

06-13-2000



101379583

**RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**☒ New☐ Resubmission (Non-Recordation)  
Document ID # ☐ Correction of PTO Error  
Reel #  Frame # ☐ Corrective Document  
Reel #  Frame # **Conveyance Type**☒ Assignment ☐ License☐ Security Agreement ☐ Nunc Pro Tunc Assignment☐ Merger☐ Change of Name☐ Other Effective Date  
Month Day Year

10 18 99

**Conveying Party**☐ Mark if additional names of conveying parties attachedName Execution Date  
Month Day Year  
10 18 99Formerly ☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ Corporation ☐ Association☐ Other ☒ Citizenship/State of Incorporation/Organization **Receiving Party**☐ Mark if additional names of receiving parties attachedName DBA/AKA/TA Composed of Address (line 1) Address (line 2) Address (line 3) 

City

State/Country

Zip Code

☐ Individual ☐ General Partnership ☐ Limited Partnership☒ Corporation ☐ Association☐ Other 

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

☒ Citizenship/State of Incorporation/Organization 

06/12/2000 JSHABAZZ 00000204 2032912

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40.00 DP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231**TRADEMARK**

REEL: 002086 FRAME: 0374

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document  
including any attachments.

# 11

**Trademark Application Number(s) or Registration Number(s)**

☐

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)


2,032,912		

**Number of Properties**

Enter the total number of properties involved.

# 1

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment:

Enclosed ☒

Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

☐

No

☒

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Claire M. Kimball

Name of Person Signing

Claire M. Kimball

Signature

May 16, 2000

Date Signed

RECORDATION FORM COVER SHEET  
CONTINUATION  
TRADEMARKS ONLY

U.S. Department of Commerce  
Patent and Trademark Office  
TRADEMARK

**Conveying Party**

Enter Additional Conveying Party

☐

Mark if additional names of conveying parties attached

Execution Date

Month Day Year

Name

Formerly

☐

Individual

☐

General Partnership

☐

Limited Partnership

☐

Corporation

☐

Association

☐

Other

☐

Citizenship State of Incorporation/Organization

**Receiving Party**

Enter Additional Receiving Party

☐

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

☐

Individual

☐

General Partnership

☐

Limited Partnership

☐

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

☐

Corporation

☐

Association

☐

Other

☐

Citizenship/State of Incorporation/Organization

**Trademark Application Number(s) or Registration Number(s)**

☐

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**



## ASSET PURCHASE AGREEMENT

AGREEMENT entered into as of October 18, 1999 by and among Pivotpoint, Inc., a Massachusetts corporation ("Buyer"), and Sofwave, Inc., a North Carolina corporation ("Seller").

### WITNESSETH

WHEREAS, subject to the terms and conditions set forth herein, Buyer desires to purchase from Seller, and Seller desires to sell, transfer and assign to Buyer, substantially all of the properties and assets of Seller as set forth herein. The business and operations of Seller which include the properties and assets to be transferred to Buyer under this Agreement are referred to herein as the "Business", and the assets to be so acquired are collectively referred to as the "Subject Assets;" and

WHEREAS, subject to the terms and conditions hereof, Buyer desires to purchase said Subject Assets of Seller for the consideration specified herein and the assumption by Buyer only of certain obligations of Seller specified herein.

NOW, THEREFORE, in order to consummate the purchase and sale of the Subject Assets and in consideration of the mutual agreements set forth herein, the parties hereto agree as follows:

### SECTION 1 - PURCHASE AND SALE OF ASSETS

1.1 Sale of Assets. Subject to the provisions of this Agreement, at the Closing (as defined in Section 1.4 hereof) Seller shall sell, transfer and assign to Buyer and Buyer shall acquire all right, title and interest in all of the properties, assets and business of Seller as follows: (a) all furniture, fixtures, equipment and leasehold and personal property, including, without limitation, the furniture, fixtures, equipment and leasehold and personal property listed on Schedule 1.1(a) (all of the foregoing, collectively, the "Personal Property"); (b) all goodwill and intellectual property rights excluding the product known as WatchDog, including trade secrets, proprietary information, customer and prospect lists, customer records and histories and customer invoices dated November 1, 1999 or later, market surveys, know-how and trade names (collectively, the "Intangible Rights"); (c) all of Seller's rights and interests in and to the contracts, purchase orders and agreements listed on Schedule 1.1(c) attached hereto (the "Contracts") and; (d) all of Seller's rights, interests, and positions in any negotiations or discussions with any and all prospective customers for the purpose of inducing such prospective customers to become customers of Buyer. The customer invoices dated prior to November 1, 1999 shall remain the property of Seller. The assets, property and business of Seller being sold to and purchased by Buyer under this Section 1.1, excluding accounts receivable dated prior to November 1, 1999, are hereinafter sometimes referred to as the "Subject Assets".

