's Work which is performed after Tenant accepts physical possession of the Premises shall occur only "after hours", when neither Tenant nor any of its agents, contractors, employees and servants are working within the Premises. Tenant may from time to time make changes to the Construction Drawings with Landlord's prior written consent, which shall not be unreasonably delayed, withheld or conditioned. Each subsequent request shall be set forth in a written notice delivered to Landlord, specifying in detail the requested change. If Landlord believes the requested change may result in a Tenant Delay or in increased costs in the Work, Landlord shall provide notice to Tenant of such belief, and the estimated period of Tenant Delay and increased costs to the Work resulting from the requested change, as applicable, within three (3) business days of Landlord's receipt of notice of Tenant's requested change. Landlord shall have no obligation to perform the requested change Work unless and until Tenant shall deliver notice advising Landlord to proceed with the requested change and acknowledging Tenant's responsibility for any resulting Tenant Delay and increase in the costs of the Work

3. Landlord shall require that the General Contractor provide in the GC Contract (1) that the General Contractor shall use the on line pricing tool provided by Tenant's real estate advisor, Cushman & Wakefield, for items in the construction budget for the work which exceed One Hundred Thousand and 00/100 (\$100,000.00) Dollars, (2) for the customary construction and product warranties (and Tenant shall be the primary beneficiary of such warranties), (3) that incomplete items listed in Tenant's punch list delivered pursuant to Paragraph 2 above shall be completed in due course (but in no event later than 45 days after Substantial Completion and delivery of possession to Tenant) and (4) that with respect to each item installed pursuant to the GC Contract, for a period of one (1) year from the date the applicable item is installed (a) such item shall be free from latent defects in workmanship and materials and (b) such item shall comply with the requirements of the Construction Drawings. EXCEPT AS EXPRESSLY SET FORTH IN THIS **EXHIBIT "C"**, LANDLORD SHALL NOT BE OBLIGATED TO, AND DOES NOT, MAKE ANY WARRANTIES OR COVENANTS WITH RESPECT TO THE WORK, NOR SHALL LANDLORD BE OBLIGATED FOR ANY OF THE WARRANTIES FROM THE GENERAL CONTRACTOR OR ANY OTHER CONTRACTOR OR SUBCONTRACTOR TO TENANT. IT IS EXPRESSLY STIPULATED, ACKNOWLEDGED AND AGREED THAT LANDLORD SHALL MAKE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE WORK. ALL IMPLIED WARRANTIES WITH RESPECT THERETO, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY, MARKETABILITY, CONDITION AND FITNESS FOR A PARTICULAR USE OR PURPOSE, ARE EXPRESSLY NEGATED AND WAIVED. WITHOUT LIMITING THE FOREGOING, LANDLORD SHALL NOT BE RESPONSIBLE FOR FAILURE OF THE WORK. Landlord further will assign to Tenant, without recourse, any warranties obtained from the General Contractor or any other subcontractors and suppliers in connection with the Work to the extent such warranties are assignable. To the extent any such warranties are not assignable, Landlord shall use commercially reasonable and diligent efforts to enforce such warranties on Tenant's behalf upon receipt of notice from Tenant of any defect in the Work or any equipment, materials or other product installed as part of the Work.

4. Excluding the obligations of Landlord pursuant to the first sentence of Paragraph 2 above, which obligations Landlord shall perform at its sole cost and expense, and excluding any costs and expenses resulting the acts or omissions of Landlord or its employees, agents or contractors (including, without limitation, increased costs resulting from damage caused by the negligence or intentional misconduct of Landlord or its employees, agents or contractors or other breach of the Lease by Landlord or its employees, agents or contractors), Tenant shall bear the entire cost of performing the Work (including, without limitation, design of the Work and preparation of the Construction Drawings, costs of construction labor and materials, electrical usage during construction, additional janitorial services,

general tenant signage, related taxes and insurance costs, asbestos surveys, any other surveys, test, studies, or reports required by applicable Law, and the construction supervision fee described in Paragraph 6 below, all of which costs are herein collectively called the “**Total Construction Costs**”) in excess of the Tenant Improvement Allowance (hereinafter defined). Notwithstanding the foregoing, Landlord shall pay any and all impact fees, if any, imposed by applicable governmental authorities in connection with the Work. Upon approval of the Construction Drawings and selection of the General Contractor, Tenant shall promptly execute a work order agreement prepared by Landlord in form reasonably acceptable to Tenant which identifies such drawings, itemizes the Total Construction Costs and sets forth the Tenant Improvement Allowance. If the Total Construction Costs exceed the Tenant Improvement Allowance (“**Excess Construction Costs**”), then prior to the commencement of the Work, Tenant shall deposit one-half (1/2) of the Excess Construction Costs amount in a segregated account and provide evidence of same to Landlord, and upon the exhaustion of the Tenant Improvement Allowance Tenant, before using any of the funds in such segregated account to pay for Excess Construction Costs, shall first pay from other sources to pay the remaining one-half (1/2) of the Excess Construction Costs. Tenant shall pay such Excess Construction Costs from time to time (but in no event more frequently than monthly) upon Landlord’s delivery of a request for disbursement in the form required by the GC Contract accompanied by (i) supporting invoices from the General Contractor and all subcontractors and suppliers for which payment is requested, (ii) lien waivers from the General Contractor and all such subcontractors and suppliers for work previously paid and (iii) such other documentation as Tenant may reasonably require including, without limitation, a certification from Tenant’s architect that the Work to be paid was performed in accordance with the Construction Drawings.

5. (a) Landlord shall provide to Tenant a construction allowance (the “**Tenant Improvement Allowance**”) equal to the sum of (i) \$35.00 per square foot of Net Rentable Area in the Initial Premises, plus (ii) \$25.00 per square foot of Net Rentable Area in the Must-Take Space; provided, however, the portion of the Tenant Improvement Allowance applicable to the Must-Take Space shall not be payable to or for the benefit of Tenant until such time as the Tenant expands into the Must-Take Space or the applicable Must-Take Phase, as applicable, but in no event later than the third (3rd) anniversary of the Commencement Date. Tenant shall be responsible for the amount by which the Total Construction Costs exceed the Tenant Improvement Allowance. A minimum of \$10.00 per square foot of Net Rentable Area of the Construction Allowance must be used for “**Hard Construction Costs**”, defined as costs of construction labor and materials, in completion of the initial improvements to the Premises. Tenant may utilize up to \$15.00 per Net Rentable Area of any remaining Tenant Improvement Allowance to offset soft costs, FF&E, cabling, covered parking, signage, architectural fees, relocation costs and other expenses of Tenant associated with its move to the Premises. Subject to the foregoing restriction on the use of the portion of the Tenant Improvement Allowance attributable to the Must-Take Space, any portion of the Tenant Improvement Allowance which is not used in connection with Tenant’s initial alterations and improvements to the Premises shall be available to Tenant for use to reimburse Tenant for its costs of acquiring furniture, fixtures and equipment for the Initial Premises and the Must-Take Space and for performing alterations and improvements to the Must-Take Space. Landlord also shall provide to Tenant a preliminary space planning allowance (the “**Space Planning Allowance**”) equal to twelve cents (\$0.12) per square foot of Net Rentable Area in the Premises to be used by Tenant for the preliminary space planning of the Premises. The Space Planning Allowance is in addition to, not in lieu or reduction of, the Tenant Improvement Allowance, and shall be paid to Tenant from time to time (but not more frequently than monthly) within thirty (30) days of Tenant’s request for reimbursement accompanied by supporting invoices. Any unused portion of the Tenant Improvement Allowance and the Space Planning Allowance which has not been used after all costs and expenses of the Work, for alterations and improvements to the Must-Take Space and for the costs of furniture, fixtures and equipment used in the Premises (including the Must-Take Space) have been paid shall be forfeited to Landlord and no longer available for use by Tenant.

(b) Landlord shall also provide to Tenant a landscaping allowance (the “**Landscaping Allowance**”) in the amount of \$75,000.00 with which Tenant shall be entitled to make changes to the landscaping in the Complex which are approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed. The Landscaping Allowance is in addition to, not in lieu or reduction of, the Tenant Improvement Allowance and the space planning allowance, and shall be paid to Tenant from time to time (but not more frequently than monthly) within thirty (30) days of Tenant’s request for reimbursement accompanied by supporting invoices. Any unused portion of the Landscaping Allowance remaining after the one (1) year anniversary of the Commencement Date shall be forfeited to Landlord and no longer available for use by Tenant.

(c) Subject to Landlord’s rights, if any, under the GC Contract to withhold disputed payments without giving the General Contractor the right to stop or delay the Work, Landlord agrees to pay the General Contractor in accordance with the terms of the GC Contract and to deduct such payments from the Tenant Improvement Allowance. In addition, Landlord agrees to make distributions of the Tenant Improvement Allowance, the Space Planning Allowance and the Landscaping Allowance to Tenant from time to time (but not more frequently than monthly) within ten (10) days of Tenant’s delivery of a request for disbursement in form reasonably acceptable to Landlord accompanied by (i)

supporting invoices from all contractors, subcontractors and suppliers for which payment is requested, (ii) lien waivers from all such contractors, subcontractors and suppliers for work previously paid and (iii) such other documentation as Landlord may reasonably require; provided, however, that Landlord may withhold from any such distributions to Tenant such amounts, if any, which Landlord shall dispute in good faith and with notice to Tenant describing in reasonable detail Landlord's reason(s) for disputing its obligation to pay such amount to Tenant. If Landlord shall so withhold amounts from a distribution requested by Tenant, the parties shall promptly meet and confer in good faith in an effort to resolve their dispute. If the parties shall be unable to resolve their dispute within thirty (30) days of the date the distribution was due to be paid to Tenant, either party may commence appropriate proceedings seeking a determination and resolution of the dispute. Landlord shall pay such amounts, if any, which the parties agree should be paid to Tenant, or which Landlord is ordered to pay to Tenant, within ten (10) days of such agreement or the entry of a final order of the amount due, as applicable. Notwithstanding anything herein to the contrary, in no event shall Landlord be obligated to make distributions in the aggregate on account of the Tenant Improvement Allowance, the Space Planning Allowance or the Landscaping Allowance, as applicable, which exceed the respective amounts for such allowances set forth in this Work Letter.

6. Required Delivery Condition: Notwithstanding anything in this Lease to the contrary, Landlord at its sole cost and expense shall perform any and all work, if any, required to be performed so that upon the Landlord's delivery of possession of the Premises to Tenant, prior to the performance of any of the Work, the Premises shall be in the following condition (the "Required Delivery Condition"):

- (i) In compliance with all applicable Laws;
- (ii) Free of Hazardous Substances (with the exception of hydraulic oil required for the elevator);
- (iii) Free of claims for possession or other liens or claims other than the Superior Lienholders;
- (iv) Watertight, vacant and in broom-clean condition;
- (v) All asbestos containing materials and other Hazardous Substances or toxic materials shall have been removed from (i) the toilets, telephone, electric and other service closets and common areas on the floors on which the Premises are located, and (ii) all shafts, risers, chaises, mechanical rooms and other areas in which Tenant will be performing work.
- (vi) All public areas, elevators, call buttons, indicator lights, toilets, core doors, fire pull stations, warden stations, etc. shall be fully code compliant and further shall comply with Tex. Rev. Civ. Stat. Ann. art. 9102, the provisions of the Americans With Disabilities Act of 1990, 42 U.S.C. §§12101-12213, or any other applicable law, statute, ordinance, order, rule, regulation or other Law relating to access to the Premises by disabled individuals.
- (vii) All core toilet rooms shall be to a standard commensurate with a class "A" building, including, without limitation, fixtures, replacement of all broken and cracked tiles (on the walls and floors), mirrors, hardware, partitions, ceiling and lighting to be installed.
- (viii) All base building systems servicing the floors on which the Premises are located shall be in good working order and condition.
- (ix) Landlord shall deliver an SNDA in recordable form executed by each holder of any lease or mortgage lien encumbering the Building as of the Commencement Date.
- (x) The certificate of occupancy for the Building shall authorize and permit the use of the Premises for the Permitted Use.

If any latent defects in the Premises or elsewhere in the Building or Complex (but excluding the Work) shall be discovered after the Commencement Date, Landlord shall repair such defect at Landlord's sole cost and expense promptly following Tenant's delivery of notice thereof.

7. Landlord or its designee (Cushman and Wakefield Project Management) shall coordinate the relationship between the Work, the Building, and the Building Systems. In consideration for their services, Tenant shall pay to Landlord or its designee, a construction supervision fee equal to two percent (2%) of the Total Construction Costs for all improvements and alterations made to the Premises, which fee shall be paid from the Tenant Improvement Allowance and shall be included in Total Construction Costs.

