

THE CITY OF PROVIDENCE  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

# RESOLUTION OF THE CITY COUNCIL

No. 451

Approved July 12, 2012

WHEREAS, The City of Providence issues multiple millions of dollars in parking tickets and other fines during the course of each year; and

WHEREAS, Despite the efforts of the City's contracted servicer, a finite number of these tickets remain unpaid after normal collection attempts fail; and

WHEREAS, The City has benefited from its relationship with PFS I, an entity with whom the City "securitized" similar unpaid parking and other obligations in 2006; and

WHEREAS, The City wishes to securitize its existing backlog of unpaid parking and other obligations with PFS III, in order to obtain an immediate non-recourse payment of \$1,000,000.00 and potentially to derive additional income through PFS III's collection efforts.


NOW, THEREFORE, BE IT RESOLVED, That His Honor, the Mayor is authorized to execute a Master Asset Management Agreement and Assignment, Funding and Collection Terms Agreement, substantially in the forms attached, and associated documents with PFS III.

IN CITY COUNCIL

JUL 11 2012

READ AND PASSED

  
PRES.

  
CLERK

I HEREBY APPROVE.

  
Mayor

Date: 7/12/12

## MASTER ASSET MANAGEMENT AGREEMENT

THIS MASTER ASSET MANAGEMENT AGREEMENT (the "Agreement"), dated as of July 13, 2012 is entered into by and between the City of Providence (the "City") and PFS III LLC, a Delaware limited liability company, and its successors and assigns (the "Manager"). The City and Manager are sometimes collectively referred to herein as the "Parties" and each individually as a "Party".

### WITNESSETH:

WHEREAS, the City is the owner of rights to payment of monetary obligations composed of, *inter alia*, parking tickets, traffic violations, and citations (the "Receivables") assessed by the City or by the Providence Municipal Court (the "Court") upon persons found to have violated traffic, parking, red lights and other statutes, regulations and ordinances ("Violators"); and

WHEREAS, the Manager is amenable to enter into an advance funding arrangement with the City, and the City wishes engage the Manager in order to manage and collect such identified Receivables (the "Assigned Receivables"); and

WHEREAS, the specific financial terms of this advance funding arrangement for the engagement of the Manager with respect to identified Assigned Receivables, *inter alia*, is set forth in that separate Assignment, Funding and Collection Terms Agreement between the City and the Manager, which is attached hereto as Exhibit A (the "Assignment Agreement"), which will be incorporated into this Agreement; and

WHEREAS, the Providence City Council has approved the City entering into this Agreement and the Assignment Agreement through passage of Resolution No. 2012-  
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NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Manager agree as follows.

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the meanings specified below:

"Affiliate" of a specified Person means any other Person who (a) directly or indirectly controls, is controlled by, or is under common control with, such specified Person, or (b) owns or controls more than fifty percent (50%) of the outstanding voting stock or other voting equity or beneficial interests of such specified Person. For purposes of the preceding sentence, "control" of a Person means possession, directly or indirectly (through one or more intermediaries), of the power to direct or cause the direction of management and policies of such Person through ownership of voting securities (or other ownership interests), contract, voting trust or otherwise.

"Applicable Law" means all provisions of statutes, rules and regulations, interpretations and orders of any Governmental Authority applicable to a Person, and all orders

and decrees of all Courts and arbitrators in proceedings or actions in which the Person in question is a party including applicable federal, state and local laws and regulations thereunder.

“Assigned Receivable(s)” means any and all Receivables for which the City has assigned to the Manager the right to manage and collect under the terms of Section 3 hereunder and the Assignment Agreement.

“Assignment Agreement” has the meaning assigned to it in the preamble hereto.

“Assignment Date” means each date on which Receivables are assigned by the City to and accepted by the Manager pursuant to the related Assignment Agreement.

“Bankruptcy” means, with respect to any Person:

(a) the institution (or consenting to the institution) of proceedings or filing an answer or other pleading to be adjudicated as bankrupt or insolvent or seeking for such Person any liquidation, winding up, dissolution, reorganization, rearrangement, adjustment, protection, composition or other similar relief of such Person or such Person’s debts under any law relating to bankruptcy, insolvency, reorganization, liquidation or other relief of debtors, including Title 11 of the United States Code, as amended (“Bankruptcy Law”) or any similar law;

(b) the seeking, consenting to, or acquiescing in any entry of an order for relief or the appointment of a receiver, trustee, liquidator, custodian or other similar official for such Person or all or any substantial part of such Person’s property under any Bankruptcy Law or any similar law;

(c) the making of an assignment for the benefit of creditors;

(d) the admission, in writing, by such Person of the inability to pay its debts generally as they become due;

(e) the entering of an order for relief or approving a petition or other pleading for relief or reorganization or any other petition or other pleading seeking any liquidation, winding up, dissolution, reorganization, rearrangement, adjustment, composition or other similar relief against such Person under any Bankruptcy Law or any similar law;

(f) the filing of any such petition or other pleading against such Person which petition is not dismissed within sixty (60) days of such filing;

(g) without the consent or acquiescence of such Person, the entering of an order appointing a receiver, trustee, liquidator, custodian or other similar official for such Person or of all or any substantial part of such Person’s property, which order is not discharged or dismissed within sixty (60) days of the date it is entered; or

(h) a creditor executes upon, forecloses or otherwise involuntarily acquires, otherwise receives in satisfaction of any obligation or obtains a judgment lien against substantially all of or a material portion of the assets of such Person.

“City” has the meaning assigned to it in the preamble hereto.

“Code” means the Uniform Commercial Code in the State of Rhode Island as in effect on the date hereof and as the same may subsequently be amended from time to time, the substantive provisions of which are applicable to any of the property of the City in which the Manager is granted a security interest pursuant hereto.

“Collateral” means all of the City’s right, title and interest in, to and under each Assigned Receivable including, without limitation, the City’s right, title and interest in, to and under each bank account established under the terms of this Agreement, all contract rights and privileges in respect of such accounts and all cash, checks, credit card receipts, money orders, and other items of value now or hereafter paid, deposited, credited, held (whether for collection, provisionally or otherwise) or otherwise in the possession or under the control of, or in transit to, any bank account maintained by Manager, and any agent, bailee or custodian thereof (the “Receipts”) and all Proceeds of the foregoing.

“Collections” has the meaning assigned to it in Section 7.

“Default Premium” shall have the meaning assigned to it in Section 15(h).

“DMV” means the Department of Motor Vehicles of the State of Rhode Island.

“Due Diligence Information” has the meaning assigned to it in Section 3(b)(i).

“Effective Date” has the meaning assigned to it in Section 3(a)(iv).

“Event of Default” shall mean the occurrence of one or more of the following:

(a) the failure by the City or the Manager, as the case may be, to perform any of its obligations, in accordance with the terms of this Agreement, or the breach by either such party of a representation or warranty hereunder, which breaches individually or in the aggregate constitute a material breach of this Agreement;

(b) the Bankruptcy of the City or of the Manager, but only to the extent that such Bankruptcy affects the ability of such party to perform its obligations under this Agreement or the Assignment Agreement;

(c) the failure of the Manager to have (i) a perfected first priority security interest in the Collateral in which a security interest may be perfected under the Code and (ii) a first priority perfected lien or security interest available under State of Rhode Island statutes and case law in the Collateral in which a security interest may not be perfected under the Code;

(d) any act or omission on the part of the City and its employees, agents or independent contractors including, but not limited to, Xerox State and Local Solutions, Inc., that results in the inability of the Manager, Servicer and their respective employees, agents and independent contractors to enforce and collect the Collections; and

(e) any act or omission on the part of the City and its employees, agents or independent contractors, including, but not limited to Xerox State and Local Solutions, Inc., that results in the Manager, Servicer and their respective employees, agents and independent contractors to collect less than the face amount of the violation or citation as provided for in the Due Diligence Information for any Assigned Receivable.