1.2 Liabilities. Except for the Contract Liabilities (as defined below), Buyer shall not assume or be bound by any obligations or liabilities of Seller, of any kind or nature, known, unknown, accrued, absolute, contingent or otherwise, whether now existing or hereafter arising whatsoever. Upon the sale and purchase of the Subject Assets, Buyer agrees to perform in accordance with their terms the obligations of Seller arising under the Contracts from and after the Closing to the extent those liabilities, and the amounts thereof, are expressly listed on Schedule 1.1(c) hereto the "Contract Liabilities" or "Assumed Liabilities"). All liabilities and obligations not assumed by Buyer under this Agreement are referred to herein as "Excluded Liabilities".

1.3 Purchase Price and Payment. In consideration of the sale by Seller to Buyer of the Subject Assets and subject to the satisfaction of all of the conditions contained herein, Buyer agrees that it will deliver to Seller or otherwise pay as instructed by Seller the aggregate amount of Four Hundred Seventy Thousand Dollars (\$470,000) and 50,000 shares of the Buyer's Common Stock, \$.01 par value (the "Purchase Price") as follows:

- (a) Buyer has previously paid \$70,000 to Seller;
- (b) Buyer shall pay \$100,000 within 30 days after the Closing;
- (c) Buyer shall pay \$50,000 on January 31, 2000;
- (d) Buyer shall pay \$50,000 on March 31, 2000 and
- (e) Buyer shall pay the remainder of the purchase price to Seller in equal quarterly installments of \$50,000 on January 31, April 30, July 31 and October 31, commencing January 31, 2000 and continuing through October 31, 2000 (the "Quarterly Payments") provided, however, that the Quarterly Payments for particular quarters may be deferred by the Buyer upon a written notice to Seller fifteen days before the quarterly due date if the Seller does not meet the quarterly operating results for any such quarters budgeted in its then current annual business plan as approved by the Buyer's CEO (the "Targeted Results"). Should the Buyer undergo an initial public offering ("IPO") before the Purchase Price is paid in full, Buyer shall pay the remaining balance in full within 60 days after the IPO.

1.4 Time and Place of Closing. The closing of the purchase and sale provided for in this Agreement (herein called the "Closing") shall be held at the principal offices of Buyer, on November 1, 1999 (the "Closing Date") or at such other place or earlier or later date or time as may be fixed by mutual agreement of Buyer and Seller. At the Closing, Seller shall deliver to Buyer (i) a Bill of Sale of Intangibles in the form of Exhibit 1.4.1 transferring to Buyer good and marketable title to all the Subject Assets free and clear of all

liens, restrictions and encumbrances excluding WatchDog as referred to in paragraph 1.1 and (ii) the Contracts together with an assignment in the form of Exhibit 1.4.2.

1.5 Further Assurances. Seller from time to time after the Closing at the request of Buyer and without further consideration shall execute and deliver further instruments of transfer and assignment and take such other action as Buyer may reasonable require to more effectively transfer and assign to, and vest in, Buyer each of the Subject Assets.

1.6 Employees, Wages and Benefits.

(a) At the Closing, Seller shall terminate all employees and Buyer will extend offers of employment to all such terminated employees immediately after the Closing.

(b) Buyer agrees to employ the Principal Stockholder as President of the Sofwave Business Unit and the Principal Stockholder agrees to be employed by the Seller on the terms and conditions set forth in this Section 1.6 (b):

(c) Seller and Principal Stockholder shall cooperate fully with Buyer in connection with the hiring by Buyer of the former employees of Seller.

(d) Seller acknowledges and agrees that Buyer is not assuming and shall not have any obligations or liabilities under any benefit plan (or Employee Program as hereinafter defined) maintained by, or for the benefit of employees of, the Seller.