EXHIBIT "D"

MUST-TAKE SPACE RENT COMMENCEMENT DATE AGREEMENT

This Must-Take Space Rent Commencement Date Agreement (this "**Agreement**") is made and entered into this ____ day ____, 20__, by and between CCI-MILLENNIUM, L.P., a Texas limited partnership ("**Landlord**") and PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**").

WHEREAS, Landlord and Tenant entered into that certain Lease (the "**Lease**") dated as of December __, 2011, with respect to certain premises located at 505 Millennium Parkway in Allen, Collin County, Texas, as such demised premises are more particularly described in the Lease;

WHEREAS, pursuant to Section 1.2(d) of the Lease, Landlord and Tenant have agreed that each time Tenant leases any Must-Take Space Phase, Landlord and Tenant shall execute and deliver an agreement confirming (i) the location and Net Rentable Area of the applicable Must-Take Space Phase, (ii) the Must-Take Space Rent Commencement Date for such Must-Take Space Phase, (iii) Tenant's Share following the addition of the applicable Must-Take Space Phase to the Premises, and (iv) the Annual Base Rental and Monthly Base Rental for the Premises, as so expanded by the addition of such Must-Take Space Phase; and

WHEREAS, Tenant has exercised its right to lease a Must-Take Space Phase as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants expressed in the Lease, it is hereby agreed by Landlord and Tenant as follows:

1. The Must-Take Space Phase which Tenant has added to the Premises and now leases in accordance with the terms of the Lease is as shown on Exhibit 1 annexed hereto and incorporated by reference herein.
2. The Net Rentable Area of such Must-Take Space Phase is agreed by Landlord and Tenant to be _____.
3. The Must-Take Space Rent Commencement Date for such Must-Take Space Phase is _____.
4. Tenant's Share from and after the Must-Take Space Rent Commencement Date for such Must-Take Space Phase is _____.
5. For the period from the Must-Take Space Rent Commencement Date for such Must-Take Space Phase until the earlier of (a) the Must-Take Space Rent Commencement Date for the next Must-Take Space Phase to the Premises by Tenant, if applicable, or (b) last day of the thirty-sixth (36th) month of the Term, the Annual Base Rental is \$_____ and the Monthly Base Rental is \$_____.
6. Except as set forth above, this Agreement shall not be deemed or construed to alter or amend the Lease in any manner.
7. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and which together shall be deemed to be one and the same document and agreement.

[Remainder of Page Intentionally Left Blank –
Signatures on Following Page(s)]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be executed as of the day and year first above written.

LANDLORD:

CCI-MILLENNIUM, L.P.,
a Texas limited partnership

By: CCI-MILLENNIUM GP, LLC,
a Texas limited liability company,
its General Partner

By: _____
Name: _____
Title: _____

TENANT:

PRIORITY FULFILLMENT SERVICES, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

Exhibit 1

Location of Must-Take Space Phase

EXHIBIT "E"
OPERATING COST EXCLUSIONS

- Electrical Costs.
- Capital costs and expenses except to the extent provided in Section 4.1(g) of the Lease.
- Ground rent.
- Salaries, benefits, wages, fees, etc. for employees above the grade of standard building management or for officers or partners of landlord.
- Non-cash items such as depreciation and amortization.
- To the extent that employees are not employed exclusively at the Building, the costs and expenses with respect to such employees should be pro-rated.
- Insurance premiums and other related charges other than to the extent that they relate to insurance which is reasonably and customarily obtained for similar buildings in the area.
- Federal, state, county or municipal taxes, death taxes, excess profit taxes, franchise or any taxes imposed or measured on or by the income or revenue of Landlord from the operation of the Building or the Complex other than margin taxes on the base rents and additional rents.
- Any real estate or other taxes imposed in connection with an expansion of the Building or the construction of the additional rentable area on the Land.
- Operating expenses for the building should be "net" only and for that purpose should be deemed reduced by the amounts of any insurance reimbursement or recovery, other reimbursement, recoupment, payment, discount, credit, reduction, allowance or the like received by Landlord in connection with such operating expenses.
- Damages, costs and expenses relating to personal injury and other work-related claims by any of Landlord's servants or employees.
- Operating expenses should be reduced by all "overhead fees" paid to Landlord by tenants.
- The cost of repairs, replacements or other work occasioned by fire, windstorm or other casualty.
- The cost of repairs, replacements or other work occasioned by the exercise of eminent domain.
- Rent for space which is not actually used by Landlord in connection with the management or operation of the Building.
- All costs of correcting defects, including any allowances for same, in the construction of the Building (including latent defects) or the building equipment (or the replacement of defective equipment), any associated parking garages or areas, any other improvements, or in the equipment use therein.
- All items, utilities and services for which Tenant or any other tenant or occupant of the Building specifically reimburses Landlord or for which Tenant or any other tenant or occupant of the Building pays third parties.
- All costs or expenses (including fines, penalties, interest and legal fees) incurred due to the violation by Landlord, its employees, agents, contractors or assigns, or any tenant (other than Tenant) or other occupant of the Building, of the terms and conditions of any lease or other occupancy agreement pertaining to the building, or any valid, applicable building code, governmental rule, regulation or law including without limitation, the ADA.
- Except for a reasonable, ordinary and customary management fee, any overhead or profit increments to any subsidiary or affiliate of Landlord for services on or to the Building and/or the Land, to the extent that the costs of such services exceed competitive costs for comparable services rendered by persons or entities of similar skill, competence and experience, other than a subsidiary or affiliate of Landlord.

- Payment of principal, finance charges or interest on debt or amortization on any mortgage or other debt or any penalties assessed as a result of Landlord's late payments of such amounts.
- Any costs of Landlord's general overhead, including general and administrative expenses, which costs would not be chargeable to operating expenses of the Building, in accordance with generally accepted accounting principles, consistently applied.
- Any compensation paid to clerks, attendants or other persons in commercial concessions, if any, operated by Landlord or any subsidiary or affiliate of Landlord.
- Rentals and other related expenses, if any, incurred in leasing capital items.
- Any costs incurred in installing, operating, maintaining or owning any specialty not normally installed, operated and maintained in buildings comparable to the Building and not necessary for landlord's operation, repair, maintenance and providing of required services for the Building and/or any associated parking facilities, including, but not limited to, any observatory, beacon, broadcasting facility (other than the building's music system and life support security systems), luncheon club, athletic or recreational club, helicopter pad, etc.
- Any costs or expenses for sculpture, paintings, or other works of art, including, costs incurred with respect to the purchase, ownership, leasing, repair, and/or maintenance of such works of art.
- Any otherwise includible costs of correcting defects in the Building and/or any associated garage facilities and/or equipment or replacing defective equipment to the extent such costs are covered by warranties of manufacturers, suppliers or contractors, or are otherwise borne by parties other than Landlord.
- Contributions to operating expense reserves.
- The cost to comply with environmental regulations, including, but not limited to, the cost of removal of chlorofluorocarbons (CFC) or adaption of building HVAC systems to use substances other than CFC nor shall tenant be responsible for any increase in cost of substitute materials to replace CFC at the time of initial adaptation.
- The cost of overtime or other expense to Landlord in performing work expressly provided in this Lease to be borne at Landlord's expense.
- All expenses directly resulting from the negligence or willful misconduct of the Landlord, its agents, servants or other employees.
- All bad debt loss, rent loss, or reserve for bad debt or rent loss.
- All costs and expenses associated with the operation of the business of the entity which constitutes Landlord as the same are distinguished from the costs of operation of the Complex, including accounting and legal matters, costs of defending any lawsuits with any Landlord's Mortgagee, costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Complex, costs of any disputes between Landlord and its employees (if any) not engaged in Complex operation, disputes of Landlord with Complex management, or fees or costs paid in connection with disputes where such employee provides services.
- Any comprehensive general liability insurance coverage with minimum limits in excess of \$10 million.
- Replacement of any item or of a major component of any item and major repairs to such items in lieu of replacement shall each be considered a capital expenditure if the original item or a subsequent improvement to such item was, or could have been, capitalized.
- The cost of any judgment, settlement or arbitration award resulting from any liability of Landlord which is the result of contract liability, negligence, willful misconduct or fraud of Landlord and all expenses incurred in connection therewith.
- Costs paid or incurred in connection with the removal, replacement, enclosure, encapsulation or other treatment of any Hazardous Substances in the Building, or on or under the Land.
- Charitable or political contributions.
- Any other cost or expense which, under generally accepted accounting principles consistently applied, would not be considered to be an operating expense of the building.

EXHIBIT "F"
RULES AND REGULATIONS

Except as otherwise expressly set forth in the Lease or unless otherwise agreed to in writing by Landlord and Tenant, the Rules and Regulations for the Complex, shall be as follows. In the event of a conflict between these Rules and Regulations and the terms and provisions of the Lease, the terms and provisions of the Lease shall control.

1. Intentionally Omitted.

2. In case of invasion, riot, public excitement or other commotion, Landlord also reserves the right to prevent access to the Building during the continuance of same. Landlord shall in no case be liable for damages for the admission or exclusion of any person to or from the Building.

3. Intentionally Omitted

4. Tenant will see that (i) the doors securely locked and (ii) all water faucets and other utilities are shut off (so as to prevent waste or damage) each day before leaving the Premises. In the event tenant must dispose of crates, boxes, etc., which will not fit into trash containers, it will be the responsibility of Tenant to dispose of same. Tenant shall not change any locks within the Building without providing Landlord with a master key or duplicate keys appropriately labeled so that Landlord may gain access to all areas of the Premises in the event of an emergency. In no event shall Tenant set such items in the public hallways or other areas of the Building or garage facility, excepting Tenant's own Premises, for disposal.

5. The toilet rooms, toilets, urinals, wash bowls and water apparatus shall not be used for any purpose other than for those for which they were constructed or installed, and no sweepings, rubbish, chemicals, or other unsuitable substances shall be thrown or placed therein. The expense of any breakage, stoppage or damage resulting from violation(s) of this rule shall be borne by the Tenant by whom, or by whose agents, employees, invitees, licensees or visitors, such breakage, stoppage or damage shall have been caused.

6. Intentionally Omitted.

7. The boring or cutting for wires, shall be made at the sole cost and expense of the Tenant and under control and direction of the Landlord. Landlord retains, in all cases, the right to require (i) the installation and use of such electrical protecting devices that prevent the transmission of excessive currents of electricity into or through the Building, (ii) the changing of wires and their installation and arrangement underground or otherwise as Landlord may reasonably direct, and (iii) compliance on the part of all using or seeking access to such wires with such reasonable rules as Landlord may establish relating thereto. All such wires used by Tenants must be clearly tagged at the distribution boards and junction boxes and elsewhere in the Building, with (i) the number of the Premises to which said wires lead, (ii) the purpose for which wires are used, and (iii) the name of the company operating same.

7. Tenant, their agents, servants or employees, shall not (a) place objects against glass partitions, doors or windows which would be unsightly from the interior or exterior of the Building, and (b) use any Premises: (i) for lodging or sleeping, (ii) for any manufacturing, storage or retail sale to persons physically present at the Premises of merchandise or property of any kind. Tenant, its agents, servants and employees, invitees, licensees, or visitors shall not permit the operation of any musical or sound producing instruments or devices which may be heard outside Premises or Building.

9. Tenants shall not store or use in any Premises any flammable, combustible, explosive or illuminating fluid, gas or material of any kind, and any other fluid, gas or material of any kind having an offensive odor, without the prior written consent of Landlord; provided, however, that the foregoing shall not be deemed to prohibit the transportation, storage, use and disposal of any cleaning supplies and other office products with such characteristics so long as same are transported, stored, used and disposed of in compliance with applicable Laws and do not exceed normal quantities required for general office use.

10. No canvassing, soliciting, distribution of hand bills or other written material, or peddling shall be permitted in the Building or the Complex, and Tenants shall cooperate with Landlord in prevention and elimination of same.