"FDCPA" means the Fair Debt Collection Practices Act.

"Governmental Authority" means the government of any nation, state, City, locality or other political subdivision of any of the foregoing, any entity exercising executive, legislative, individual, regulatory or administrative functions of or pertaining to government and any corporation or other entity owned or controlled, through stock, capital ownership or otherwise, by any of the foregoing.

"Impaired Receivable" Any receivables that the Manager determines it does not have data elements to effect collection or where the responsible party cannot be identified because of lack of data at the City or DMV or other reasons as outlined in this agreement.

"Obligor(s)" has the meaning assigned to it in the preamble hereto.

"Person" means any natural person or any corporation, partnership, joint venture or enterprise, limited liability company, unincorporated association, trust, estate, governmental entity or other entity or organization, and shall include the successor (by merger or otherwise) of any entity or organization.

"Pool" has the meaning assigned to it in Section 3(b)(i) hereof.

"Proceeds" has the meaning assigned to it in the Code.

"Receivable(s)" has the meaning assigned to it in the preamble hereto.

"Replacement Receivables" has the meaning assigned to such term in Section 8(c)(i) hereof.

"Servicer" shall mean Professional Account Management, LLC ("PAM") or any subsequent entity that replaces PAM and which agrees to be bound by the terms and conditions of the Servicing Agreement.

"Servicing Agreement" means the agreement, dated as of the date hereof, between the Manager and Servicer.

"Violators" has the meaning assigned to it in the preamble hereto.

2. Engagement of the Manager; Servicer; Subservicer.

(a) The City hereby engages the Manager, and the Manager hereby accepts such engagement, as the City's sole and exclusive provider of management and collection services with respect to Assigned Receivables assigned as of July 13, 2012 through July 12, 2015 (the "Collection Period"). The Parties expressly acknowledge that the City shall, at all times, remain the owner of the Assigned Receivables.

(b) The Parties acknowledge and agree that the Manager will engage, pursuant to the terms of the Servicing Agreement, a copy of which is attached hereto as Exhibit E, the Servicer to perform, on the Manager's behalf, the management and collection services described herein with respect to the Assigned Receivables, and the City hereby consents to the Manager's engagement of the Servicer to perform such services on the Manager's behalf. The parties agree that the Manager will have the right, from time to time during the term of this Agreement, to change the Servicer upon written notice to and consent from the City, which consent shall not be unreasonably withheld, denied or delayed, it being agreed that (i) it shall be unreasonable for the City to withhold, deny or delay its consent if the proposed new Servicer has not been found in violation of the FDCPA in the prior 36 months and (ii) such consent shall be deemed granted if the City does not respond within 30 days of its receipt of the notice of change from the Manager. The parties further acknowledge and agree that the Manager shall remain fully responsible for the performance of such management and collection services described herein.

(c) The Manager and the Servicer shall have full access to the City's Services Providers, Xerox State and Local Solutions, Inc. in order to fulfill their respective obligations hereunder.

(d) The Manager may also engage any other servicer or subservicer or other service provider to perform certain actions related to the management of the Assigned Receivables, without the consent of the City; provided, that the Manager shall remain fully responsible for the performance of the management and collection services described herein.

3. Identification and Assignment of Assigned Receivables.

(a) Assignment of Assigned Receivables. Pursuant to and in accordance with the terms of the Assignment Agreement, the City assigns to the Manager the exclusive right to manage and collect the Assigned Receivables. The financial arrangement governing the distributions to be made to the Manager and the City from the Collections is governed by this Agreement and the Assignment Agreement.

(b) Future Receivables, Assigned Receivables

(i) From time to time during the term of this Agreement, the City may identify additional pools of Receivables (each, a "Pool") that may be assigned to the Manager for service and collection. Prior to such assignment, the City will provide the Manager with such statistical and other data as the Manager shall reasonably request regarding each such Pool (the "Due Diligence Information") to enable the Manager to perform an appropriate due diligence review of the Receivables comprising such Pool.

(ii) Within sixty (60) days after receiving all Due Diligence Information with respect to a Pool, the Manager will complete, and will provide the City with written notice of whether or not it is satisfied, in its sole discretion, with results of its due diligence review. If the Manager informs the City it is not satisfied with the results of its due diligence review of a Pool, it will also identify for the City the reason(s) why it is not satisfied. The City shall have a period of ten (10) days after its receipt of such reason(s) to address the Manager's lack of satisfaction including, without limitation, by way of (i) providing additional Due Diligence Information and/or (ii) removing certain Receivables from the Pool and/or adding other Receivables to the Pool.

(iii) If and when the Manager is satisfied with the results of its due diligence review of a Pool, the City shall assign to the Manager, pursuant to an assignment agreement, the right to manage and collect all the Receivables in such Pool within the Collection Period. Thereafter, the Receivables in such Pool shall constitute an Assigned Receivable. For each future Pool to be assigned to the Manager for management and collection, a separate assignment agreement will need to be executed for each such Pool, which will be similar in form and content to the Assignment Agreement, but which may contain different financial terms. Nothing herein shall create an obligation of the Manager to accept any Pool for its management.

(iv) The effectiveness of the present Assignment Agreement and any future assignment agreement will be subject to the receipt by the Manager of each of the following, in form and substance satisfactory to the Manager (the date when the Manager has received and accepted all of such items being the "Effective Date" of such Assignment Agreement):

- (A) a completed assignment agreement in the form of Exhibit A hereto with respect to the Assigned Receivables, duly executed by an authorized official of the City and by the Manager;
- (B) UCC-1 financing statements containing a description of the Assigned Receivables in the form of Exhibit B hereto, for filing in the appropriate jurisdictions to perfect or otherwise protect, to the extent such perfection or protection is possible under the Code, the Manager's security interest in the Assigned Receivables in such Pool and the Proceeds thereof pursuant to Section 5 hereof;
- (C) opinions of counsel to the City covering and the matters set forth in Exhibit C and Exhibit D hereto; and
- (D) such other documents and instruments as the City has the authority to convey or deem reasonable to facilitate

the Manager's perfection or protection of its security interest in the Assigned Receivables.

(v) The parties to this Agreement acknowledge that the City will retain title to and ownership of any and all Assigned Receivables; provided, that the Manager shall acquire a security interest in the Collateral as provided in Section 5, and shall have the rights to receive distributions out of the Collections on the Assigned Receivables as provided in Section 4 and the Assignment Agreement.

(c) The Manager shall have the exclusive right to manage and collect each Assigned Receivable for the Collection Period. Upon expiration of the Collection Period, or upon termination of this Agreement as provided for herein, the Manager's right to manage and collect all such Assigned Receivables shall terminate, at which time the right to manage and collect all such Assigned Receivables shall revert to the City. All such Collections shall be distributed in accordance with the Assignment Agreement.