(e) Seller acknowledges and agrees that Buyer will require any former employee of Seller that it desires to hire to execute, as a condition to such employment, an agreement with Buyer in substantially the form of Exhibit 1.6(g).

SECTION 2 – REPRESENTATIONS AND WARRANTIES OF  
SELLER AND PRINCIPAL STOCKHOLDER

2.1 Making of Representations and Warranties. Seller and Principal Stockholder, jointly and severally, hereby make to Buyer the representations and warranties contained in this Section 2.

2.2 Organization and Qualifications of Seller. Seller is a corporation duly organized, validly existing and in good standing under the laws of the state of North Carolina with full corporate power and authority to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is currently conducted or proposed to be conducted. The copies of Seller's Certificate of Incorporation, as amended to date, certified by the North Carolina Secretary of State, and the Seller's by-laws, as amended to date, certified by Seller Secretary, and

heretofore delivered to Buyer, are complete and correct, and no amendments thereto are pending. Seller is not in violation of any term of its Certificate of Incorporation or By-laws.

2.3 Subsidiaries. Seller has no subsidiaries or investments in any other corporation or business organization.

2.4 Authority of Seller and Stockholder. Each of Seller and Principal Stockholder has full right, authority and power to enter into this Agreement and each agreement, document and instrument to be executed and delivered by Seller or Principal Stockholder pursuant to this Agreement and to carry out the transactions contemplated hereby. The execution, delivery and performance by each of Seller and Principal Stockholder of this Agreement and each such other agreement, document and instrument have been duly authorized by all necessary action of each of Seller, including, without limitation approval by Seller's board of directors and unanimous consent of Seller's stockholders by November 1, 1999, and Principal Stockholder and no other action on the part of Seller or Principal Stockholder is required in connection therewith.

This Agreement and each agreement, document and instrument executed and delivered by Seller pursuant to this Agreement constitutes, or when executed and delivered will constitute, valid and binding obligations of each of Seller and Principal Stockholder enforceable in accordance with their terms. The execution, delivery and performance by each of Seller and Principal Stockholder of this Agreement and each such agreement, document and instrument: (i) does not and will not violate any provision of the Certificate of Incorporation or By-laws of Seller; (ii) does not and will not violate any laws of the United States, or any nation, state or other jurisdiction applicable to Seller or Principal Stockholder or require Seller or Principal Stockholder to obtain any approval, consent or waiver of, or make any filing with, any person or entity (governmental or otherwise) that has not been obtained or made; and (iii) does not and will not result in a breach of, constitute a default under, accelerate any obligation under, or give rise to a right of termination of any indenture or loan or credit agreement or any other agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction, decree, determination or arbitration award to which Seller or Principal Stockholder is a party or by which the property of Seller is bound or affected, or result in the creation or imposition of any mortgage, pledge, lien, security interest or other charge or encumbrance on any of the Subject Assets.

2.5 Property.

(a) Leased Real Property. Seller owns no real property. The only real property leased by Seller as tenant or lessee is located at those addresses listed on Schedule 1.1(c) (the "Leased Real Property"). The copy of the leases of the Leased Real Property (the "Lease") delivered by Seller to Buyer is complete, accurate, true and correct. The Lease is in full force and effect and all obligations of each of the lessor and the Seller under the Lease have been performed, and neither party is in default under the Lease. Seller has obtained or will obtain prior to the Closing the consent of the lessor under the Lease whose consent is required to transfer the Leased Real Property to Buyer.

(b) Personal Property. The Personal Property constitutes all of the personal property of Seller relating to, used in or held for use in the Business. Seller has good and marketable title to all of this Personal Property, free and clear of any and all liens, charges, security interests and encumbrances at the time Sofwave, Inc. is liquidated and dissolved.

2.6 Financial Statements. The balance sheet of Seller dated as of December 31, 1998, previously provided to Buyer was prepared consistent with past practices and principals consistently applied, is true and correct in all material respects and is prepared on a basis consistent with Seller's tax reporting.