11. Tenant shall give Landlord prompt notice of all accidents to or defects in air conditioning equipment, plumbing, electrical facilities or any part or appurtenance of Premises, but the failure to provide any such notice shall not be a default under the Lease.
12. Intentionally Omitted.
13. No curtains, blinds, shades, screens, coverings or projections of any nature shall be attached to or hung in, or used in connection with any door, window or wall of the premises of the Building without the prior written consent of the Landlord (which approval shall not be unreasonably withheld, conditioned or delayed).
14. Landlord shall have the right to prohibit any advertising by Tenant, which, in Landlord's commercially reasonable opinion, tends to impair the reputation of Landlord or of the Building, or its desirability as an office building for existing or prospective tenants who require the highest standards of integrity and respectability, and upon written notice from Landlord, Tenant shall refrain from or discontinue such advertising.
15. Wherever the word "Tenant" occurs, it is understood and agreed that it shall also mean Tenant's associates, employees, agents and any other person entering the Building or the Lease Premises under the express or implied invitation of Tenant. Tenant shall cooperate with Landlord to assure compliance by all such parties with rules and regulations.
16. Service Request. All service requests are to be reported promptly and directly to Landlord, or Landlord's designated agent, during normal office hours, excepting emergency calls which shall be reported immediately at any time.
17. Trash Maintenance. Initial move-in trash from inventory, including but not limited to packing crates, is not considered a common area expense. Landlord shall, upon request from Tenant, remove same, at Tenant's sole cost and expense (not to exceed the actual, reasonable, out-of-pocket, third-party cost to Landlord). Trash containers are to be contracted for and maintained by Landlord and will be part of common area costs. Trash will be disposed of in accordance with the ongoing recycling trash program reasonably designated by Landlord. The exterior areas immediately adjoining the Premises shall be kept free from obstructions or merchandise of Tenant in such areas. No debris shall be swept or removed from Premises onto common areas.
18. Intentionally Omitted.
19. Landlord reserves the right in consultation with Tenant to make reasonable amendments, modifications and additions to the Rules and Regulations heretofore set forth, and to make additional reasonable rules and regulations, as in Landlord's reasonable judgment may from time to time be needed for the safety, care, cleanliness and preservations of good order of the Building.
20. Intentionally Omitted.
21. Non-Smoking Building. The Building is a non-smoking Building. Smoking is prohibited at all times within the entire Building, including all leased premises, as well as all public/common areas. This prohibition applies during business and non-business hours to restrooms, elevators, elevator lobbies, first floor lobby, stairwells, common hallways, and any other public/common areas, as well as to all areas within the Premises by Tenants. Smoking is only permitted in the designated smoking area outside the Building and away from the entrances to the Building.
22. Intentionally Omitted.
23. Vehicles must be parked within the marked space.
24. To insure safe traffic flow within the parking lot, all traffic signs must be adhered to. Parking lot speed limit is 5 mph.
25. Persons using the parking lot do so at their own risk. The Landlord specifically disclaims all liability, except when caused solely by its negligence or willful misconduct, for any personal injury incurred by users of the garage, their agents, employees, family, friends or guests, or as a result of damage to, theft of, or destruction of any vehicle or any contents thereof as a result of the operation or parking of vehicles in the parking lot.

EXHIBIT "G"
JANITORIAL SERVICES

See Attached

EXHIBIT "H"
FORM OF SNDA
NON-DISTURBANCE, SUBORDINATION AND ATTORNMENT AGREEMENT

This Non-Disturbance, Subordination and Attornment Agreement ("**Agreement**") is made on this _____ day of December, 2011, by and between **CCI-MILLENNIUM, L.P.**, a Texas limited partnership with an address of 720 Brazos St., Suite 900, Austin, TX 78701 ("**Landlord**"), **PRIORITY FULFILLMENTS SERVICES, INC.**, a Delaware corporation with an address of 500 North Central Expressway, Plano, TX 75074 ("**Tenant**"); and **SHAREPLUS FEDERAL BANK**, with an address of 5224 Plano Parkway, Plano, TX 75093 ("**Bank**").

RECITALS:

A. By Lease Agreement dated December __, 2011 (the "**Lease**"), Landlord leased to Tenant certain real property and the building improvements thereon located in Collin County, Texas at 505 Millennium, Allen, TX, as particularly described on **Exhibit "A"** annexed hereto and incorporated by reference herein and in the Lease (the "**Leased Premises**").

B. Bank is the beneficiary of a certain Deed of Trust dated January 31, 2011 executed by Landlord, as Grantor, in favor of Bank, as beneficiary, that will be recorded in the Real Property Records of Collin County, Texas (the "**Deed of Trust**") (the Deed of Trust, the note(s) secured thereby, and the other documents associated therewith will be referred to collectively as the "**Loan Documents**").

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Landlord, Tenant, and Bank agree as follows:

1. Bank hereby consents to Landlord entering into the Lease with Tenant. Tenant agrees that the Lease is and shall be subject and subordinate in all respects to the lien of the Loan, Loan Documents and any renewal, modification, replacement or extension of the same.

2. In the event of a foreclosure under the Loan Documents or a conveyance in lieu of foreclosure, which foreclosure or conveyance occurs prior to the expiration date of the Lease Agreement, including all extensions and renewals of same provided for thereunder, and provided that as of the date Bank or its successors or assigns commence such a foreclosure action or accept such a conveyance in lieu thereof, and at all times thereafter, Tenant, subject to applicable notice and cure periods, is in compliance with the terms and provisions of this Agreement and is not in default in the performance or observation of any of the terms, covenants, provisions, representations, warranties, agreements, conditions and obligations contained in the Lease to be performed or observed by Tenant thereunder, Bank does hereby agree (subject to the performance by Tenant of all of the terms, covenants and conditions of the Lease on the part of Tenant to be observed or performed, and the applicable notice and cure provisions of the Lease) as follows:

a. default under the Loan Documents, as modified, extended, or increased, and no proceeding to foreclose the same, and no conveyance in lieu of foreclosure thereof, will disturb Tenant's quiet possession of the Leased Premises and the related improvements under said Lease, and the Lease will not be affected or cut off thereby, except to the extent provided herein; and

b. The Lease shall continue in full force and effect, and Bank or its successors or assigns, or any other party acquiring the Leased Premises and the related improvements upon a foreclosure sale or a conveyance in lieu of foreclosure (the "**foreclosure purchaser**"), as the case may be, shall automatically recognize the Lease

and Tenant's rights thereunder and will thereby establish direct privity of estate and contract as between Bank, its successors and assigns, or the foreclosure purchaser, as the case may be, and Tenant, with the same force and effect as if the Lease were originally made directly from Bank, its successors or assigns, or the foreclosure purchaser, in favor of Tenant.

c. Notwithstanding the foregoing provisions of **Section 2** hereof, in the event of any foreclosure under the Loan Documents or conveyance in lieu of foreclosure, Bank and Tenant agree that neither Bank, its successors or assigns, nor the foreclosure purchaser, shall in any way or to any extent:

(i) be obligated or liable to Tenant for any security deposit or any other sums deposited with Landlord or any prior lessors under the Lease Agreement and not physically delivered to Bank;

(ii) be bound by any prepayment of rent for a period greater than one (1) month, unless such prepayment shall have been expressly approved in writing by Bank or its successors or assigns;

(iii) be obligated or liable to Tenant, its mortgagees, contractors, sub-contractors or suppliers with respect to the construction and completion of any improvements for Tenant's use, enjoyment or occupancy of the Leased Premises and the related improvements, equipment, furniture and fixtures, provided that if the Bank, its successor or assigns or the foreclosure purchaser, as applicable, shall not construct and/or complete any such improvements which Landlord is obligated to construct or complete pursuant to the Lease, Tenant shall have the right to perform such construction and/or completion and offset the actual costs thereof against rentals coming due under the Lease;

(iv) be liable for any other expenses or obligations, including attorney's fees, except those expenses or obligations arising out of this Agreement or the Lease; or

(v) subject to Tenant's termination rights set forth in the Lease, be liable for the payment of any of the Tenant Improvement Allowance, the Space Planning Allowance or the Landscaping Allowance (as such terms are defined in the Lease).

Without limiting the foregoing, the parties further agree as follows:

a. That in the event of a foreclosure under the Loan Documents or of a conveyance in lieu of foreclosure, which foreclosure or conveyance occurs prior to the expiration date of the Lease, including any extensions and renewals of the Lease, Tenant hereby covenants and agrees upon receipt of notice of written evidence of the foreclosure sale to make full and complete attornment to Bank, its successors or assigns, or to the foreclosure purchaser, as the case may be, for the balance of the term of the Lease, including any extensions and renewals thereof, upon the same terms, covenants and conditions as therein provided, so as to establish direct privity of estate and contract as between Bank, its successors or assigns, or the foreclosure purchaser, as the case may be, and Tenant, with the same force and effect as though the Lease was originally made directly from Bank, its successors or assigns, or the foreclosure purchaser, as the case may be, to Tenant, and Tenant will thereafter make all rent payments and all other payments under the Lease directly to Bank, its successors or assigns, or to the foreclosure purchaser, as the case may be, upon receipt of notice of the identity of such party and its right to receive payments of rent due under the Lease.

b. Landlord and/or Tenant shall deliver to Bank or its successors or assigns a copy of any notice or statement given by one party to the other under the Lease which either alleges that the other party is in breach or default of the Lease, provides notice of any casualty, condemnation or exercise of eminent domain, at the same time such notice or statement is delivered to the other party pursuant to the terms of the Lease.

c. Notwithstanding anything to the contrary in the Lease, no default of Landlord shall be binding and effective as the Bank until written notice specifying such default is mailed to Bank. Tenant agrees that Bank shall have the option to cure such default on behalf of Landlord within thirty (30) calendar days after receipt of such notice. Tenant further agrees that Tenant shall not invoke any of its remedies, either expressed or implied, under the Lease (except in the case of emergency repairs) until the said thirty (30) day period has elapsed, and during any such thirty (30) day period that Bank has exercised its option to cure and is proceeding to cure such default with due diligence or is taking steps with due diligence to cure such default. The provision contained in the foregoing sentence is not intended to and shall not waive any actual damages that Tenant may sustain as a result of any acts or omissions by Landlord that violate or are in breach of any provisions in the Lease, which damages, if any, shall begin to accrue in accordance with the provisions and time periods set forth in the Lease rather than those contained in this Section 3.c.

d. Tenant will in no event make prepayment of rent for a period in excess of one (1) month.

e. Tenant shall not be entitled to sublease the Leased Premises or assign the Lease Agreement or sublease more than fifty (50%) percent of the Leased Premises without the prior written consent of Bank, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything in this Section 3.e to the contrary, no consent is required for any transfer to a Permitted Transferee pursuant to Section 13.8 of the Lease.

f. Tenant and Landlord will not amend, modify, waive or change the Lease without the prior written consent of Bank, which the Bank agrees not to unreasonably withhold, condition or delay.

g. Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for the foreclosure of the Deed of Trust or to enforce any rights under the Deed of Trust or the other Loan Documents unless such joinder is required under applicable law for the Bank to complete such foreclosure. In the event such joinder is required and of necessity results in a termination of the Lease, upon such termination the Bank and Tenant shall immediately enter into a new lease for the Leased Premises on the same terms and on the same form of the Lease, with such modifications as shall be necessary due to the passage of time and/or changes in conditions or as shall otherwise be mutually acceptable to the Bank and Tenant.

h. All condemnation awards and insurance proceeds paid or payable with respect to the Premises or any other part of the Complex shall be applied and paid in the manner set forth in Article 14 and Article 10, respectively, of the Lease.

i. Neither the Deed of Trust nor any other security instrument executed in connection therewith shall encumber or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant or its subtenants or licensees on the Leased Premises unless pursuant to the terms of the Lease an item must remain with the Building upon the expiration or sooner termination of the lease term.

4. Landlord and Tenant each hereby individually certify, represent and warrant as of the date hereof the following:

a. The Lease is in full force and effect and has not been modified, altered or amended.

b. Rent under the Lease has not been paid more than one (1) month in advance of its due date, and no all rent under the Lease has been fully paid through the date of this Agreement.

c. Tenant, as of the date of the execution hereof, has no charge, lien or claim under the Lease, or otherwise, against the rents or other charges due or to become due thereunder.

d. The Lease has not been assigned by the representing party and, to its best actual knowledge, the other party has not assigned the Lease, by operation of law or otherwise, and it has not entered into any concession agreement, license or sublease covering the Leased Premises, or any portion thereof, and to its best actual knowledge, the other party has not entered into any concession agreement, license or sublease covering the Leased Premises.

e. There has been no default under the Lease by Landlord or Tenant, and no event has occurred which, with the giving of notices or the passage of time, or both, could result in a default under the Lease.

f. There are no agreements between Landlord and Tenant relating to the Leased Premises other than as set forth in the Lease.

g. The Lease has a one hundred twenty-five (125) month initial term, such term expiring on the last day of the month in which the one hundred twenty fifth (125th) monthly anniversary of the Commencement Date shall occur. Tenant has two (2) options to extend the term of the Lease, each renewal term being for five (5) years.

h. Intentionally Omitted.

i. Tenant has no right or option whatsoever to purchase or otherwise acquire the Leased Premises or any portion thereof.

j. Tenant acknowledges that Bank and its successors and assigns will rely on the representations of Tenant in this Agreement in connection with the Loan.

5. Nothing contained in this Agreement shall in any way impair or affect the liens created by the Loan Documents.

6. No modifications, amendments, waiver or release of any provision of this Agreement or any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted. All notices, demands or other communications to be given under this Agreement shall be in writing and shall be given either by personal delivery, by reputable national overnight courier making delivery against a signed receipt or by certified mail or registered mail, postage prepaid, return receipt requested, addressed to the parties hereto as follows:

If to Landlord:	CCI-Millennium, LP 720 Brazos, St., Suite 900 Austin, TX 78701 Attn: Ken Crouse
If to Tenant:	Priority Fulfillments Services, Inc. 500 North Central Expressway Plano, TX 75074 Attn: Chief Financial Officer
If to Bank:	SharePlus Federal Bank 5224 Plano Parkway Plano, TX 75093 Attn: _____

Notices shall be deemed effective upon receipt, upon refusal of delivery by the intended recipient or upon the first attempted delivery which cannot be completed due to the intended recipient's failure to provide notice of a change in address. If notice is given by certified mail or registered mail and the signature of the representative of the receiving party is not dated, it shall be deemed to have been received two (2) days after it is deposited in the United States mail. Any party may by like notice designate different addresses to which such notices shall be sent.

7. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns.

8. Notwithstanding any provision herein, prior to the repayment in full of the indebtedness secured by the Loan Documents, this Agreement may not be altered, amended or terminated without the prior written consent of Landlord, Tenant, and Bank.

9. The parties agree that this Agreement shall be construed in accordance with and governed by the laws of the State of Texas without regard to principles of conflicts of law, and venue for any legal action to enforce the terms of or arising out of this Agreement shall be filed in the appropriate state court in Collin County, Texas or in the United States District Court for the Northern District of Texas.

[signature page follows]

LANDLORD:

CCI-MILLENNIUM, LP
a Texas limited partnership

By: _____
Name: _____
Title: _____

TENANT:

PRIORITY FULFILLMENTS SERVICES, INC..
a Delaware corporation

By: _____
Name: _____
Title: _____

BANK:

SHAREPLUS FEDERAL BANK

By: _____
Name: _____
Title: _____

Bank Acknowledgement

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on _____, 2011, by _____,
_____, on behalf of said entities.

Notary Public, State of Texas

My commission expires:

Tenant Acknowledgement

THE STATE OF _____ §
_____ §
COUNTY OF _____ §
_____ §

This instrument was acknowledged before me on _____, 2011, by _____ of _____, on behalf of said entities.

Notary Public, State of _____

My commission expires:

Landlord Acknowledgement

THE STATE OF _____ §
_____ §
COUNTY OF _____ §
_____ §

This instrument was acknowledged before me on _____, 2011, by _____ of SharePlus Federal Bank, on behalf of said entity.

Notary Public, State of Texas

My commission expires:

THE STATE OF _____ §
_____ §
COUNTY OF _____ §
_____ §

This instrument was acknowledged before me on _____, 2011, by _____ of _____, on behalf of said entity.

Notary Public, State of _____

My commission expires:

EXHIBIT "A"

Legal Description of Leased Premises

Being a tract of land situated in the William Perrin Survey, Abstract No. 708 and being a portion of Lot 2, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet K, Page 763 of the Plat Records of Collin County, Texas (PRCCT) and being a portion of a tract of land conveyed to Prentiss Properties Acquisition Partners, L.P. as recorded in Volume 4271, Page 0378 of the Land Records of Collin County, Texas LRCCT) and being more particularly described as follows;

BEGINNING at a 1/2 inch iron rod found at the most northwesterly corner of said Lot 2, Block 1, said point being found in the southerly Right-of-Way line of MILLENNIUM DRIVE (85' Right-of-Way);

THENCE departing the westerly line of said Lot 2, Block 1 and along the southerly Right-of-Way line of said MILLENNIUM DRIVE as follows;

South 75 deg 58 min 19 sec East a distance of 222.35 feet to a 1/2 inch Iron rod found for the beginning of a curve to the right having a radius of 1957.50 feet and having a chord bearing of South 74 deg 31 min 39 sec East and a chord length of 98.68 feet;

Continuing along said curve to the right through a central angle of 02 deg 53 min 19 sec and an arc length of 98.89 feet to on "X" cut found in concrete pavement for the point of tangency;

South 73 deg 05 min 00 sec East a distance of 288.40 feet to a 1/2 inch iron rod found for corner, said point being the beginning of a corner-clip;

THENCE departing the southerly Right-of-Way line of said MILLENNIUM DRIVE and along said corner-clip South 28 deg 23 min 20 sec East a distance of 26.73 feet to a 1/2 inch iron rod found for corner, said point being found in the westerly Right-of-Way line of CENTURY PARKWAY (85' Right-of-Way), said point being the beginning of a non-tangent curve to the left having a radius of 5742.50 feet and having a chord bearing of South 15 deg 10 min 00 sec and a chord length of 228.22 feet;

THENCE departing said corner-clip and along the westerly Right-of-Way line of said CENTURY PARKWAY as follows;

Continuing along said non-tangent curve to the left through a central angle of 02 deg 16 min 38 sec and an arc length of 228.24 feet to a 1/2 inch iron rod found for the point of tangency;

South 14 deg 01 min 41 sec West a distance of 120.00 feet to a 1/2 inch iron rod found for the beginning of a curve to the left having a radius of 1142.50 feet and having a chord bearing of South 09 deg 20 min 42 sec West and a chord length of 186.56 feet;

Continuing along said curve to the left through a central angle of 09 deg 21 min 59 sec and an arc length of 186.77 feet to a 1/2 inch iron rod found for the point of tangency;

South 04 deg 39 min 42 sec West a distance of 203.47 feet to a 1/2 inch iron rod found for the beginning of a curve to the right having a radius of 1057.50 feet and having a chord bearing of South 09 deg 03 min 29 sec West and a chord length of 162.13 feet;

Continuing along said curve to the right through a central angle of 08 deg 47 min 34 sec and an arc length of 162.29 feet to an "X" cut set on a concrete sidewalk for corner, said point being the most northerly corner of a tract of land conveyed to the City of Allen as recorded in Volume 5571, Page 001760 (LRCCT);

THENCE departing the westerly Right-of-Way line of said CENTURY PARKWAY and along the westerly line of said City of Allen tract as follows;

South 24 deg 42 min 53 sec West a distance of 39.24 feet to an "X" cut found on a concrete sidewalk for corner;

South 19 deg 19 min 55 sec West a distance of 99.88 feet to an "X" cut found on a concrete sidewalk for corner;

South 64 deg 19 min 55 sec West a distance of 29.14 feet to an "X" cut found on a concrete sidewalk for corner, said point being found in the northerly Right-of-Way line of BETHANY DRIVE (110' Right-of-Way) and being the beginning of a non-tangent curve to the left having a radius of 786.42 feet and having a chord bearing of North 74 deg 28 min 04 sec West and a chord length of 23.47 feet;

THENCE departing the westerly line of said City of Allen tract and along the northerly Right-of-Way line of said BETHANY DRIVE continuing along said non-tangent curve to the left through a central angle of 01 deg 42 min 36 sec and an arc length of 23.47 feet to an "X" cut found on a concrete sidewalk for corner;

THENCE departing the northerly Right-of-Way line of said BETHANY DRIVE North 14 deg 01 min 41 sec East passing through a 1/2 inch iron rod found for the most southeasterly corner of Bethany Tech Center Addition, an addition to the City of Allen as recorded in Cabinet F, Page 273 (PRCCT) at a distance of 1.36 feet continuing along the common line of said Lot 2, Block 1 and the said Bethany Tech Center Addition for a total distance of 426.42 feet to a 1/2 inch iron rod found for corner, said point being the most northeasterly corner of said Bethany Tech

Center Addition;

THENCE along the common line of said Lot 2, Block 1 and the Bethany Tech Center Addition North 75 deg 58 min 19 sec West passing through a 1/2 inch iron rod found for the most northeasterly corner of Lot 6, Block 1 of the Allen Tech Center Addition, an addition to the City of Allen as recorded in Cabinet L, Page 4 (PRCCT) at a distance of 400.00 feet continuing along the Comino line of said Lot 2, Block 1 and Lot 6, Block 1 for a total distance of 623.15 feet to a 1/2 inch iron rod found for corner, said point being the most southeasterly corner of Lot 1R, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet I, Page 588 (PRCCT);

THENCE along the Comino line of said Lot 2, Block 1 and Lot 1R, Block 1 North 14 deg 04 min 56 sec East a distance of 662.73 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 9.973 acres or 434,438 square feet of land more or less.

EXHIBIT "I"
FORM OF MEMORANDUM OF LEASE

**THIS DOCUMENT PREPARED BY,
AND AFTER RECORDING, RETURN TO:**

Morris Bienenfeld, Esq.
Wolff & Samson PC
One Boland Drive
West Orange, New Jersey 07052,

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, made as of December __, 2011, by and between **CCI-MILLENNIUM, L.P.**, a Texas limited partnership with an address of 720 Brazos St., Suite 900, Austin, TX 78701 ("**Landlord**"), **PRIORITY FULFILLMENT SERVICES, INC.**, a Delaware corporation with an address of 500 North Central Expressway, Suite 500, Plano, TX 75074, Attention: Chief Financial Officer ("**Tenant**").

Preliminary Statement

Landlord is the fee owner of certain real property located in the County of Collin, State of Texas, as more particularly described on Exhibit A hereto annexed (the "**Land**"), together with improvements constructed or to be constructed thereon (the "**Building**"). Landlord and Tenant, as of the date hereof, have entered into a lease (the "**Lease**") for the Land and the Building to Tenant. In connection therewith, Landlord and Tenant have entered into this Memorandum to confirm the demise of the Land and the Building and to provide notice to any interested party of such demise and of the terms and provisions of the Lease.

NOW, THEREFORE, the parties state as follows:

All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease.

The terms and conditions of the Lease are incorporated herein as though set forth in full, whereby Tenant may have and hold the Premises together with any and all rights, benefits, privileges and easements, now or hereafter appurtenant thereto, at the rental and upon the terms and conditions therein stated, for an initial term of approximately one hundred twenty-five (125) months commencing on the Commencement Date (the "**Initial Term**"). Under the terms of the Lease, Tenant has the right to extend the Initial Term for two (2) separate and additional periods of five (5) years each after the expiration of the Initial Term.

This Memorandum of Lease is executed for the purpose of recordation in order to give notice of all of the terms, provisions and conditions of the Lease, including, without limitation:

(i) Tenant's right to expand into and occupy 100% of the Building not initially occupied by Tenant on the Commencement Date.

(ii) Provisions set forth therein giving Tenant exclusive rights to use the roof and all common areas of the Land and the Building, including, without limitation, the right to prohibit the installation of any signs other than Tenant's signs on the Land and the Building.

In addition to those terms hereinabove set forth, the Lease contains numerous other terms, covenants and conditions which likewise affect the Land and the Building, and notice is hereby given that reference should be had to the Lease directly with respect to the details of such terms, covenants and conditions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum of Lease and the parties hereby ratify and confirm the Lease as if said Lease were being re-executed by them and recorded. In the event of any conflict between the provisions of this instrument and the Lease, the provisions of the Lease shall control. This Memorandum of Lease is not intended, and shall not be construed, to define, limit or modify the Lease.

[BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:
CCI-MILLENNIUM, L.P.,
a Texas limited partnership

By: CCI-MILLENNIUM GP, LLC, a Texas limited liability
company, its General Partner

By: _____
Name: _____
Title: _____

TENANT:
PRIORITY FULFILLMENT SERVICES, INC.,
a Delaware corporation

By: _____
Name: _____
Title: _____

LANDLORD ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of December, 2011, by _____ the _____ of CCI-Millennium GP, LLC, a Texas limited liability company, on behalf of the limited partnership, its general partner, for CCI-Millennium, L.P., a Texas limited partnership.

Notary Public, State of Texas

TENANT ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of December, 2011, by _____ the _____ of Priority Fulfillment Services, Inc., a Delaware corporation.