(i) The Collection Period, with respect to the Assigned Receivables in a Pool, may be extended:

(ii) For an additional 12 months, upon the mutual written agreement of the parties hereto;

(iii) For an additional 12 months, by the Manager upon written notice to the City at any time following a change in applicable law which has an adverse and material impact on the ability of the Manager to collect Assigned Receivables or on the value of the Assigned Receivables;

(iv) For an additional 12 months, by the Manager upon written notice to the City in the event that the City fails to perform, in any material respect, any of its obligations in accordance with the terms of this Agreement and the City has not cured such failure to perform within 45 days after written notice of such failure to perform is given by the Manager to the City; or

(v) For an additional three (3) years upon each time the Manager receives an additional Pool to manage and collect.

4. Advance. Within five business (5) days after the Effective Date of an Assignment Agreement pursuant to Section 3(b)(iv), the Manager shall advance to the City the amount agreed upon by the City and the Manager and set forth in the Assignment Agreement (the "Advance"). The Advance (a) is based on the Servicer's representations as to its experience in collections (b) shall be non-recourse to the City except as provided for in this Agreement and (c) shall be reimbursable only out of Collections on the Assigned Receivables pursuant to Section 3 hereof and the Assignment Agreement; provided, however, if there is an Event of Default committed by the City such that the City owes Manager the Default Premium as provided for in Section 15(h) herein or is awarded at arbitration a monetary award, such amounts

shall be paid first out of Collections and then second, such amounts shall be an obligation of the City.

5. Security Interest.

(a) In order to secure the full and timely payments to the Manager for all amounts due hereunder, the City HEREBY GRANTS TO and creates in favor of the Manager, a first priority lien and security interest in the Collateral under Rhode Island law, including, without limitation, under to the Code to the extent such grant may be made under the Code.

(b) The City will:

(i) Faithfully preserve, protect and defend the Manager's security interest in the Collateral as a prior perfected security interest under Rhode Island law, including without limitation, under the Code to the extent perfection is permitted under the Code, superior and prior to the rights of all third persons, and will do all such other acts and things and will, upon request therefor by the Manager, execute, deliver, file and record all such other documents and instruments, including without limitation, financing statements, security agreements, assignments and documents and powers of attorney with respect to the Collateral, and pay all filing fees and taxes thereto, as the Manager in its reasonable discretion may deem necessary or advisable from time to time in order to attach, continue, preserve, perfect and protect said security interest;

(ii) Not pledge, mortgage or create, or suffer to exist any right of any person in or claim by Person to the Collateral, or any security interest, lien or other encumbrance in or on the Collateral in favor of any Person, other than the Manager, and the City shall not permit any of the Collateral to be levied upon under any legal process;

(iii) Not file or authorize or permit to be filed in any jurisdiction any financing statement relating to any of the Collateral naming any secured party other than the Manager;

(iv) Keep and stamp or otherwise mark any of its instruments and its books and records relating to the Collateral in such manner as the Manager may reasonably require, to include, without limitation, identifying that the Manager has been granted a security interest in said Collateral;

(v) Not permit anything to be done that may impair the value of the Collateral or the security intended to be afforded thereby; and

(vi) Not sell, transfer, assign or otherwise dispose or offer to sell, transfer, assign or otherwise dispose, of the Collateral or any interest therein.

(c) The City hereby irrevocably authorizes the Manager at any time and from time to time to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (i) describe the Collateral and (ii) provide

any other information required by Article 9 of the Code for the sufficiency or filing office acceptance of any financing statement or amendment.

(d) If an Event of Default shall have occurred and be continuing, the Manager, without any other notice to or demand upon the City, shall have, in addition to all other rights and remedies, the rights and remedies of a secured party under the Code; however in any case, the Advance is not refundable even if the Collections are less than the Advance; provided, however, if the City owes Manager the Default Premium or other damages pursuant to an award through arbitration, then such amounts shall be paid first from the Collections and second from the City.

(e) The City shall pay to the Manager on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by the Manager in legal proceedings to assert or defend its rights in the Collateral or defending legal proceedings which challenge its rights to the Collateral or to payments, regardless if such proceedings arise in connection with a bankruptcy of the City. Notwithstanding the foregoing, the ability to deduct the above-recited costs are limited to actions to enforce the Manager's right to or priority in the Collateral, but in no case includes costs incurred to enforce payment of an Assigned Receivable. After deducting all of said expenses, the residue of any proceeds of collection or sale or other disposition of the Collateral shall, to the extent actually received in cash, be applied to the payment of the amounts due to the Manager hereunder.

6. Establishment of Account. With respect to each Pool, the Manager shall establish a deposit account (each an "Account") with Bank of America or such other bank reasonably acceptable to the Parties (the "Bank") in which all proceeds of Assigned Receivables shall be immediately deposited (the "Agreement"). The City shall immediately forward all payments actually received by the City (including without limitation, by the Court or by any other agency or administrative body of the City) from Violators with respect to Assigned Receivables to the Bank for deposit in the applicable Account. The Servicer will direct all Violators to make payments directly to the Account. After the Servicer invoices the Manager for payment for its services and payment is made to the Servicer in accordance with the Servicer Agreement, all amounts deposited into the applicable Account shall be distributed to the Manager and the City in accordance with the payment priorities set forth in the Assignment Agreement and as provided for herein. The City and the Servicer shall direct (or request that the Court or other agency or administrative body of the City to direct) all of the Violators with respect to the Assigned Receivables to make their payments to the applicable Account for that Pool, with checks or money orders naming Manager as payee. The City and Servicer shall mark their respective records with respect to the Assigned Receivables and institute standing instructions that will cause any payments which they (including the Court or any other agency of the City) receive directly from a Violator to be forwarded to the applicable Account immediately. Additionally all credit card receipts attributable to the Assigned Receivables shall be deposited daily in the Account by the Servicer and/or the City, as applicable. Until such payments are so delivered to the Account, the City and the Servicer shall be deemed to be holding such payments in trust for the Manager.

7. Distributions of Collections. With respect to all payments received in the Account from time to time with respect to the Assigned Receivables in a Pool (the "Collections") the Servicer shall invoice the Manager for its fee and after the Servicer is paid, the Manager will distribute the remainder to the Manager and the City in the order of priority set forth in the Assignment Agreement and as set forth herein. All Collections received during each month shall be paid to the City, the Manager and/or the Servicer, if any amounts are due and owing to any party, in accordance with the terms of the Assignment Agreement and the Servicer Agreement, on or before the 15<sup>th</sup> day of the following month.

8. Representations and Warranties; Breach; Remedies.

(a) The City hereby makes the following representations and warranties to the Manager:

(i) The City is a municipal corporation created and existing under the laws of the State of Rhode Island and Providence Plantations.

(ii) The City (A) has the full power and authority to execute, deliver and perform its obligations under this Agreement, and (B) has taken all action necessary to duly authorize the execution, delivery and performance of this Agreement, and has duly executed and delivered the same.

(iii) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the City does not (and will not) conflict with, violate or result in a breach of (i) any of the terms, conditions or provisions of the City's charter, (ii) any agreement or instrument to which the City is now a party or by which the City is bound, or (iii) any law, regulation, order, writ, injunction, decree, determination or award of any court, any other Governmental Authority or any arbitrator, now applicable to the City or any of its agencies, or constitute a default under any of the foregoing.