2.7 Taxes.

(a) Seller has paid or caused to be paid all federal, state, local, foreign, and other taxes, including, without limitation, income taxes, estimated taxes, alternative minimum taxes, excise taxes, sales taxes, use taxes, value-added taxes, gross receipts taxes, franchise taxes, capital stock taxes, employment and payroll-related taxes, withholding taxes, stamp taxes, transfer taxes windfall profit taxes, environmental taxes and property taxes, whether or not measured in whole or in part by net income, and all deficiencies, or other additions to tax, interest, fines and penalties owed by it (collectively, "Taxes"), required to be paid by it through the date hereof whether disputed or not. Any liabilities, known or unknown, related to any and all taxes above are the sole responsibility of the Seller.

(b) Seller has in accordance with applicable law filed all federal, state, local and foreign tax returns required to be filed by it through the date hereof, and all such returns correctly and accurately set forth the amount of any Taxes relating to the applicable period.

2.8 Litigation. Neither Seller nor Principal Stockholder is a party to any litigation or governmental or administrative proceedings or investigations, nor are any of the foregoing threatened.

2.9 Compliance with Laws. Seller is and has been in compliance in all material respects with all applicable statutes, ordinances, orders, judgments, decrees and rules and regulations promulgated by any federal, state, municipal or other governmental authority (including, without limitation, all environmental laws, ERISA and all similar laws) which apply to the Seller or to the conduct of its business, and Seller has not received notice of a violation or alleged violation of any such statute, ordinance, order, rule or regulation.

2.10 Employee Benefit Programs.

Schedule 2.10 lists every employee benefit plan within the meaning of ERISA section 3(3) that has been sponsored or maintained by Seller, including stock or cash option plans, restricted stock plans, bonus or incentive award plans, severance pay policies or agreements, deferred compensation agreements, supplemental income



arrangements, vacation plans, and all other employee benefit plans, agreements, and arrangements.

Employees: Labor Matters. Seller employs 6 full-time employees and generally enjoys good employer-employee relationships. Seller does not have any employment agreement with any employee which will be in effect as of the Closing. Schedule 2.11 contains a list of all employees and consultants of Seller who, individually, have received or are scheduled to receive compensation from Seller for the fiscal year ending December 31, 1999, listing the aggregate amount each such person received and/or is scheduled to receive and their job title or position. In each case such Schedule includes the current job title and the current aggregate annual compensation of each such individual. Except as set forth in Schedule 2.11, since January 1, 1999, no increases in wages, salaries, commissions, bonuses or incentives have been paid, promised or granted to any employee whether currently effective, or hereafter effective. Upon termination of the employment of any of said employees neither Seller nor Buyer will by reason of the acquisition transaction or anything done prior to the Closing be liable to any of said employees for so-called "severance pay" or any other payments. Seller has no policy, practice, plan or program of paying severance pay or any form of severance compensation in connection with the termination of employment. Seller is in compliance with all applicable laws and regulations respecting labor, employment, fair employment practices, work place safety and health, terms and conditions of employment, and wages and hours.

2.12 Ordinary Course. Since January 1, 1999, the Seller has operated in the ordinary course, consistent with past practices.

### SECTION 3 – COVENANTS OF SELLER, PRINCIPAL STOCKHOLDER

3.1 Making of Covenants and Agreements. Seller, Principal Stockholder hereby, jointly and severally, make the respective covenants and agreements set forth in this Section 3.

3.2 Non-competition. As a material inducement to Buyer to enter into this Agreement and consummate the transactions contemplated hereby, Seller, until it's liquidation as required by the terms of this Agreement, Principal Stockholder agree that during the term of the Principal Stockholder's, employment with the Buyer and for the period ending one (1) year after the termination of such employment, the Principal Stockholder (i) will not, directly or indirectly, whether as owner, sole proprietor, partner, shareholder, director, consultant, agent, sales representative, VAR, executive, employee, co-venturer or otherwise, engage, participate or invest in any business activity anywhere in the world which develops, manufactures, markets or licenses products or performs services which are competitive with the products or services of the Buyer, or products or services which the Buyer has under development or which are the subject of active planning at any time during the term of the Principal Stockholder's employment; provided, however, that the Principal Stockholder may own, as a passive investor, publicly traded securities of any corporation which competes with the business of the Buyer so long as such securities do not, in the