Notary Public, State of Texas

EXHIBIT A
Legal Description of the Land

Being a tract of land situated in the William Perrin Survey, Abstract No. 708 and being a portion of Lot 2, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet K, Page 763 of the Plat Records of Collin County, Texas (PRCCT) and being a portion of a tract of land conveyed to Prentiss Properties Acquisition Partners, L.P. as recorded in Volume 4271, Page 0378 of the Land Records of Collin County, Texas (LRCCT) and being more particularly described as follows;

BEGINNING at a 1/2 inch iron rod found at the most northwesterly corner of said Lot 2, Block 1, said point being found in the southerly Right-of-Way line of MILLENNIUM DRIVE (85' Right-of-Way);

THENCE departing the westerly line of said Lot 2, Block 1 and along the southerly Right-of-Way line of said MILLENNIUM DRIVE as follows;

South 75 deg 58 min 19 sec East a distance of 222.35 feet to a 1/2 inch Iron rod found for the beginning of a curve to the right having a radius of 1957.50 feet and having a chord bearing of South 74 deg 31 min 39 sec East and a chord length of 98.68 feet;

Continuing along said curve to the right through a central angle of 02 deg 53 min 19 sec and an arc length of 98.89 feet to on "X" cut found in concrete pavement for the point of tangency;

South 73 deg 05 min 00 sec East a distance of 288.40 feet to a 1/2 inch iron rod found for corner, said point being the beginning of a corner-clip;

THENCE departing the southerly Right-of-Way line of said MILLENNIUM DRIVE and along said corner-clip South 28 deg 23 min 20 sec East a distance of 26.73 feet to a 1/2 inch iron rod found for corner, said point being found in the westerly Right-of-Way line of CENTURY PARKWAY (85' Right-of-Way), said point being the beginning of a non-tangent curve to the left having a radius of 5742.50 feet and having a chord bearing of South 15 deg 10 min 00 sec and a chord length of 228.22 feet;

THENCE departing said corner-clip and along the westerly Right-of-Way line of said CENTURY PARKWAY as follows;

Continuing along said non-tangent curve to the left through a central angle of 02 deg 16 min 38 sec and an arc length of 228.24 feet to a 1/2 inch iron rod found for the point of tangency;

South 14 deg 01 min 41 sec West a distance of 120.00 feet to a 1/2 inch iron rod found for the beginning of a curve to the left having a radius of 1142.50 feet and having a chord bearing of South 09 deg 20 min 42 sec West and a chord length of 186.56 feet;

Continuing along said curve to the left through a central angle of 09 deg 21 min 59 sec and an arc length of 186.77 feet to a 1/2 inch iron rod found for the point of tangency;

South 04 deg 39 min 42 sec West a distance of 203.47 feet to a 1/2 inch iron rod found for the beginning of a curve to the right having a radius of 1057.50 feet and having a chord bearing of South 09 deg 03 min 29 sec West and a chord length of 162.13 feet;

Continuing along said curve to the right through a central angle of 08 deg 47 min 34 sec and an arc length of 162.29 feet to an "X" cut set on a concrete sidewalk for corner, said point being the most northerly corner of a tract of land conveyed to the City of Allen as recorded in Volume 5571, Page 001760 (LRCCT);

THENCE departing the westerly Right-of-Way line of said CENTURY PARKWAY and along the westerly line of said City of Allen tract as follows;

South 24 deg 42 min 53 sec West a distance of 39.24 feet to an "X" cut found on a concrete sidewalk for corner;

South 19 deg 19 min 55 sec West a distance of 99.88 feet to an "X" cut found on a concrete sidewalk for corner;

South 64 deg 19 min 55 sec West a distance of 29.14 feet to an "X" cut found on a concrete sidewalk for corner, said point being found in the northerly Right-of-Way line of BETHANY DRIVE (110' Right-of-Way) and being the beginning of a non-tangent curve to the left having a radius of 786.42 feet and having a chord bearing of North 74 deg 28 min 04 sec West and a chord length of 23.47 feet;

THENCE departing the westerly line of said City of Allen tract and along the northerly Right-of-Way line of said BETHANY DRIVE continuing along said non-tangent curve to the left through a central angle of 01 deg 42 min 36 sec and an arc length of 23.47 feet to an "X" cut found on a concrete sidewalk for corner;

THENCE departing the northerly Right-of-Way line of said BETHANY DRIVE North 14 deg 01 min 41 sec East passing through a 1/2 inch iron rod found for the most southeasterly corner of Bethany Tech Center Addition, an addition to the City of Allen as recorded in Cabinet F, Page 273 (PRCCT) at a distance of 1.36 feet continuing along the common line of said Lot 2, Block 1 and the said Bethany Tech Center Addition for a total distance of 426.42 feet to a 1/2 inch iron rod found for corner, said point being the most northeasterly corner of said Bethany Tech Center Addition;

THENCE along the common line of said Lot 2, Block 1 and the Bethany Tech Center Addition North 75 deg 58 min 19 sec West passing through a 1/2 inch iron rod found for the most northeasterly corner of Lot 6, Block 1 of the Allen Tech Center Addition, an addition to the City of Allen as recorded in Cabinet L, Page 4 (PRCCT) at a distance of 400.00 feet continuing along the Comino line of said Lot 2, Block 1 and Lot 6, Block 1 for a total distance of 623.15 feet to a 1/2 inch iron rod found for corner, said point being the most southeasterly corner of Lot 1R, Block 1 of the Millennium Business Park, an addition to the City of Allen as recorded in Cabinet I, Page 588 (PRCCT);

THENCE along the Comino line of said Lot 2, Block 1 and Lot 1R, Block 1 North 14 deg 04 min 56 sec East a distance of 662.73 feet to the POINT OF BEGINNING;

CONTAINING within these metes and bounds 9.973 acres or 434,438 square feet of land more or less.

EXHIBIT "J"
EXISTING ENCUMBRANCES

1. Restrictive covenants recorded under Clerk's File No. 94-0074942, Real Property Records, Collin County, Texas.
2. Standby fees, taxes and assessments by any taxing authority for the year 2011 and subsequent years.
3. The following, all according to plat recorded in Cabinet K, Page 763, Map Records, Collin County, Texas, as shown on survey prepared by Leonard J. Lueker, Registered Professional Land Surveyor No. 5714, dated May 2, 2006, last updated October 4, 2010:
 - (1) Fifty foot building setback lines;
 - (2) Fifteen foot utility easements;
 - (3) Thirty foot by twenty foot utility easement;
 - (4) Ten foot utility easement;
 - (5) Fifteen foot landscape, pedestrian and utility easement;
 - (6) Ten foot Lone Star Gas (LSG) easement;
 - (7) Twenty-four foot firelane and utility easement;
 - (8) Variable width utility easements; and
 - (9) Ten foot T.U.E. easement.
4. Easement for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Bethany Road Associates
Purpose: Sanitary sewer easement
Recording Date: March 29, 1985
Recording No.: Volume 2097, Page 224, Deed Records, Collin County, Texas, and as shown on plat recorded in Cabinet K, Page 763, Map Records, Collin County, Texas, as shown on survey prepared by Leonard J. Lueker, Registered Professional Land Surveyor No. 5714, dated May 2, 2006, last updated October 4, 2010:
5. Covenants, conditions, obligations, restrictions, easement, charges and liens as set forth in that certain Declaration recorded in/under Clerk's File No. 94-0074942 of the Real Property Records of Collin County, Texas, as noted on survey prepared by Leonard J. Lueker, Registered Professional Land Surveyor No. 5714, dated May 2, 2006, last updated October 4, 2010.
6. Deed of Trust dated January 31, 2011 executed by CCI Millennium, L.P. in favor of Jeffrey L. Weaver, Trustee, for the benefit of Shareplus Federal Bank, recorded as Document No. 20110207000131100 in the Real Property Records of Collin County, Texas.

EXHIBIT "K"
RENEWAL OPTION

(a) So long as an Event of Default is not then existing and Tenant and/or its parents, subsidiaries and affiliates are in occupancy of 80% of the Premises and subject to the provisions of this **Exhibit "K"**, Tenant is hereby granted the right to extend the Initial Term of this Lease (each, a "**Renewal Option**") for two (2) terms of five (5) years each (each, a "**Renewal Term**") as to all (but not part) of the Premises, such Renewal Term to commence at the expiration of the Initial Term or first (1st) Renewal Term, as applicable. Tenant will deliver written notice to Landlord of its intent to renew no less than nine (9) months prior to the expiration of the Initial Term or first (1st) Renewal Term, as applicable. Within fifteen (15) days following Landlord's receipt of Tenant's notice of its exercise of an available Renewal Option, Landlord will deliver written notice to Tenant of its reasonable determination of the Market Rate (as defined below) (the "**Market Rate Notice**"). If Landlord and Tenant are unable to reach a definitive agreement as to the Market Rate within thirty (30) days following Tenant's receipt of the Market Rate Notice, each party shall hire their own appraiser or real estate office broker (an "**Appraiser**") having a minimum of ten (10) years experience in the Allen real estate market to deliver its appraisal of the Market Rate within forty-five (45) days of the expiration of such thirty (30) day period. Provided the appraisals are within 10% of each other, the mean average of the appraisals shall determine the Market Rate. In the event the appraisals are in excess of 10% of each other, the Appraisers shall select, or if they cannot agree, the American Arbitration Association shall select, an independent Appraiser who shall select the party's determination of the Market Rate which the independent Appraiser shall determine to be closest to its own determination of the Market Rate. The parties shall share equally in the cost of the independent Appraiser and each party shall bear the costs of its own Appraiser. The independent Appraiser's determination shall be binding upon the parties; provided, however, that if the independent Appraiser shall select Landlord's determination as the Market Rate, Tenant shall have the option of withdrawing its exercise of the Renewal Option by delivery to Landlord of notice of withdrawal within thirty (30) days of Tenant's receipt of written notice of the independent Appraiser's determination of the Market Rate, in which event the Term shall expire on the Expiration Date of the original lease term or the first Renewal Term, as applicable, as if Tenant had not delivered notice exercising the applicable Renewal Option.

(b) The renewal of this Lease will be upon the same terms, covenants, and conditions applicable during the Initial Term or first (1st) Renewal Term, as applicable, as provided in this Lease, except that (a) the Base Rental payable during a Renewal Term shall be an amount equal to the Market Rate (as defined below), and (b) the defined term "**Term**" shall be deemed to include the "**Renewal Term**". In addition, Tenant shall pay increases in Operating Cost as provided in **Section 5.1** of this Lease, except that the Expense Stop shall be redefined as the Operating Cost for the twelve (12) month period immediately prior to the commencement date for the Renewal Term.

(c) As used herein, "**Market Rate**" shall mean the annual gross rental rate per square foot of Rentable Area (including of any portion of "base rental" attributable to expenses or to an "expense stop") then being paid by renewing tenants in commercial office buildings in Allen, Texas of comparable quality, condition and age and with comparable amenities and facilities for space of approximately the same size and location within said building, with appropriate adjustments for all relevant factors to be taken into account and the respective rents equalized as a result of the differences between the Premises and the comparison premises, including without limitation the location and quality of the Building, lease term, amenities of the Complex, condition of the space, and finish allowances, base year and expense stop applicable to the renewal term; location, quality, amenities, age and reputation of the buildings in which the space being compared is located; use and size of the space under comparison; location and/or floor level of the subject space and any comparison space within their respective buildings, including view, elevator lobby exposure, etc.; extent of services provided or to be provided; extent and condition of leasehold improvements in the subject space and in any comparison space; abatements pertaining to the subject space and to any comparison space; inclusion of parking charges in rental, if applicable; lease takeovers/assumptions by the landlord of the comparison space, if applicable; moving allowances granted, if any in connection with the subject space and with respect to any comparison space; relocation allowances granted, if any in connection with the subject space and with respect to any comparison space; construction, refurbishment and repainting allowances granted, if any in connection with the subject space and with respect to any comparison space; any other concessions or inducements in connection with the subject space and with respect to any comparison space; and differences, if any, between the brokerage commissions payable for a renewal of the Premises as compared to the brokerage commissions or the comparison premises.

EXHIBIT "L"

BROKERS' COMMISSION AGREEMENTS

EXHIBIT "M"
EXPENSE STOP CALCULATION

EXHIBIT "N"
FORM OF PARENT GUARANTY

1. Guaranty. To induce CCI-MILLENNIUM, L.P. ("**Landlord**"), to enter into the Lease (the "**Lease**") dated on or about the date hereof, with PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**"), for the office building located at 505 Millennium Drive, Allen, Texas, the undersigned "**Guarantor**" executes and delivers this Guaranty of Lease (the "**Guaranty**") pursuant to which Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord (a) payment to Landlord when due of (i) all rent and other charges due under the Lease; (ii) all amounts payable by reason of any indemnity, breach of warranty or event of default by Tenant under the Lease; and (iii) all actual, reasonable, out-of-pocket costs incurred by Landlord in enforcing its rights and remedies under the Lease and/or this Guaranty, including actual and reasonable attorneys' fees, court costs and investigation expenses; and (b) performance of all of Tenant's other obligations under the Lease (collectively, "**Guaranteed Obligations**"). This is a continuing guaranty of payment and not of collection and Guarantor's liability is primary and not secondary. Landlord may, at its option, proceed against Guarantor without first commencing an action or obtaining a judgment against Tenant or any other party.