(iv) There are no actions, suits, proceedings or investigations pending or, to the knowledge of the City, threatened against or affecting the City (or any of its properties, assets or operations) in any court or before or by any Governmental Authority, or any arbitrator which would reasonably be expected to materially affect the City's ability to perform its obligations under this Agreement. The City has not received any notice of any default, and the City is not in default, under any applicable order, write, injunction, decree, permit, determination or award of any court, any other Governmental Authority or any arbitrator which would reasonably be expected to materially affect the City's ability to perform its obligations under this Agreement.

(v) No consent, approval, authorization nor order of any court or governmental agency or body is required by the City for the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the City.

(vi) This Agreement, and each other document and agreement executed and delivered by the City in connection herewith, constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

(vii) The City is or, on the Effective Date of an Assignment Agreement will be, the owner of the Collateral, free from any right or claim of any person or any adverse lien, security interest or other encumbrance, except for the security interest created by this Agreement.

(viii) This Agreement creates a valid, binding and enforceable first priority security interest in the collateral securing the payment of all amounts due to the Manager under this Agreement and upon the filing of a financing statement with the Department of State of the State of Rhode Island, such security interest will be perfected first priority security interest to the extent such perfection can be obtained under this Code.

(ix) Other than the filing of the financing statement set forth in subsection (i) above, no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (A) for the grant by the City of the security interest granted hereby, or (B) for the perfection, to the extent such perfection can be obtained under the Code, of or the exercise by the Manager of its rights and remedies hereunder.

(x) The City hereby makes the following representations and warranties with respect to each Assigned Receivable:

(A) The City is the owner of such Assigned Receivable and any Proceeds therefrom, free from any adverse lien, security interest or other encumbrance.

(B) Each Assigned Receivable is a valid obligation, enforceable against the related Violator and due and payable to the City.

(C) No Assigned Receivable has been released, waived or adjusted in dollar amounts, in whole or in part.

(D) All information the City has provided to the Manager in connection with the Assigned Receivables is true, correct and complete in all material respects.

(b) The Manager makes the following representations and warranties to the City:

(i) The Manager (A) is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Delaware and (B) is or will be qualified to transact business in, and is or will timely be in good standing under, the laws of the State of Rhode Island.

(ii) The Manager has the full power and authority to execute, deliver and perform all transactions contemplated by this Agreement, and the Manager has duly authorized the execution, delivery and performance of this Agreement, and has duly executed and delivered this Agreement.

(iii) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement does not (and will not) conflict with, violate or result in a breach of (i) any of the terms, conditions or provisions of the Manager's operating agreement, (ii) any agreement or instrument to which the Manager is now a party, by which the Manager is bound, or (iii) any law, regulation, order, writ, injunction, decree, determination or award of any court, any other Governmental Authority or any arbitrator, now applicable to the Manager or any of its Affiliates, or constitute a default under any of the foregoing.

(iv) There are no actions, suits, proceedings or investigations pending or, to the knowledge of the Manager, threatened against or affecting the manager (or any of their properties, assets or businesses) in any court or before or by any Governmental Authority, or any arbitrator which would reasonably be expected to materially affect the Manager's ability to default, and the Manager is not in default, under any applicable order, writ, injunction, decree, permit, determination or award of any court, any other Governmental Authority or any arbitrator which would reasonably be expected to materially affect the Manager's ability to perform its obligations under this Agreement.

(v) No consent, approval, authorization or order of any court or governmental agency or body is required by the Manager for the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or noncompliance with the terms and conditions of this Agreement by the Manager.

(vi) This Agreement, and each other document and agreement executed and delivered by the Manager in connection herewith, constitutes the legal, valid and binding obligation of the Manager, enforceable against the manager in accordance with its terms.

(c) Upon discovery by the City or the Manager of a breach of any representation or warranty set forth in Section 8, the Party discovering such breach shall give prompt written notice thereof to the other.

(i) Within 5 business days of the earlier of discovery by or notice to the City of any breach of a representation or warranty set forth in Section 8(a) arising from the failure of an Assigned Receivable assigned to the Manager under this Agreement and the related Assignment Agreement to be in compliance with any representation or warranty at any time (each, a "Breached Receivable"), the City shall propose one or more Receivables in an aggregate dollar amount not less than the aggregate dollar amount of the Breached Receivables with respect to which the related breach has occurred (the "Replacement Receivables"). In connection with such proposal, the City shall provide the Due Diligence

Information provided in connection with the related Pool of Receivables and any other information that the Manager may reasonably request. Within 5 business days of its receipt of such proposed Receivables and the information related thereto, the Manager shall approve or disapprove, in its sole and exclusive discretion, of all or any portion of such replacement Receivables.

(ii) If the Manager disapproves of any portion of the Replacement Receivables, the City shall have 5 business days to propose one or more Receivables in an aggregate dollar amount not less than the aggregate dollar amount of the portion of Breached Receivables with respect to which the Manager has not approved replacement Receivables. With respect to such additional proposed Receivables, the City shall provide the Manager the information described in Section 3. Within 5 business days of its receipt of the Replacement Receivables and the information related thereto, the Manager shall approve or disapprove, in its sole and exclusive discretion, of all or any portion of such Replacement Receivables.

(iii) If the Manager disapproves of all or any portion of the Replacement Receivables the City shall refund the portion of the Breached Receivables with respect to which Replacement Receivables have not been approved by the Manager in accordance with this Section 8 at the Receivables Refund Price specified in the related Assignment Agreement. The right to manage and collect each Replacement Receivable accepted by the Manager pursuant to this Section 8 shall be assigned to the Manager in accordance with the terms of Section 3, and upon the assignment of the right to manage and collect any such Replacement Receivables, the Manager shall assign the right to manage and collect the applicable Breached Receivables to the City.

9. Reserved.

10. Duties of the Manager.

(a) The Manager, acting through any Servicer (or any applicable subservicer), shall manage and make collections on the Assigned Receivables. The Manager, acting through any Servicer, and acting as an agent of the City, shall make reasonable commercial efforts to collect all amounts due on the Assigned Receivables provided that neither the Manager nor the Servicer may waive, alter or agree to any adjustments to the amount of any Assigned Receivable and City delegates to Manager such power and authority in order to collect the Assigned Receivables. The management and collection services to be provided hereunder shall include, but not be limited to, the following:

(i) Mailing a first notice to the Violators within 90 days of the Effective Date of the Assignment Agreement for a Pool;

(ii) Updating payments received in the Trust Account within 72 hours after receipt;

(iii) Providing refreshed name and address acquisitions within 30 days prior to initial mailing;

(iv) Providing new name and address for non-refreshed accounts within 60 days after receipt thereof;

(v) Providing return mail locate processing and re-mailing within 60 days after mail is returned;

(vi) Providing DMV notification of license or registration suspension monthly on all applicable Assigned Receivables;

(vii) Providing credit bureau reporting monthly and no later than 180 days from first mailing on all out of state Assigned Receivables and those Rhode Island Assigned Receivables subject to registration suspension;

(viii) Allowing tax refund and lottery intercept data if authorized by state statute;

(ix) Establishing pay by web and pay by phone functions to service the assigned Pool population; and

(x) Providing the following collection efforts and notices to Violators

- Initial notice – FDCPA complaint
- Follow-up notice
- Notice of intent to suspend or hold license or registration for Rhode Island resident Violators
- License suspension notice
- Notice of Driver Registry notification
- Notice of pending credit bureau reporting
- Notice of credit bureau notification
- Notice of pending tax refund and lottery intercept activity
- Follow-up notice
- Provide ALPR for booting towing
- Provide ALPR for scanning traffic violators with police.