aggregate, constitute more than 1% of any class of outstanding securities of such corporation, (ii) will refrain from hiring or attempting to employ, recruiting or otherwise soliciting, inducing or influencing any person to leave employment with the Buyer (other than involuntary terminations undertaken in the course of the Principal Stockholder's employment with the Buyer), and (iii) will refrain from directly or indirectly soliciting business from any of the Buyer's clients, prospects, resellers or distributors (including, any of the Buyer's VARs or Associates) of a kind now or at any time during the Principal Stockholder's employment carried on by the Buyer. The Principal Stockholder understands that the restrictions set forth in this Section are intended to protect the Buyer's interest in its proprietary information and customer relationships and goodwill, and agrees that such restrictions are reasonable and appropriate for this purpose.

3.3 Confidentiality. Seller, Principal Stockholder agree that, after the Closing has been summated, Seller and Principal Stockholder will hold in strict confidence, and will not distribute or make available, copies of this Agreement, or any agreement or arrangement entered into in connection herewith or any of the terms and conditions of any of the foregoing or any information, financial or otherwise, provided by Buyer.

3.4 Cessation of Operations; Liquidation of Seller. From and after the Closing, Seller will cease its ongoing operations and will stay in existence (subject to the immediately succeeding sentence) solely to wind up its affairs. Principal Stockholder will not cause Seller to liquidate earlier than fourteen (14) months from the Closing.

#### SECTION 4 – SURVIVAL OF WARRANTIES

Each of the representations, warranties, agreements, covenants and obligations herein, or in any other agreement entered into in connection herewith or therewith or in any schedule, exhibit, certificate or financial statement delivered by any party to the other party incident to the transactions contemplated hereby and thereby are material, shall be deemed to have been relied upon by the other party and shall survive the Closing, regardless of any investigation or knowledge acquired on the part of Buyer or its affiliates and shall not merge in the performance of any obligation by any party hereto.

#### SECTION 5 – MISCELLANEOUS

5.1 Fees, Expenses and Taxes. Except as provided below, each of the parties will bear its own expenses in connection with the negotiation and the consummation of the transactions contemplated by this Agreement. All sales and transfer taxes, fees and duties under applicable law incurred in connection with this Agreement or the transactions contemplated thereby will be borne and paid by Seller, and Seller shall promptly reimburse Buyer for the payment of any such tax, fee or duty which it is required to make under applicable law.

5.2 Governing Law. This Agreement shall be construed under and governed by the internal laws of The Commonwealth of Massachusetts without regard to its conflict of laws provisions.

5.3 Entire Agreement. This Agreement, including the Schedules and Exhibits referred to herein and other agreements entered into in connection herewith and the other writings specifically identified herein or contemplated hereby, is complete, reflects the entire agreement of the parties with respect to its subject matter, and supersedes all previous written or oral agreements, negotiations, commitments and writings. No promises, representations, understandings, warranties and agreements have been made by any of the parties hereto except as referred to herein or therein in such Schedules and Exhibits or in such other writings; and all inducements to the making of this Agreement and such other agreements relied upon by either party hereto have been expressed herein or in such Schedules or Exhibits or in such other writings.

5.4 Arbitration. The parties agree that any controversy or dispute arising under this Agreement shall be referred to J.A.M.S./Endispute in Boston, MA, to be settled by binding arbitration in Massachusetts in accordance with the arbitration rules of such entity. The fees and expenses of the arbitrator shall, as between Seller and Principal Stockholder, on the one hand, and Buyer, on the other hand, be borne by them in such proportions as shall be determined by the arbitrator, or if there is no such determination, then such fees and expenses shall be borne equally by the Seller and Principal Stockholder, on the one had, and Buyer, on the other hand. The determination of the arbitrator as to any controversy or dispute shall be conclusive and binding upon the parties hereto and judgment may be entered thereon in any court having jurisdiction thereof.

5.5 Assignment. This Agreement cannot be assigned by Seller other than an assignment of the contractual right to receive payments under Section 1.3(d), which may be assigned pro-rata to its shareholders in connection with the liquidation of the Seller as provided under Section 3.4. Notwithstanding the foregoing, such payments shall be subject to set-off by Buyer as a result of any breach of any representation, warranty or covenant of the Seller or Principal Stockholder.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

BUYER:

PIVOTPOINT, INC.