2. Waivers and Releases.

a. Guarantor waives marshaling of assets and liabilities, sale in inverse order of alienation, presentment, demand for payment, protest, notice of acceptance of this Guaranty, notice of nonpayment, notice of dishonor, notice of acceleration, notice of intent to accelerate and all other notices, demands, suits or other actions otherwise required as a condition to Landlord's exercise of its rights under the Lease or this Guaranty. Guarantor's liability hereunder shall not be released by Landlord's receipt, application or release of security given for performance of any such obligations, nor shall Guarantor be released by reason of any lien held or executed upon Tenant and/or its assets by any landlord party.

b. This Guaranty shall in no way be affected by (i) any extension of time for payment or performance of any Guaranteed Obligations; (ii) supplementation or amendment (material or otherwise) of the Lease, or renewal or extension thereof, or increase in the size of the leased premises (whether within the building or the property); (iii) any failure, omission, delay or lack of diligence by Landlord or any other person or entity, to enforce, assert or exercise any right or remedy of Landlord under the Lease or this Guaranty; (iv) settlement or compromise of any Guaranteed Obligation; (v) release or discharge of Tenant in any creditor's receivership, bankruptcy or other proceedings; (vi) impairment, limitation or modification of the liability of Tenant (or its estate in bankruptcy), or of any remedy for the enforcement of Tenant's liability under the Lease, resulting from the operation of any present or future provision of the United States Bankruptcy Code or other statute or from the decision of any court; (vii) rejection or disaffirmance of the Lease in any such proceedings; (viii) assignment, sublease or other transfer of the Lease or the leased premises, or any interest therein, by Landlord or Tenant; (ix) any disability or other defense of Tenant; or (x) cessation of Tenant's liability for any cause whatsoever. Notwithstanding anything in this Guaranty to the contrary, the Guaranteed Obligations shall not include any increased obligations of the tenant under the Lease which are added pursuant to an amendment or other modification of the Lease entered into between Landlord and an assignee of the Lease that is not controlled by or under common control with Guarantor. As used herein the term "control" shall mean the ownership of fifty-one percent or more of the voting stock or other voting equity interests in the controlled entity.

c. Until all Guaranteed Obligations are fully performed, Guarantor (i) has no right of subrogation against Tenant due to any payment or performance by Guarantor; (ii) waives any right to enforce any remedy Guarantor may now or hereafter have against Tenant due to any such payment or performance; and (iii) subordinates any liability or indebtedness of Tenant now or hereafter held by Guarantor to the Guaranteed Obligations in favor of Landlord.

3. Representations and Warranties. Guarantor represents and warrants, as a material inducement to Landlord to enter into the Lease, that (a) this Guaranty and each instrument securing this Guaranty have been duly executed and delivered and constitute legally enforceable obligations of Guarantor; (b) there is no action, suit or proceeding pending or, to Guarantor's knowledge, threatened against or affecting Guarantor, at law or in equity, or before or by any governmental authority, which might result in any materially adverse change in Guarantor's

business or financial condition; (c) as of the date hereof, Guarantor's financial condition is adequate to secure Guarantor's obligations under this Guaranty; (d) execution of this Guaranty shall not render Guarantor insolvent; (e) from and after the date hereof, Guarantor shall not take any action, such as assuming additional liabilities, divesting assets or otherwise, which would impair Guarantor's ability to perform its obligations under this Guaranty; and (f) Guarantor has a bona fide interest in Tenant's financial success. Guarantor shall, within fifteen (15) days of Guarantor's receipt of the written request of Landlord or any mortgagee of Landlord, without additional consideration, deliver an estoppel certificate, consisting of reasonable statements required by Landlord or any current or prospective mortgagee or purchaser of any interest in the Property, which statements may include, but shall not be limited to, a statement verifying this Guaranty is in full force and effect.

4. Notice. Any notice or communication hereunder shall be given in writing by, and deemed received upon, posting in a U.S. Postal Service receptacle, postage prepaid, registered or certified mail, return receipt requested, or by expedited courier, where proof of delivery can be shown, to Landlord as specified in the Lease, and to Guarantor at:

500 North Central Expressway, Suite 500
Plano, TX 75074
Attention: Chief Financial Officer

5. Interpretation. This Guaranty shall be governed by and construed in accordance with applicable law. The proper place of venue to enforce payment or performance under this Guaranty shall be the county or other jurisdiction in which the leased premises are located. The representations, covenants and agreements set forth herein shall continue and survive the termination of the Lease and/or this Guaranty. Unless otherwise expressly provided in this Guaranty, all capitalized terms shall have the same meanings as in the Lease. The masculine and neuter genders each include the masculine, feminine and neuter genders. This instrument may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord. If Guarantor consists of more than one person or entity, the word "Guarantor" shall apply to each such party, each of whom shall be jointly and severally liable hereunder. The words "Guaranty" and "guarantees" shall not be interpreted to limit Guarantor's primary obligations and liability hereunder.

6. Consent to Jurisdiction. In any legal proceeding regarding this Guaranty, including enforcement of any judgments, Guarantor irrevocably and unconditionally (a) submits to the jurisdiction of the courts of law in the county or district in which the property is located; (b) accepts the venue of such courts and waives and agrees not to plead any objection thereto; and (c) agrees that (i) service of process may be effected at the address specified in Paragraph 4 above, or at such other address of which Landlord has been properly notified, and (ii) nothing herein shall affect Landlord's right to effect service of process in any other manner permitted by law.

7. Successors and Assigns. This Guaranty shall inure to the benefit of Landlord and its successors and assigns, and shall be binding upon Guarantor and its executors, administrators, heirs, successors and assigns. Guarantor shall not assign any obligation hereunder without Landlord's prior written consent. If any Guarantor who is a living person dies while this Guaranty is in force, then such deceased Guarantor's heirs, executors, administrators and representatives shall not make any distribution or disposition of assets from the estate without first making provisions acceptable to Landlord for the satisfaction of such deceased Guarantor's obligations (and contingent obligations) hereunder.

IN WITNESS WHEREOF, Guarantor executes this Guaranty as of this _____ day of December, 2011.

GUARANTOR:

PFSWEB, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

GUARANTY

1. Guaranty. To induce CCI-MILLENNIUM, L.P. ("**Landlord**"), to enter into the Lease (the "**Lease**") dated on or about the date hereof, with PRIORITY FULFILLMENT SERVICES, INC., a Delaware corporation ("**Tenant**"), for the office building located at 505 Millennium Drive, Allen, Texas, the undersigned "**Guarantor**" executes and delivers this Guaranty of Lease (the "**Guaranty**") pursuant to which Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord (a) payment to Landlord when due of (i) all rent and other charges due under the Lease; (ii) all amounts payable by reason of any indemnity, breach of warranty or event of default by Tenant under the Lease; and (iii) all actual, reasonable, out-of-pocket costs incurred by Landlord in enforcing its rights and remedies under the Lease and/or this Guaranty, including actual and reasonable attorneys' fees, court costs and investigation expenses; and (b) performance of all of Tenant's other obligations under the Lease (collectively, "**Guaranteed Obligations**"). This is a continuing guaranty of payment and not of collection and Guarantor's liability is primary and not secondary. Landlord may, at its option, proceed against Guarantor without first commencing an action or obtaining a judgment against Tenant or any other party.

2. Waivers and Releases.

a. Guarantor waives marshaling of assets and liabilities, sale in inverse order of alienation, presentment, demand for payment, protest, notice of acceptance of this Guaranty, notice of nonpayment, notice of dishonor, notice of acceleration, notice of intent to accelerate and all other notices, demands, suits or other actions otherwise required as a condition to Landlord's exercise of its rights under the Lease or this Guaranty. Guarantor's liability hereunder shall not be released by Landlord's receipt, application or release of security given for performance of any such obligations, nor shall Guarantor be released by reason of any lien held or executed upon Tenant and/or its assets by any landlord party.

b. This Guaranty shall in no way be affected by (i) any extension of time for payment or performance of any Guaranteed Obligations; (ii) supplementation or amendment (material or otherwise) of the Lease, or renewal or extension thereof, or increase in the size of the leased premises (whether within the building or the property); (iii) any failure, omission, delay or lack of diligence by Landlord or any other person or entity, to enforce, assert or exercise any right or remedy of Landlord under the Lease or this Guaranty; (iv) settlement or compromise of any Guaranteed Obligation; (v) release or discharge of Tenant in any creditor's receivership, bankruptcy or other proceedings; (vi) impairment, limitation or modification of the liability of Tenant (or its estate in bankruptcy), or of any remedy for the enforcement of Tenant's liability under the Lease, resulting from the operation of any present or future provision of the United States Bankruptcy Code or other statute or from the decision of any court; (vii) rejection or disaffirmance of the Lease in any such proceedings; (viii) assignment, sublease or other transfer of the Lease or the leased premises, or any interest therein, by Landlord or Tenant; (ix) any disability or other defense of Tenant; or (x) cessation of Tenant's

liability for any cause whatsoever. Notwithstanding anything in this Guaranty to the contrary, the Guaranteed Obligations shall not include any increased obligations of the tenant under the Lease which are added pursuant to an amendment or other modification of the Lease entered into between Landlord and an assignee of the Lease that is not controlled by or under common control with Guarantor. As used herein the term "control" shall mean the ownership of fifty-one percent or more of the voting stock or other voting equity interests in the controlled entity.

c. Until all Guaranteed Obligations are fully performed, Guarantor (i) has no right of subrogation against Tenant due to any payment or performance by Guarantor; (ii) waives any right to enforce any remedy Guarantor may now or hereafter have against Tenant due to any such payment or performance; and (iii) subordinates any liability or indebtedness of Tenant now or hereafter held by Guarantor to the Guaranteed Obligations in favor of Landlord.

3. Representations and Warranties. Guarantor represents and warrants, as a material inducement to Landlord to enter into the Lease, that (a) this Guaranty and each instrument securing this Guaranty have been duly executed and delivered and constitute legally enforceable obligations of Guarantor; (b) there is no action, suit or proceeding pending or, to Guarantor's knowledge, threatened against or affecting Guarantor, at law or in equity, or before or by any governmental authority, which might result in any materially adverse change in Guarantor's business or financial condition; (c) as of the date hereof, Guarantor's financial condition is adequate to secure Guarantor's obligations under this Guaranty; (d) execution of this Guaranty shall not render Guarantor insolvent; (e) from and after the date hereof, Guarantor shall not take any action, such as assuming additional liabilities, divesting assets or otherwise, which would impair Guarantor's ability to perform its obligations under this Guaranty; and (f) Guarantor has a bona fide interest in Tenant's financial success. Guarantor shall, within fifteen (15) days of Guarantor's receipt of the written request of Landlord or any mortgagee of Landlord, without additional consideration, deliver an estoppel certificate, consisting of reasonable statements required by Landlord or any current or prospective mortgagee or purchaser of any interest in the Property, which statements may include, but shall not be limited to, a statement verifying this Guaranty is in full force and effect.

4. Notice. Any notice or communication hereunder shall be given in writing by, and deemed received upon, posting in a U.S. Postal Service receptacle, postage prepaid, registered or certified mail, return receipt requested, or by expedited courier, where proof of delivery can be shown, to Landlord as specified in the Lease, and to Guarantor at:

500 North Central Expressway, Suite 500
Plano, TX 75074
Attention: Chief Financial Officer

5. Interpretation. This Guaranty shall be governed by and construed in accordance with applicable law. The proper place of venue to enforce payment or performance under this Guaranty shall be the county or other jurisdiction in which the

leased premises are located. The representations, covenants and agreements set forth herein shall continue and survive the termination of the Lease and/or this Guaranty. Unless otherwise expressly provided in this Guaranty, all capitalized terms shall have the same meanings as in the Lease. The masculine and neuter genders each include the masculine, feminine and neuter genders. This instrument may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by Guarantor and Landlord. If Guarantor consists of more than one person or entity, the word "Guarantor" shall apply to each such party, each of whom shall be jointly and severally liable hereunder. The words "Guaranty" and "guarantees" shall not be interpreted to limit Guarantor's primary obligations and liability hereunder.

6. Consent to Jurisdiction. In any legal proceeding regarding this Guaranty, including enforcement of any judgments, Guarantor irrevocably and unconditionally (a) submits to the jurisdiction of the courts of law in the county or district in which the property is located; (b) accepts the venue of such courts and waives and agrees not to plead any objection thereto; and (c) agrees that (i) service of process may be effected at the address specified in Paragraph 4 above, or at such other address of which Landlord has been properly notified, and (ii) nothing herein shall affect Landlord's right to effect service of process in any other manner permitted by law.

7. Successors and Assigns. This Guaranty shall inure to the benefit of Landlord and its successors and assigns, and shall be binding upon Guarantor and its executors, administrators, heirs, successors and assigns. Guarantor shall not assign any obligation hereunder without Landlord's prior written consent. If any Guarantor who is a living person dies while this Guaranty is in force, then such deceased Guarantor's heirs, executors, administrators and representatives shall not make any distribution or disposition of assets from the estate without first making provisions acceptable to Landlord for the satisfaction of such deceased Guarantor's obligations (and contingent obligations) hereunder.

IN WITNESS WHEREOF, Guarantor executes this Guaranty as of this _____ day of December, 2011.

GUARANTOR:

PFSWEB, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

ELEVENTH AMENDMENT TO FIRST AMENDED AND RESTATED
LOAN AND SECURITY AGREEMENT

THIS ELEVENTH AMENDMENT TO FIRST AMENDED AND RESTATED LOAN AND SECURITY AGREEMENT (herein called this "Amendment") made as of the _____ day of March, 2012 by and between Priority Fulfillment Services, Inc. ("Borrower") and Comerica Bank ("Bank"),

WITNESSETH:

WHEREAS, Borrower and Bank have entered into that certain First Amended and Restated Loan and Security Agreement dated as of December 29, 2004 (as from time to time amended or modified, the "Original Agreement") for the purposes and consideration therein expressed, pursuant to which Bank became obligated to make loans to Borrower as therein provided; and

WHEREAS, Borrower and Bank desire to amend the Original Agreement for the purposes set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Original Agreement, in consideration of the loans which may hereafter be made by Bank to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I.