(b) The Servicer shall, in its discretion, be permitted to engage an attorney to represent the Parties before any municipal court in order to collect on any of the Assigned Receivables.

(c) In performing its obligations under this Agreement, the Manager shall at times act in good faith and in the best interests of the City with respect to the Assigned Receivables and shall carry out all of its obligations under this Agreement in accordance with customary commercial standards and consistent with the Manager's duties to the City hereunder. To assist the Manager in the fulfillment of this obligation, when and if the City represents to the Manager that the City's best interests are harmed by specific collection practices or conduct which constitute violations of the FDCPA, the City shall retain the right to instruct the Manager to cause such conduct to cease.

(d) The Manager assumes no responsibility under this Agreement to assure any particular level of Collections on the Assigned Receivables and shall be responsible only to render the services called for hereunder in accordance with the standards set forth above and shall not be responsible to the City or others, for any failure of a Violator to make payment of a Receivable. Except as provided for herein and the Assignment Agreement, the Manager and its affiliates shall not in any event be liable in performing its obligations under this Agreement.

(e) Notwithstanding any provision of this Agreement to the contrary, neither the Manager nor the Servicer nor any of their Affiliates shall have the authority on behalf of the City without obtaining the prior written approval of City, to take any of the following actions:

(i) enter into a modification to, or waive, extend or terminate the terms of, any Assigned Receivable; provided, however, Manager or Servicer may offer a Violator a payment plan to pay the amounts due over an extended period of time, so long as such payment plan does not reduce the amount of any violation or citation; and

(ii) act on behalf of, or hold itself out as having the authority to act on behalf of, the City in any manner which is beyond the scope of the terms of this Agreement.

(f) The Manager and/or the Servicer shall employ, at their sole cost and expense, adequate personnel, appropriately trained to ensure compliance with the FDCPA, to perform their duties hereunder. The Manager and/or the Servicer shall at all times provide the services hereunder in accordance with all applicable state, federal and other governmental laws, rules and regulations. The Manager assumes no responsibility with respect to the servicing and administration of Assigned Receivables other than, through the Servicer, to render the services expressly provided for in this Agreement or as otherwise expressly agreed to with the City.

11. Covenants of the City.

(a) The City, through its processors, currently Xerox State and Local Solutions, Inc. shall provide the Manager and the Servicer with access at all times to information

regarding the Assigned Receivables through a data warehouse facility or other secure electronic access. Such access shall be provided in a manner which conforms to the security requirements of the City by any third-party processor that the City may have engaged to manage the City's cases (each a "Processor").

(b) The City shall ensure that all Assigned Receivables in each Pool are identifiable on a database maintained by the City or the Processor (the "Database"), to which the Manager and the Servicer shall have access as provided in Section 2(c). At least seven (7) days prior to the Effective Date of each assignment agreement pursuant to Section 3(b), the City shall provide, or shall cause the Processor to provide, to the Manager, (i) a written statement that the Database has been marked or the data in respect of the Receivables otherwise has been isolated to identify the Receivables in the assigned Pool and (ii) information with respect to the Receivables in the assigned Pool including, without limitation, the aggregate dollar amount of such Receivables.

(c) The City also shall provide, or shall cause the Processor to provide, to the Manager, on a timely basis, such data regarding the Assigned Receivables in each Pool as is reasonably requested by the Manager in connection with its performance of the management and collection services described herein. Such data shall include, but not be limited to, with respect to each Assigned Receivable:

- (i) the Violator's name, address and license number;
- (ii) the registration number, license plate number, and description (i.e. make, model, year and color) of the Violator's vehicle;
- (iii) the place, date and type of violation;
- (iv) the identity of the officer issuing the citation;
- (v) proper jurisdictional issuance; and
- (vi) amounts owed (including all penalties and interest).

(d) As and when requested by the Manager, and otherwise as is reasonable and appropriate, the City shall exercise its enforcement powers and perform all enforcement procedures not already assumed by the Manager under this Agreement, which are available to it under applicable law in a timely and diligent manner to assist in the collection of the Assigned Receivables. Without limiting the generality of the foregoing, subject to the inherent discretion of the Court, the City will seek:

- (i) to have the Court enforce Rhode Island General Laws ("RIGL") Sec. 31-41.1.1-5 and will enter default judgments and related appropriate orders against Violators, including suspending a Violator's driver's license and registration for failure to appear.

(ii) to have the Court enforce provisions of RIGL Sec. 31-3-5, non-renewal of registration for all Violators receiving fines in excess of \$200 resulting from guilty pleadings or guilty verdicts, including defaults from failure to appear. The Servicer will submit to the DMV the requisite amount for every request of non-renewal when it submits the data file of requested non-renewals to DMV.

(e) In the event that a citation with respect to an Assigned Receivable is previously adjudicated or dismissed, or the processing of citations by the Court is not performed on a timely basis such that the collectability of the Assigned Receivable is impaired (an "Impaired Receivable"), then the Manager shall assign the right to manage and collect such Impaired Receivable back to the City and the City shall assign to the Manager additional Replacement Receivables. For the first (12) months after the commencement of the Collection Period for the Pool containing such Impaired Receivable, the City shall make monthly assignments of Replacement Receivables. For the second twelve (12) months after the commencement of the Initial Collection Period for the Pool containing such Impaired Receivable, the City shall make one assignment of Replacement Receivables at the end of the twenty-fourth (24<sup>th</sup>) month of such Initial Collection Period. The City shall assign such Replacement Receivables in accordance with the provisions of Section 3(b) in the aggregate dollar amount not less than the Impaired Receivables so removed in connection with either of the events described in this subsection. The period of time governing collection of such Replacement Receivables shall begin on the date of such assignment and shall be governed by the provisions set forth in Section 3(c).

(f) If the City receives any Collections that are derived from any of the Assigned Receivables, regardless whether from the Court or from a Violator, the City shall ensure a proper accounting of receipt of such Collections and will transfer such Collections daily to the Account for distribution in accordance with this Agreement and Assignment Agreement. Any such amounts shall be deemed held by the City in trust for the Manager.

(g) The City shall ensure a prompt hearing in compliance with applicable law with respect to any Violators who request a hearing before the Court.

## 12. Reports.

(a) The Manager will cause the Servicer to provide the City with a monthly report, which will provide a summary of Collections on the Assigned Receivables as of the last day of the month most recently completed, duly completed and executed by the Manager and delivered to the City by the 15<sup>th</sup> day of the following month.

(b) The City will provide the Manager and Servicer with a monthly report in electronic and hard copy format identifying (i) all amounts received directly by the City (including the City and any other City agency) in payment of Assigned Receivables during the month and (ii) all Assigned Receivables with respect to which any adjudication, waiver, dismissal, or other reduction in the receivable amount has taken place within that month. Such report shall be delivered to the Manager by the 10<sup>th</sup> day of the following month.

13. Rights to Examine Records. During the term of this Agreement, the City and its duly authorized agents, representatives or employees may, upon reasonable prior notice, examine, audit and copy, during normal business hours or at such other times as might be reasonable under applicable circumstances, any and all of the books, records, files or other information of the Manager relating to the Pools assigned to the Manager hereunder. The City shall maintain any non public information obtained during such examination or in performing any obligations hereunder in accordance with the confidentiality provisions of Section 28 hereof.