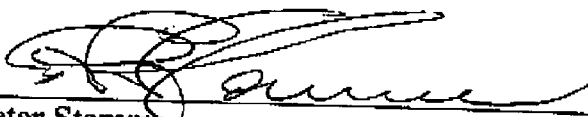
By:

  
Stephen Haley  
President

SELLER:

SOFWAVE, INC.

By:

  
Peter Stamm  
President

BILL OF SALE AND ASSIGNMENT OF INTANGIBLES

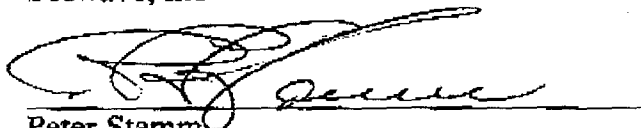
KNOW ALL PERSONS BY THESE PRESENTS, that Sofwave, Inc. a North Carolina corporation with its principal place of business at 920 Tate Boulevard SE, Suite 104, Hickory, NC 28602 ("Seller"), in consideration of the sum of one dollar and other good and valuable consideration paid to it by Pivotpoint, Inc., a Massachusetts corporation ("Buyer"), the receipt and sufficiency whereof are hereby acknowledged, does hereby transfer, convey, sell, assign and deliver to Buyer and its successors and assigns, pursuant to an Asset Purchase Agreement dated as of October 18, 1999, by and among Seller, Buyer, and Principal Stockholder (the "Purchase Agreement"), all right, title and interest in and to the Subject Assets (as defined in the Purchase Agreement). Seller hereby represents and warrants to Buyer that this Bill of Sale and Assignment of Intangibles Is sufficient to transfer and convey title to the Subject Assets to Buyer under applicable law and to vest in Buyer good title to the Subject Assets free and clear of all mortgages, pledges, liens, security interests and other encumbrances and charges (Liens").

TO HAVE AND TO HOLD, all and singular, the aforesaid Subject Assets and all appurtenances thereto unto Buyer and its successors and assigns forever for it and their own use forever.

AND, FURTHER, Seller hereby covenants, represents, warrants and agrees that, at the request of Buyer, Seller will from time to time after the date hereof, execute and deliver reasonable request more effectively to consummate the transactions contemplated by the Purchase Agreement and to vest in Buyer good title to the Subject Assets free and clear of all Liens. This Bill of Sale and Assignment of Intangibles is subject to all of the terms, representations, warranties, covenants and conditions contained in the Purchase Agreement.

IN WITNESS WHEREOF, Seller has caused this Bill of Sale and Assignment of Intangibles to be executed on its behalf by a duly authorized officer as of October 18, 1999.

Sofwave, Inc.

  
Peter Stamm  
President

### ASSIGNMENT OF CONTRACTS

THIS ASSIGNMENT is executed as of October 18, 1999 by Sofwave, Inc, a North Carolina corporation ("Seller").

WHEREAS, Seller, Pivotpoint, Inc., a Massachusetts corporation ("Buyer"), and Principal Stockholder have entered into an Asset Purchase Agreement dated as of October 15, 1999 (the "Asset Purchase Agreement"), pursuant to which Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, the Subject Assets; and

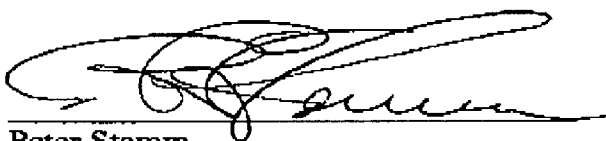
WHEREAS, Seller is a party to the Contracts, and pursuant to the Asset Purchase Agreement desires to transfer and assign to Buyer all of Seller's rights under and interest in, to and under the Contracts.

FOR VALUE RECEIVED, Seller hereby transfers, assigns and sets over to Buyer all of Seller's rights under and interest in, to and under the Contracts, to have and to hold for Buyer's successors and assigns for the rest of the terms referred to therein, subject to the terms covenants and other conditions thereof.

All capitalized terms used herein without definition shall have the meaning set forth in the Asset Purchase Agreement.

IN WITNESS WHEREOF, Seller has executed this Assignment as of October 18, 1999.

Sofwave, Inc.



Peter Stamm  
President