Definitions and References

§ 1.1 Terms Defined in the Original Agreement. Unless the context otherwise requires or unless otherwise expressly defined herein, the terms defined in the Original Agreement shall have the same meanings whenever used in this Amendment.

§ 1.2 Other Defined Terms. Unless the context otherwise requires, the following terms when used in this Amendment shall have the meanings assigned to them in this §1.2:

"Amendment" means this Eleventh Amendment to First Amended and Restated Loan and Security Agreement.

"Loan Agreement" means the Original Agreement as amended hereby

[Eleventh Amendment]

ARTICLE II.
Amendment to Original Agreement

§ 2.1 EBITDA. The definition of EBITDA in Section 6.7(b) of the Original Agreement is hereby amended in its entirety to read as follows:

As used herein, "EBITDA" shall mean, for any period of calculation, Borrower's earnings for such period before interest and taxes plus depreciation, amortization, non-cash stock compensation, and non-cash payment rent expense to the extent deducted in the calculation of such earnings, provided that, for purposes of this calculation, "EBITDA" shall not include any depreciation and amortization attributable to leasehold improvements funded by a landlord as tenant allowances under the terms of the applicable lease.

§ 2.2 Negative Covenants. Section 7.12 of the Original Agreement is hereby amended in its entirety to read as follows:

7.12 Capital Expenditures. Make capital expenditures in an aggregate amount greater than (i) \$6,000,000 in Borrower's fiscal year 2011, and (ii) \$4,500,000 in each fiscal year thereafter, provided that in each case, the aggregate amount of such expenditures purchased with cash (and not financed) shall not exceed \$1,500,000; provided further, that any capital expenditures made by Borrower exclusively from the proceeds of Permitted Distributions shall not be subject to the foregoing limitations. As used herein, the term "capital expenditures" does not include (i) any software that is internally developed by Borrower, whether or not Borrower capitalized the development costs, (ii) any equipment ordered, but not yet accepted or paid for, by Borrower, and (iii) any leasehold improvement costs to the extent such costs are funded by a landlord as tenant allowances under the terms of the applicable lease.

ARTICLE III.
Conditions of Effectiveness

§ 3.1 Effective Date. This Amendment shall become effective as of the date first above written when and only when Bank shall have received, at Bank's office, a counterpart of this Amendment executed and delivered by Borrower and the attached Consent and Agreement executed and delivered by Guarantor.

ARTICLE IV.
Representations and Warranties

§ 4.1 Representations and Warranties of Borrower. In order to induce Bank to enter into this Amendment, Borrower represents and warrants to Bank that:

(a) The representations and warranties contained in Article 5 of the Original Agreement are true and correct at and as of the time of the effectiveness hereof, except to the extent such representations or warranties relate to an earlier date in which case such representation or warranty shall be true and correct as of such earlier date or as otherwise disclosed to the Bank in writing.

(b) Borrower is duly authorized to execute and deliver this Amendment and is and will continue to be duly authorized to borrow and to perform its obligations under the Loan Agreement. Borrower has duly taken all corporate action necessary to authorize the execution and delivery of this Amendment and to authorize the performance of the obligations of Borrower hereunder.

(c) The execution and delivery by Borrower of this Amendment, the performance by Borrower of its obligations hereunder and the consummation of the transactions contemplated hereby do not and will not conflict with any provision of law, statute, rule or regulation or of the organizational documents of Borrower, or of any material agreement, judgment, license, order or permit applicable to or binding upon Borrower, or result in the creation of any lien, charge or encumbrance upon any assets or properties of Borrower. Except for those which have been duly obtained, no consent, approval, authorization or order of any court or governmental authority or third party is required in connection with the execution and delivery by Borrower of this Amendment or to consummate the transactions contemplated hereby.

(d) When duly executed and delivered, each of this Amendment and the Loan Agreement will be a legal and binding instrument and agreement of Borrower, enforceable in accordance with its terms, except as limited by bankruptcy, insolvency and similar laws applying to creditors' rights generally and by principles of equity applying to creditors' rights generally.

ARTICLE V.
Miscellaneous

§ 5.1 Ratification of Agreements. The Original Agreement as hereby amended is hereby ratified and confirmed in all respects. Any reference to the Loan Agreement in any Loan Document shall be deemed to be a reference to the Original Agreement as hereby amended. The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of Bank under the Loan Agreement or any other Loan Document nor constitute a waiver of any provision of the Loan Agreement or any other Loan Document.

§ 5.2 Survival of Agreements. All representations, warranties, covenants and agreements of Borrower herein shall survive the execution and delivery of this Amendment and the performance hereof, including without limitation the making or granting of the Advances, and shall further survive until all of the Obligations are paid in full. All statements and agreements contained in any certificate or instrument delivered by Borrower hereunder or under the Loan Agreement to Bank shall be deemed to constitute representations and warranties by, or agreements and covenants of, Borrower under this Amendment and under the Loan Agreement.

§ 5.3 Loan Documents. This Amendment is a Loan Document, and all provisions in the Loan Agreement pertaining to Loan Documents apply hereto.

§ 5.4 Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of California and any applicable laws of the United States of America in all respects, including construction, validity and performance.

§ 5.5 Counterparts. This Amendment may be separately executed in counterparts and by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to constitute one and the same Amendment.

THIS AMENDMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS OF THE PARTIES.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, this Amendment is executed as of the date first above written.

PRIORITY FULFILLMENT SERVICES, INC.

By: _____
Name: _____
Title: _____

COMERICA BANK

By: _____
Name: _____
Title: _____

[Eleventh Amendment – Signature Page]

CONSENT AND AGREEMENT

PFSWEB, INC., a Delaware corporation, hereby consents to the provisions of this Amendment and the transactions contemplated herein, and hereby ratifies and confirms the Guaranty dated as of December 29, 2004, made by it for the benefit of Bank, and agrees that its obligations and covenants thereunder are unimpaired hereby and shall remain in full force and effect.

PFSWEB, INC.

By: _____
Name:
Title:

Consent and Agreement

**AMENDMENT NO. 13
TO
AGREEMENT FOR INVENTORY FINANCING**

This Amendment No. 13 (“Amendment”) to the Agreement for Inventory Financing is made as of March 28, 2012 by and among **IBM Credit LLC**, a Delaware limited liability company (“IBM Credit”), **Business Supplies Distributors Holdings, LLC**, a limited liability company duly organized under the laws of the state of Delaware (“Holdings”), **Supplies Distributors, Inc.** (formerly known as BSD Acquisition Corp.), a corporation duly organized under the laws of the state of Delaware (“Borrower”), **Priority Fulfillment Services, Inc.**, a corporation duly organized under the laws of the state of Delaware (“PFS”) and **PFSweb, Inc.**, a corporation duly organized under the laws of the state of Delaware (“PFSweb”) (Borrower, Holdings, PFS, PFSweb, and any other entity that executes this Agreement or any Other Document, including without limitation all Guarantors, are each individually referred to as a “Loan Party” and collectively referred to as “Loan Parties”).

RECITALS:

A. Each Loan Party and IBM Credit have entered into that certain Agreement for Inventory Financing dated as of March 29, 2002 (as amended, supplemented or otherwise modified from time to time, the “Agreement”); and

B. The parties have agreed to modify the Agreement as more specifically set forth below, upon and subject to the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower, the other Loan Parties and IBM Credit hereby agree as follows:

Section 1. Definitions. All capitalized terms not otherwise defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Amendment.

Subject to the satisfaction of the conditions precedent set forth in Section 3 hereof, the Agreement is hereby amended as of March 31, 2012 as follows:

A. The definition of “Termination Date” is hereby deleted its entirety.

B. Section 8.6 of the Agreement is hereby amended by amending this Section to read in its entirety as follows:

“8.6. Restricted Payments. Borrower will not, directly or indirectly make any of the following payments (“Restricted Payments”) without prior written consent from IBM Credit, which shall not be unreasonably delayed or denied: (i) declare or pay any dividend (other than dividends payable solely in common stock of Borrower) on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement or other acquisition of, any shares of any class of capital stock of Borrower or any warrants, options or rights to purchase any such capital stock or Equity Interests, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of Borrower; or (ii) make any optional payment or prepayment on or redemption (including, without limitation, by making payments to a sinking or analogous fund) or repurchase of any Indebtedness (other than the Obligations), provided, however, that Borrower (a) may in the ordinary course of administration thereof make payments on the revolving

loans made by Wells Fargo Bank, National Association, acting through its Wells Fargo Business Credit operating division (as successor to Wachovia Bank, National Association, which, in turn, was successor to Congress Financial Corporation (Southwest) ("Wells Fargo"), pursuant to the Congress Credit Agreement, as permitted by the Amended and Restated Notes Payable Subordination Agreement; (b) may in calendar year 2012 pay cash dividends not to exceed one hundred percent of calendar year 2011 net income of SDUS, SD Canada and SDSA according to GAAP, plus all cash dividends received from its subsidiaries and all previously approved amounts that have not yet been paid.

C. Section 10.1 is amended and restated in its entirety to read as follows:

"10.1. Term; Termination. (A) This Agreement shall remain in force until the earlier of (i) the date specified in a written notice by Borrower that it intends to terminate this Agreement which date shall be no less than ninety (90) days following the receipt by IBM Credit of such written notice, (ii) the date specified in a written notice by IBM Credit that it intends to terminate this Agreement which date shall be no less than ninety (90) days following the receipt by Borrower of such written notice, and (iii) termination by IBM Credit after the occurrence and during the continuance of an Event of Default. Upon the date that this Agreement is terminated, all of the Obligations shall be immediately due and payable in their entirety, even if they are not yet due under their terms.

(B) Until the indefeasible payment in full of all of each Loan Party's Obligations, no termination of this Agreement or any of the Other Documents shall in any way affect or impair (i) each Loan Party's Obligations to IBM Credit including, without limitation, any transaction or event occurring prior to and after such termination, or (ii) IBM Credit's rights hereunder, including, without limitation IBM Credit's security interest in the Collateral. On and after a termination date, as more specifically described in Section 10.1 (A) hereto, IBM Credit may, but shall not be obligated to, upon the request of Borrower, continue to provide Advances hereunder.

D. Attachment A to the Agreement is hereby amended by deleting such Attachment A in its entirety and substituting, in lieu thereof, the Attachment A attached hereto. Such new Attachment A shall be effective as of the date specified in the new Attachment A. The changes contained in the new Attachment A include, without limitation, the following:

(i) Section II. Fees, Rates and Repayment Terms, subsection (A) is amended and restated in its entirety to read as follows:

(A) Credit Line: Twenty-five Million Dollars (\$25,000,000) until and including June 30, 2012, and Twenty Million Dollars (\$20,000,000.00) at all times thereafter

In the event that the amount of any Participation is reduced or any Participation Agreement expires or is terminated for any reason, the Credit Line shall be reduced, upon forty-five (45) days written notice by IBM Credit to Borrower, by an amount equal to the amount that is no longer subject to a Participation Agreement as determined by IBM Credit pursuant to Section 2.1 of the Agreement.

Section 3. Conditions of Effectiveness of Amendment. This Amendment shall become effective upon the execution by IBM Credit and each of the Loan Parties, provided that IBM Credit receives a duly authorized and executed counterpart of this Amendment from each of the Loan Parties on or prior to March 31, 2012.

Section 4. Representations and Warranties. Each Loan Party makes to IBM Credit the following representations and warranties all of which are material and are made to induce IBM Credit to enter into this Amendment.

Section 4.1 Accuracy and Completeness of Warranties and Representations. All representations made by the Loan Party in the Agreement were true and accurate and complete in every respect as of the date made, and, as amended by this Amendment, all representations made by the Loan Party in the Agreement are true, accurate and complete in every material respect as of the date hereof, and do not fail to disclose any material fact necessary to make representations not misleading.

Section 4.2 Violation of Other Agreements and Consent. The execution and delivery of this Amendment and the performance and observance of the covenants to be performed and observed hereunder (a) do not violate or cause any Loan Party not to be in compliance with the terms of any agreement to which such Loan Party is a party, and (b) require the consent of any Person.

Section 4.3 Litigation. Except as has been disclosed by the Loan Parties to IBM Credit in writing, there is no litigation, proceeding, investigation or labor dispute pending or threatened against any Loan Party, which, if adversely determined, would materially adversely affect the Loan Party's ability to perform such Loan Party's obligations under the Agreement and the other documents, instruments and agreements executed in connection therewith or pursuant hereto.