14. Retention of Records. Unless returned or otherwise disposed of in accordance with the direction of the City, on the one hand, and the Manager, on the other hand, for a period of twelve (12) months after the date of termination or expiration of this Agreement, the City and the Manager shall continue to maintain all files and records pertaining to the performance of this Agreement, and in each case, shall maintain such files and records in accordance with the confidentiality provisions in Section 28 hereof.

15. Term and Termination.

(a) The term of this Agreement shall commence as of the date hereof and shall continue until the terminated pursuant to Section 15(b) or Section 15(c) below, provided that such termination shall not be effective until the Manager has received all amounts to which it is entitled pursuant to the terms of this Agreement including, without limitation, pursuant to Section 4 and each Assignment Agreement entered into pursuant to this Agreement.

(b) This Agreement may be terminated upon the mutual written consent of the City and the Manager.

(c) The City or the Manager may terminate this Agreement by providing written notice to the other at any time following the occurrence of an Event of Default by the other and the failure to cure such Event of Default within the cure period provided herein, if any.

(d) In the event of the occurrence of an Event of Default, the non-defaulting party shall provide the defaulting party (the "Defaulting Party") with written notice setting forth the nature of such Event of Default, and the Defaulting Party shall have thirty (30) days to cure such Event of Default, provided, however, that there shall be no notice requirement or cure period for an Event of Default described in subsection (b) of the definition of Event of Default.

(e) Upon the effective date of termination of this Agreement, for whatever reason, or as soon thereafter as is reasonably possible, the Manager shall provide the City with a final report containing the same information as required by Section 12.

(f) Upon the effective date of termination of this Agreement, for whatever reason, the Manager, as directed by the City, will either:

(i) within ten (10) Business Days, deliver all documents, files, books, paper, accounts, and transferable computer files relating to the Assigned Receivables (the "Records") that are in the Manager's possession or control, or the possession

or control of the Servicer or any Affiliates of the Manager, to the City, which Records shall be transported in the manner required by the City and at the cost of the City; or

(ii) hold the Records for up to twelve (12) months or until such earlier time as the City directs the Manager to deliver the Records.

In any event, the Manager may make and maintain copies of the Records for its files and shall have access, for any reasonable purpose, to those Records delivered to the City.

(g) Upon the effective date of termination of this Agreement, the Manager will assign the right to manage and collect all outstanding Assigned Receivables to the City and the City may, at its sole discretion, retain any other Person to provide the services provided by the Manager pursuant to this Agreement and the Manager shall cooperate in good faith with the City and such Person retained by the City to effect a smooth transition of responsibility for the management and collection of the Assigned Receivables.

(h) If the City commits an Event of Default that remains uncured for thirty (30) days such that this Agreement is terminated, the City shall owe Manager a Default Premium. The Default Premium shall be calculated as the difference between \$3 million and the amount of Collections that has been paid to Manager, net of servicing, pursuant to this Agreement and the Assignment Agreement (the "Default Premium").

(i) Notwithstanding Section 30 herein, if an Event of Default arises, either Party may seek declaratory or injunctive relief.

16. Indemnification. All to the extent permitted by applicable law, a breaching Party shall indemnify and hold the non-breaching Party, its affiliates, and their respective employees, officers, directors, agents, consultants, contractors, and representatives harmless from and against all liability (including reasonable attorneys' fees and costs) for all damages of any nature whatsoever, including penalties and fines, liquidated damages or per diem penalties, any bodily injury or personal damage claim and any damage to or loss of use or loss of any personal or real property, which arises out of or relates to a) a material breach by either Party of any of the representations, warranties, covenants or other agreements of the other Party in this Agreement or b) any lawsuit arising out of a violation of the FDCPA by the Manager or the Servicer on behalf of the Manager. For purposes of this Agreement, "Indemnifiable Losses" means any and all claims, liabilities, losses, damages, penalties, actions, judgments, fines, forfeitures, amounts paid in settlement, costs or expenses of any kind or nature whatsoever, including all reasonable attorneys' fees, costs, fees and expenses of defense, appeal and settlement of any proceedings instituted and all costs of investigation therewith. The provisions of this Section 16 shall survive the expiration or termination of this Agreement.

17. Indemnity Procedures.

(a) For an indemnified Party (the "Indemnified Party") to be entitled to any indemnification provided for under this Agreement, such Indemnified Party shall, following the discovery of the matters giving rise to any Indemnifiable Losses, notify the indemnifying party (the "Indemnifying Party") in writing of its claim for indemnification for such Indemnifiable

Losses, specifying in reasonable detail the nature of such Indemnifiable Losses and the amount of the liability estimated to accrue therefrom; provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been actually prejudiced as a result of such failure (except that the Indemnifying Party shall not be liable for any expenses incurred during the period in which the Indemnified Party failed to give such notice if such expenses could have been avoided by the giving of such notice). Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, within five (5) business days after the Indemnified Party's receipt of such notice, all the information and documentation reasonably required by the Indemnifying Party with respect to such Indemnifiable Losses.

(b) If the indemnification sought pursuant hereto involves a claim made by a third-party against the Indemnified Party (a "Third Party Claim"), the Indemnifying Party shall be entitled to participate in the defense of such Third-Party Claim with counsel selected by the Indemnifying Party. Should the Indemnifying Party so elect to assume the defense of a Third-Party Claim, the Indemnifying Party shall not be liable to the Indemnified Party for any legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof. If the Indemnifying Party assumes such defense, the Indemnified Party shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the Indemnifying Party, it being understood that the Indemnifying Party shall control such defense.

(c) The Indemnifying Party shall be liable for the fees and expenses of counsel employed by the Indemnified Party for any period during which the Indemnifying Party has not assumed the defense thereof after a reasonable period of time has elapsed following notice of the claim (other than during any period in which the Indemnifying Party shall have failed to give notice of the Third-Party Claim as provided above).

(d) If the Indemnifying Party chooses to defend or prosecute a Third-Party Claim, all of the parties hereto shall cooperate in the defense or prosecution thereof. Such cooperation shall include the retention and (upon the Indemnifying Party's request) the provision to the Indemnifying Party of records and information which are reasonably relevant to such Third-Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder

(e) If the Indemnifying Party chooses to defend or prosecute any Third-Party Claim, the Indemnified Party will agree to any settlement, compromise or discharge of such Third-Party Claim which the Indemnifying Party may recommend and which by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such Third-Party Claim. Whether or not the Indemnifying Party shall have assumed the defense of a Third-Party claim, the Indemnifying Party shall not admit any liability with respect to, or settle, compromise or discharge such Third-Party Claim without the Indemnifying Party's prior written consent.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 17 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any agreement or otherwise.

(g) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 17 shall continue as to and shall inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of each Indemnified Party.

18. Independent Contractor. In performing services under this Agreement, the Manager acknowledges that it is an "independent contractor" and that no other relationship with the City is hereby intended or created, including, without limitation, that of employer-employee, joint venturer, co-owner, partner, and/or agent. Nothing in this Agreement shall be interpreted or construed to constitute the Manager or any of its agents, representatives or employees to be the agent, employee or representative of the City.

19. Force Majeure. Notwithstanding anything to the contrary in this Agreement, no party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning (but not limited to) any Acts of God, storm, war, civil commotion, terrorism, labor disputes or strikes, fire, flood, or other casualty, governmental actions, governmental inactions, governmental priorities, or governmental regulations, or any cause beyond the parties' direct and immediate control. Should any such event occur, the party so affected shall have such additional time within which to perform as may be reasonably necessary.

20. Notices. Any notice, payment, demand or communication (collectively, a "notice") required or permitted to be given by this Agreement or applicable law shall be in writing and sent by first class mail, overnight courier, hand delivery, telephone conversation, facsimile or e-mail; except, unless waived by the recipient, if such notice is made by telephone conversation, such telephone conversation shall be followed within 48 hours thereof by written notice sent by e-mail, first class mail, overnight courier or hand delivery. Charges for any notice hereunder shall be prepaid and addressed as follows, or to such other address as such Person may from time to time specify by notice to the Manager or the City, as the case may be:

If to the City, to:

City of Providence  
25 Dorrance Street  
Providence, RI 02903  
Attention: Finance Department  
Tel.: 401-421-7740  
Email: lmancini@providenceri.com

With a copy to:

Law Department  
444 Westminister Street, Suite 220  
Providence, RI 02903  
Tel.: 401-680-5333  
If to the Manager, to:

PFS III LLC  
54 Camp Street  
Milford, MA 01757  
Attention: Michael Lenza  
Tel.: 508-634-3185  
Email: [mlenza@aol.com](mailto:mlenza@aol.com)

With a copy to Scott H. Moskol

Burns & Levinson LLP  
125 Summer Street  
Boston, MA 02110  
Tel.: 617-345-3522  
Email: [smoskol@burnslev.com](mailto:smoskol@burnslev.com)

Unless otherwise indicated herein, any notice shall be deemed to be delivered, given and received for all purposes as of the date delivered, or if sent by first class mail, five (5) days after the date on which the same was deposited in a receptacle, regularly maintained by the United States Postal Service for the deposit of mail, whichever occurs first.

21. Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the parties to this Agreement and assigns.

22. References to this Agreement; Headings; Scope. Unless otherwise indicated, "Sections," "Subsections" and "Clauses" mean and refer to designated Sections, Subsections, and Clauses of this Agreement. Words such as "herein," "hereby," "hereinafter," "hereof," "hereto," and "hereunder" refer to this Agreement as a whole, unless the context indicates otherwise. All headings in this Agreement are for convenience of reference only and are not intended to define or limit the scope or intent of this Agreement. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior understandings and agreements in regard hereto. All exhibits referred to herein, and as the same may be amended from time to time, are by this reference made a part hereof as though fully set forth herein.

23. Construction. Common nouns and pronouns and any variations thereof shall be deemed to refer to masculine, feminine, or neuter, singular or plural, as the identity of the Person, Persons or other reference in the context requires. Every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any party hereto. Any reference to any statutes, laws, regulations, forms or schedules shall include any amendments, modifications, or replacements thereof. Whenever used herein, "or" shall include both the conjunctive and disjunctive, "any" shall mean "one or more," and "including" shall mean "including without limitation."

24. Validity of Agreement; Severability. Every provision of this Agreement is intended to be severable. If any provision hereof is illegal, invalid or unenforceable for any

reason whatsoever, such provision will be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision were not a part of this Agreement; and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be automatically included, as part of this Agreement, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. In the event the FDCPA, the Code or other controlling law is subsequently amended or interpreted in such a way to make any provision of this Agreement that was formerly invalid a valid provision, such provision shall be considered to be valid from the date provided in such interpretation or amendment or in the event the interpretation or amendment does not otherwise provide, from the effective date of such interpretation or amendment.

25. Further Action. Each party, upon the request of any other party, agrees to perform all further acts and execute, acknowledge, or deliver any instruments or documents and to perform such additional acts as may be reasonably necessary, appropriate or desirable to carry out the provisions of this Agreement.

26. Governing Law. The laws of the State of Rhode Island, without reference to conflict of laws principles, shall govern the validity, construction and interpretation of this Agreement.

27. Counterpart Execution. This Agreement may be executed and transmitted by facsimile in any number of counterparts with the same effect as if the parties hereto had signed the same document.

28. Confidentiality.

(a) Each of the parties hereto shall, and shall cause its Affiliates to, keep confidential any Confidential Information regarding the other party and the Receivables and to use such Confidential Information only to perform its obligations under this Agreement and shall not disclose such Confidential Information to any third party, other than as contemplated herein, without the prior written consent of the other party. Each party shall maintain the Confidential Information of the other in confidence using at least the same degree of care as it employs in maintaining in confidence its own proprietary and confidential information, but in no event less than a reasonable degree of care.

(b) For the purpose of this Section 28, the term “Confidential Information” shall include all data, reports, and records, financial or otherwise, including or reflecting information about or concerning a party and any Receivable which is not available to the general public (whether received before or after the date hereof and whether transmitted orally or in writing). The term “Confidential Information” does not include information that:

(i) is or becomes generally available to the public other than as a result of a disclosure by the party to whom such Confidential Information relates;

(ii) was or becomes available to a party on a non-confidential basis from a source other than the other party; provided that such source is not bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to the other party with respect to such information;

(iii) is developed by a party independently of, or was known by a party prior to, any disclosure of such information made by such party;

(iv) is required to be disclosed by order of a Court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or any other administrative or legal process, or by applicable regulatory standards, after notice of such requirement has been given to the other party, and the other party has had a reasonable opportunity to oppose such disclosure; or

(v) is disclosed with the written consent of the other party.

29. No Implied Waiver. The Manager and the City shall have the right at all times to enforce the provisions of this Agreement in strict accordance with the terms hereof, and no waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided in writing.

30. Arbitration.

(a) The parties agree that the arbitration procedure set forth below shall be the sole and exclusive method for resolving and remedying any and all disputes regarding claims for money damages based upon, arising out of or in any way connected with this Agreement or the transactions contemplated hereby (each a "Dispute"). Nothing in this Section 30 shall prohibit a party hereto from instituting litigation to enforce any Final Determination (as defined below). The parties hereby agree and acknowledge that, except as otherwise provided in this Section 30 or in the Commercial Arbitration Rules of the American Arbitration Association as in effect from time to time, the arbitration procedures and any Final Determination hereunder shall be governed by and shall be enforced pursuant to the Uniform Arbitration Act as in effect in Rhode Island.

(b) If any party asserts that there exists a Dispute, such party shall deliver a written notice to the other party involved therein specifying the nature of the asserted Dispute and requesting a meeting to attempt to resolve the same. If no such resolution is reached within 30 days after such delivery of such notice, the party delivering such notice of Dispute may, within 60 days after delivery of such notice, commence arbitration hereunder by delivering to the other party a notice of arbitration (a "Notice of Arbitration") and by filing a copy of such Notice of Arbitration with the Providence office of the American Arbitration Association. Such Notice of Arbitration shall specify the matters as to which arbitration is sought, the nature of any Dispute, the claims of each party to the arbitration and the amount and nature of damages or other relief sought to be recovered as a result of any alleged claim and any other matters required by the Commercial Arbitration Rules of the American Arbitration Association as in effect from time to time to be included therein.

(c) The parties shall attempt to select a sole arbitrator satisfactory to each of the City and the Manager. If the parties fail to select such a sole arbitrator as set forth herein within 30 days after the delivery of a Notice of Arbitration, then City shall select one arbitrator (the "City's Arbitrator") and Manager shall select one arbitrator (the "Manager's Arbitrator"). If either party fails to select an arbitrator as set forth herein within 30 days after the delivery of a Notice of Arbitration, then the matter shall be resolved by the arbitrator selected by the other party. City's Arbitrator and Manager's Arbitrator shall select a third independent, neutral arbitrator, and the three arbitrators so selected shall resolve the Dispute according to the procedures set forth in this Section 30. If City's Arbitrator and Manager's Arbitrator are unable to agree on a third arbitrator within 45 days after their selection, then the Providence office of the American Bar Association shall select the third arbitrator.