Section 4.4 Enforceability of Amendment. This Amendment has been duly authorized, executed and delivered by each Loan Party and is enforceable against each Loan Party in accordance with its terms.

Section 5. Ratification of Agreement. Except as specifically amended hereby, all of the provisions of the Agreement shall remain unamended and in full force and effect. Each Loan Party hereby ratifies, confirms and agrees that the Agreement, as amended hereby, represents a valid and enforceable obligation of such Loan Party, and is not subject to any claims, offsets or defenses.

Section 6. Ratification of Guaranty and Notes Payable Subordination Agreement. Each of Holdings, PFSweb and PFS hereby ratify and confirm their respective guaranties in favor of IBM Credit and agree that such guaranties remain in full force and effect and that the term "Liabilities", as used therein include, without limitation the indebtedness liabilities and obligations of the Borrower under the Agreement as amended hereby.

Section 7. Governing Law. This Amendment shall be governed by and interpreted in accordance with the laws which govern the Agreement.

Section 8. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one agreement.

IN WITNESS WHEREOF, each Loan Party has read this entire Amendment, and has caused its authorized representatives to execute this Amendment and has caused its corporate seal, if any, to be affixed hereto as of the date first written above.

IBM Credit LLC

By: _____

Print Name: _____

Title: _____

Supplies Distributors, Inc.

By: _____

Print Name: _____

Title: _____

Business Supplies Distributors Holdings, LLC

By: _____ as Managing Member
By: _____
Print Name: _____
Title: _____

Priority Fulfillment Services, Inc.

By: _____
Print Name: _____
Title: _____

PFSweb, Inc.

By: _____
Print Name: _____
Title: _____

**Attachment A ("Attachment A") TO
AGREEMENT FOR INVENTORY FINANCING
DATED MARCH 29, 2002**

EFFECTIVE DATE OF THIS ATTACHMENT A: March 31, 2012

SECTION I. BORROWER/LOAN PARTIES:

(A) BORROWER:	<u>ORGANIZATION NO. (Assigned by State of Org).</u>
Supplies Distributors, Inc.	3416326
(B) ADDITIONAL LOAN PARTIES:	
Business Supplies Distributors Holdings, LLC	3410894
Priority Fulfillment Services, Inc.	2606094
PFSweb, Inc.	3062550

SECTION II. FEES, RATES AND REPAYMENT TERMS:

- (A) Credit Line: Twenty-five Million Dollars (\$25,000,000.00) until and including June 30, 2012, and Twenty Million Dollars (\$20,000,000.00) at all times thereafter
- In the event that the amount of any Participation is reduced or any Participation Agreement expires or is terminated for any reason, the Credit Line shall be reduced, upon forty-five (45) days written notice by IBM Credit to Borrower, by an amount equal to the amount that is no longer subject to a Participation Agreement as determined by IBM Credit pursuant to Section 2.1 of the Agreement.
- (B) Borrowing Base:
- (i) 100% of the Borrower's inventory in the Borrower's possession as of the date of determination as reflected in the Borrower's most recent Collateral Management Report constituting Products (other than service parts) financed through a Product Advance by IBM Credit, so long as (1) IBM Credit has a first priority security interest in such Products and (2) such Products are in new and un-opened boxes;
- (ii) 80% of price protection payments, credits, discounts, incentive payments, rebated and refunds relating to IBM Products ("Accounts") in the aggregate not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) provided that (i) Borrower obtains (and provides to IBM Credit along with the monthly Collateral Management Report required under Section 7.1 (O)) from IBM written confirmation (a) acknowledging the obligation of IBM to pay such amount or that they have received the billing from the Borrower, (b) stating the date the amount is due to be paid and (c) IBM waiving its right to setoff such amounts owed to Borrower with any amount Borrower may owe to IBM, (ii) such Accounts do not remain unpaid for more than sixty (60) days from the date the obligation of IBM occurred; and (iii) such Accounts are delivered directly to IBM Credit.
- (C) Product Financing Charge: Prime Rate plus 0.50%

- (D) Product Financing Period: 90 days
- (E) Collateral Insurance Amount: Twenty-five Million Dollars (\$25,000,000.00) until and including June 30, 2012, and Twenty Million Dollars (\$20,000,000.00) at all times thereafter
- (F) PRO Finance Charge: Prime Rate plus 0.50%
- (G) Delinquency Fee Rate: Prime Rate plus 6.500%
- (I) Free Financing Period Exclusion Fee: Product Advance multiplied by 0.25%
- (J) Other Charges:
 - (i) Monthly Service Fee: \$1,000.00
 - (ii) Annual Renewal Fee: \$15,000.00

SECTION III. FINANCIAL COVENANTS:

(A) Definitions: The following terms shall have the following respective meanings in this Attachment. All amounts shall be determined in accordance with generally accepted accounting principles (GAAP).

“Consolidated Net Income” shall mean, for any period, the net income (or loss), after taxes, of Borrower on a consolidated basis for such period determined in accordance with GAAP.

“Current” shall mean within the ongoing twelve month period.

“Current Assets” shall mean assets that are cash, restricted cash applicable to cash received into a lockbox from collections of trade accounts receivable or expected to become cash within the ongoing twelve months.

“Current Liabilities” shall mean payment obligations resulting from past or current transactions that require settlement within the ongoing twelve month period. All indebtedness to IBM Credit and Congress shall be considered a Current Liability for purposes of determining compliance with the Financial Covenants. All subordinated indebtedness shall not be considered current liabilities.

“EBITDA” shall mean, for any period (determined on a consolidated basis in accordance with GAAP), (a) the Consolidated Net Income of Borrower for such period, plus (b) each of the following to the extent reflected as an expense in the determination of such Consolidated Net Income: (i) the Borrower’s provisions for taxes based on income for such period; (ii) Interest Expense for such period; and (iii) depreciation and amortization of tangible and intangible assets of Borrower for such period.

“Fixed Charges” shall mean, for any period, an amount equal to the sum, without duplication, of the amounts for such as determined for the Borrower on a consolidated basis, of (i) scheduled repayments of principal of all Indebtedness (as reduced by repayments thereon previously made), (ii) Interest Expense, (iii) capital expenditures (iv) dividends, (v) leasehold improvement expenditures and (vi) all provisions for U.S. and non U.S. Federal, state and local taxes.

“Fixed Charge Coverage Ratio” shall mean the ratio as of the last day of any fiscal period of (i) EBITDA as of the last day of such fiscal period to (ii) Fixed Charges.

“Interest Expense” shall mean, for any period, the aggregate consolidated interest expense of Borrower during such period in respect of Indebtedness determined on a consolidated basis in accordance with GAAP, including, without limitation, amortization of original issue discount on any Indebtedness and of all fees payable in connection with the incurrence of such Indebtedness (to the extent included in interest expense), the interest portion of any deferred payment obligation and the interest component of any capital lease obligations.

“Long Term” shall mean beyond the ongoing twelve month period.

“Long Term Assets” shall mean assets that take longer than a year to be converted to cash. They are divided into four categories: tangible assets, investments, intangibles and other.

“Long Term Debt” shall mean payment obligations of indebtedness which mature more than twelve months from the date of determination, or mature within twelve months from such date but are renewable or extendible at the option of the debtor to a date more than twelve months from the date of determination.

“Net Profit after Tax” shall mean Revenue plus all other income, minus all costs, including applicable taxes.

“Revenue” shall mean the monetary expression of the aggregate of products or services transferred by an enterprise to its customers for which said customers have paid or are obligated to pay, plus other income as allowed.

“Subordinated Debt” shall mean Borrower’s indebtedness to third parties as evidenced by an executed Notes Payable Subordination Agreement in favor of IBM Credit.

“Tangible Net Worth” shall mean Total Net Worth minus goodwill.

“Total Assets” shall mean the total of Current Assets and Long Term Assets. For the purpose of calculating Total Assets for Borrower, the accumulated earnings and foreign currency translation adjustments applicable to Borrower’s Canadian and European subsidiaries are excluded.

“Total Liabilities” shall mean the Current Liabilities and Long Term Debt less Subordinated Debt, resulting from past or current transactions, that require settlement in the future.

“Total Net Worth” (the amount of owner’s or stockholder’s ownership in an enterprise) is equal to Total Assets minus Total Liabilities. For the purpose of calculating Total Net Worth of Borrower, following shall be excluded (i) accumulated earnings and unrealized foreign currency translation adjustments applicable to Borrower’s Canadian and European subsidiaries and (ii) all income and losses applicable to foreign currency adjustments for each period but not excluding such foreign currency adjustments for annual periods that must comply with GAAP.

“Working Capital” shall mean Current Assets minus Current Liabilities.

(B) 1. Borrower will be required to maintain the following financial ratios, percentages and amounts as of the last day of the fiscal period under review (quarterly, annually) by IBM Credit:

<u>Covenant</u>	<u>Covenant Requirement</u>
(i) Revenue on an Annual Basis* (i.e. the current fiscal year-to-date Revenue annualized) to Working Capital	Greater than Zero and Equal to or Less than 37.0:1.0
* Annualized Revenue from intercompany sales are excluded from this calculation.	
(ii) Net Profit after Tax to Revenue**	Equal to or Greater than 0.20 percent

**Excluding all income and losses applicable to (a) 100% ownership in Canadian and European subsidiaries and (b) foreign currency adjustments for each period but not excluding such foreign currency adjustments for annual periods that must comply with GAAP and excluding revenue from intercompany sales.

(iii) Total Liabilities to Tangible Net Worth*** Greater than Zero and Equal to or Less than 7.0:1.0

***Accumulated earnings and unrealized foreign currency translation adjustments applicable to Borrower's Canadian and European subsidiaries are excluded from calculation of Borrower's Total Assets and Total Net Worth.

2. Business Supplies Distributors Holdings, LLC will be required to maintain the following financial ratios, percentages and amounts as of the last day of the fiscal period under review (quarterly, annually) by IBM Credit:

<u>Covenant</u>	<u>Covenant Requirement</u>
(i) Revenue on an Annual Basis (i.e. the current fiscal year-to-date Revenue annualized) to Working Capital	Greater than Zero and Equal to or Less than 37.0:1.0
(ii) Net Profit after Tax to Revenue*	Equal to or Greater than 0.15 percent

*Excluding all (a) income and losses applicable to foreign currency adjustments for each period but not excluding such foreign currency adjustments for annual periods that must comply with GAAP and (b) revenue from intercompany sales.

(iii) Total Liabilities to Tangible Net Worth Greater than Zero and Equal to or Less than 7.0:1.0

3. PFSweb, Inc. will be required to maintain the following financial ratios, percentages and amounts as of the last day of the fiscal period under review (quarterly, annually) by IBM Credit:

<u>Covenant</u>	<u>Covenant Requirement</u>	<u>As of Date</u>
Minimum Tangible Net Worth	\$18,000,000.00	03/31/03 and thereafter

Name	Jurisdiction
Priority Fulfillment Services, Inc.	Delaware
Priority Fulfillment Services of Canada, Inc.	Ontario
PFSweb BV SPRL (f/k/a Priority Fulfillment Services Europe, B.V.)	Belgium
Business Supplies Distributors Holdings, LLC	Delaware
Supplies Distributors, Inc.	Delaware
Supplies Distributors of Canada, Inc.	Ontario
Supplies Distributors S.A.	Belgium
PFSweb Retail Connect, Inc.,	Delaware
PFSweb Philippines Services, LLC	Philippines

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated March 30, 2012, with respect to the consolidated financial statements and schedules in the Annual Report of PFSweb, Inc. on Form 10-K for the year ended December 31, 2011. We hereby consent to the incorporation by reference of said report in the Registration Statements of PFSweb, Inc. on Forms S-8 (File Nos. 333-164973, effective February 18, 2010, 333-128486, effective September 21, 2005, 333-75764, effective December 21, 2001, 333-75772, effective December 21, 2001; 333-46096, effective September 19, 2000; 333-42186, effective July 25, 2000 and 333-40020, effective June 23, 2000) and on Forms S-3 (File Nos. 333-164971, effective March 17, 2010, 333-135794, effective July 17, 2006 and 333-110853, effective December 1, 2003).

/s/ GRANT THORNTON LLP

Dallas, Texas
March 30, 2012

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

I, Mark Layton, certify that:

1. I have reviewed this annual report on Form 10-K 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 periods 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: March 30, 2012

By: /s/ MARK C. LAYTON
Chief Executive Officer

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

I, Thomas Madden, certify that:

1. I have reviewed this annual report on Form 10-K 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 periods 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: March 30, 2012

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 Annual Report on Form 10-K for the year ended December 31, 2011 (the "Form 10-K") 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-K 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-K.

March 30, 2012

/s/ Mark C. Layton

Mark C. Layton
Chief Executive Officer

March 30, 2012

/s/ Thomas J. Madden

Thomas J. Madden
Chief Financial Officer

The foregoing certification is being furnished as an exhibit to the Form 10-K 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-K 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.