(d) The arbitration shall be conducted in Rhode Island under the Commercial Arbitration Rules of the American Arbitration Association as in effect from time to time, except as otherwise set forth herein. The arbitrators shall conduct the arbitration such that a final result, determination, finding, judgment and/or award (the "Final Determination") is made or rendered as soon as practicable, after the delivery of the Notice of Arbitration nor later than 60 days following completion of the arbitration. The Final Determination shall be made in writing, shall state the basis for such determination and shall be agreed upon and signed by the sole arbitrator or by at least two of the three arbitrators (as the case may be). The arbitrators shall have the discretion to award to the prevailing party all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by the prevailing party in connection with such arbitration. Such costs, expenses, fees and disbursements shall be included in and made a part of the Final Determination. The Final Determination shall be final and binding on all parties, and there shall be no appeal from or reexamination of the Final Determination, except for fraud, perjury, evident partiality or misconduct by an arbitrator prejudicing the rights of any party and to correct manifest clerical errors.

(e) The parties hereto may enforce any Final Determination in any state or federal Court in Rhode Island having jurisdiction over the Dispute. For the purpose of any action or proceeding instituted with respect to any Final Determination, each party hereto hereby irrevocably submits to the jurisdiction of such Courts, irrevocably consents to the service of process by registered mail or personal service and hereby irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter have as to personal jurisdiction, the laying of the venue of any such action or jurisdiction, the laying of the venue of any such action or proceeding brought in any such City and any claim that any such action or proceeding brought in any City has been brought in an inconvenient forum.

31. Amendment. This Agreement may be amended from time to time only upon written agreement of the Manager and the City.

32. Assignment. The Manager may assign, delegate or otherwise freely transfer the rights and obligations of the Manager under this Agreement to any other Person, without the prior written consent of the City provided that the Manager shall remain fully responsible for its obligations hereunder in the event of such assignment, delegation or transfer.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the date first above written.

THE CITY of PROVIDENCE

By: Angel Taveras 7/11/12  
Angel Taveras, Mayor

Approved as to form and correctness:

By: Jeffrey M. Padwa 7/11/12  
Jeffrey M. Padwa, City Solicitor

PFS III LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Assignment, Funding And Collection Terms Agreement

This ASSIGNMENT, FUNDING AND COLLECTION TERMS AGREEMENT (the "Agreement"), dated July 13, 2012, is entered into by and between the City of Providence (the "City") and PFS III LLC a Delaware limited liability company, and its successors and assigns (the "Manager"). The City and the Manager are sometimes collectively referred to herein as the "Parties", and each individually as a "Party."

1. This Agreement is entered into pursuant to the Master Asset Management Agreement dated July 13, 2012 between the City and the Manager (the "Master Agreement"), the terms of which are incorporated herein by reference. Unless otherwise defined, capitalized words and terms used herein will have the meanings given to them in the Master Agreement.

2. The City hereby assigns to the Manager the right to manage and collect the Assigned Receivables pursuant to the terms of the Master Agreement. The aggregate dollar amount of such Assigned Receivables is approximately \$32,820,055 and such Assigned Receivables are specifically listed on the e files contained on the attached disk that is incorporated herein as Exhibit A and more generally summarized in the summary sheet attached hereto and incorporated herein as Exhibit B.

3. Within five business (5) days after the date hereof, the Manager shall advance to the City the amount of \$1,000,000.00 (One Million Dollars) (the "Advance"). The Advance shall be non-recourse to the City except as provided for in the Master Agreement. In consideration for making such Advance, the Manager shall be compensated as provided for in Section 4 of this Agreement and in accordance with the Master Agreement, with such compensation payable only out of the Collections; provided, however, if an Event of Default arises causing a Default Premium to be owed to the Manager or the Manager is awarded a monetary award pursuant to Section 30 of the Master Agreement, such monetary damages shall be paid first out of Collections and then second by the City, all in accordance with the Master Agreement.

4. All Collections with respect to the Assigned Receivables shall be allocated and paid to the Manager and the City in the following order or priority:

(a) First, 25% of all Collections shall be allocated and paid to the Manager as a servicing allowance.

(b) Second, the remaining balance of all Collections net of associated costs of Collections that are reimbursable to PFS by the City including, but not limited to, license suspension, negotiations held or tax intercept/lottery proceeds intercepts, shall be paid to the Manager until the aggregate amount paid under this Section 4(b) is equal to \$3,000,000.00 (Three Million Dollars).

(c) Thereafter, the remaining balance of all Collections shall be paid 50% to the City and 50% to the Manager.

5. The City represents and warrants to the Manager as follows:

(a) The representations and warranties of the City set forth in the Master Agreement are true and correct in all material respects on the date hereof as though made on the date hereof.

(b) No Event of Default has occurred and is continuing as of the date hereof.

(c) The City (i) has the full power and authority to execute, deliver and perform its obligations under this Agreement, and (ii) has taken all action necessary to duly authorize the execution, delivery and performance of this Agreement, and has duly executed and delivered this Agreement.

(d) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the City does not (and will not) conflict with, violate or result in a breach of (i) any of the terms, conditions or provisions of the City's charter, (ii) any agreement or instrument to which the City is now a party or by which the City is bound, or (iii) any law, regulation, order, writ, injunction, decree, determination or award of any City, any other Governmental Authority or any arbitrator, now applicable to the City or any of its agencies, or constitute a default under any of the foregoing.

(e) There are no actions, suits, proceedings or investigations pending or, to the knowledge of the City, threatened against or affecting the City (or any of its properties, assets or operations) in any City or before or by any Governmental Authority, or any arbitrator which would reasonably be expected to materially affect the City's ability to perform its obligations under this Agreement. The City has not received any notice of any default, and the City is not in default, under any applicable order, writ, injunction, decree, permit, determination or award of any City, any other Governmental Authority or any arbitrator which would reasonably be expected to materially affect the City's ability to perform its obligations under this Agreement.

(f) No consent, approval, authorization or order of any City or governmental agency or body is required by the City for the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the City.

(g) This Agreement constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

6. The Receivables Refund Price for any of the Receivables assigned hereunder that becomes a Breached Receivable and is not replaced by the City in accordance with Section 8(c)(i) of the Master Agreement shall be an amount equal to the product of (A) the aggregate dollar amount of such Assigned Receivable, multiplied by (B) the quotient of (x) the purchase price paid by the Manager to the City for the Assigned Receivables pool transferred hereunder, divided by (y) the aggregate dollar amount of all Assigned Receivables included in the Assigned Receivables pool transferred hereunder.

7. It is understood by both Parties that the City has the authority to extend the program. The parties agree to negotiate an extension of the program by mutual agreement should authorization to extend the program be approved.

IN WITNESS WHEREOF, the Parties have entered into this Assignment, Funding and Collection Terms Agreement as of the date written above.

THE CITY OF PROVIDENCE

By: Angel Taveras 7/11/12  
Angel Taveras, Mayor

Approved as to form and correctness:

By: Jeffrey M. Padwa 7/11/12  
Jeffrey M. Padwa, City Solicitor

PFS III LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_