



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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MEMORANDUM FOR NORTH-SOUTH CAROLINA DISTRICT COUNSEL
CC:SER:NCS:GBO

FROM: Joseph W. Clark
Senior Technician Reviewer CC:EL:GL:Br.2

SUBJECT: Electronic Bankruptcy Noticing Trading Partner Agreement

Your office requested review of the attached Electronic Bankruptcy Noticing Trading Partner Agreement (the "Agreement") between the Bankruptcy Court for the District of South Carolina (the "Court") and the Internal Revenue Service (the "Service"). This agreement authorizes the Court to electronically transmit to the Service notices that previously were sent by mail under B.R. 9036.

We note that this Agreement is substantively identical with a draft **AO VAN** Trading Partner Agreement, which apparently was circulated when the electronic noticing project was in its pilot stages. The **AO VAN** Trading Partner Agreement was approved by this office by memorandum dated January 30, 1996. Consequently, the Agreement as attached is acceptable. We note, based on a memorandum dated January 24, 1996, from Chief, Ethics & General Government Law Branch (GLS), that such Agreement should be signed by the District Director. The District Director may delegate the authority to execute the Agreement to **SPf**. If you have any questions, please call Richard Charles Grosenick at 202/622-4208.

Attachment (1)

ELECTRONIC BANKRUPTCY NOTICING
TRADING PARTNER AGREEMENT

This Agreement, by and **between** The United **States Bankruptcy** Court for the District of South Carolina (“Sender”) and **The Internal** Revenue Service (“**Receiver**”), for the purpose of providing general procedures and policies to be followed by the **Sender** and Receiver (“Parties”) when using electronic data interchange (“**EDI**”) for transmitting and receiving documents, is the written request referred to ^Iin Rule 9036, Federal Rules of Bankruptcy Procedure (Fed. **R.** Bank. P.).

WHEREAS, Rule 9036, Fed. R. Bank. P., authorizes the clerk or **other** party as directed by the court, to send notices to creditors and interested parties, previously transmitted by mail, by electronic transmission, including all or part of the information required to be contained in **such** notices; and

WHEREAS, the Parties desire to facilitate noticing and Receiver’s data entry in all bankruptcy cases in this District by electronically transmitting and receiving data in agreed formats instead of conventional paper notice by mail and to **assure** that the notice requirements of the Bankruptcy Code and Federal Rules of Bankruptcy Procedure are met through the use of available electronic technologies for **the** mutual benefit of the parties;

THEREFORE, the Parties **agree** as follows:

SCOPE This Agreement provides for the electronic **transmission** in accordance with the provisions of this **Agreement**, including the two Exhibits attached hereto and incorporated by reference, of **the** information required to be contained in **specific** bankruptcy notice-s, and the

electronic confirmation **that** the transmission has been received by the Receiver.

AUTHORIZATIONS For those bankruptcy notices listed in Exhibit 1 (**Bankruptcy** Notices), Receiver authorizes Sender to satisfy noticing obligations to Receiver, in accordance with Rule 9036, Fed R. **Bank. P.**, by making data files **electronically** available to Receiver in accordance **with** this Agreement. For those data files made available electronically, Receiver waives all rights to receive the standard "boiler-plate" text of notices attached to and **listed** in the cm-rent Exhibit 1 and to receive written notice by **mail.**'

The Receiver will submit a list with this Agreement, as Exhibit 2 (Standard Name and Postal Service Address, Standard Electronic Address, Synonyms for Name and Postal Service Addresses), of the common synonyms for Receiver's name and the specific electronic and postal service addresses in accordance with Rule 2002(g), Fed. R. Bank. P. to which notices are **to** be directed in accordance with this **Agreement.**

Receiver acknowledges and agrees to the Technical Specifications set forth in the Implementation Convention for the Accredited **Standards** Committee X12 electronic data interchange version 3060 **transaction** set 175 **Bankruptcy** Court Notice.

Sender will make all **reasonable** efforts to transmit notices intended for Receiver electronically, however, Sender does not warrant that all notices it is required to send to Receiver will be transmitted electronically. **All** notices Sender does not transmit **electronically** will be sent to Receiver by standard First **Class** mail service.

THIRD-PARTY SERVICES Data **files** will be transmitted **electronically** to the Receiver by **transmission** to the Collection **Point** (CP) maintained by the Defense Logistics Agency (DLA)

Defense Automatic Addressing System Center (**DAASC**) for transmission to Receiver as a **value** added network (**VAN**) or for pick up by another VAN service provider of the Receiver's **choice**. If not using **DAASC** for VAN services, the Receiver will contract for VAN service **which** is compatible with the DAASC CP service used by the Sender and will pay the costs for the VAN service.

CONFIRMATIONS AND ACKNOWLEDGMENTS The Receiver agrees its VAN service provider **will** be its agent for confirmation and **that** the confirmation described in the **following** paragraph **will** satisfy the requirements of **Rule 9036**, Fed. **R.** Bank. P.

The **VAN** will confirm that it has received and delivered transmission into **Receiver's** mailbox by returning a **confirmation** to the CP, either in proprietary format or using the ASC XI 2 242 Data Status Tracking transaction. Sender's non-receipt of **confirmation** within two (2) hours of transmission to **the CP** will be considered to be System Failure (**see** below),

SYSTEM FAILURE In case of failure **of the** electronic noticing system for any reason, the Sender **will** provide paper notice to the Receiver.

TRANSACTION SECURITY Each party shall use due care and diligence to capture, transmit and maintain **all** electronic data with the same level of security used for **conventional** paper notices.

REDUNDANT OPERATION For a **limited** initial period, the Receiver will receive redundant paper notices **as** well as the electronic notices provided for in this Agreement. At such time as the Sender determines that a **sufficient period** of electronic transmission has been provided to permit effective capture of data, paper noticing for the Receiver will cease. The Receiver may **terminate** this Agreement at that time without allowing 30 days for the notice and not receive notices

electronically.

TERMINATION **Either** Party may **terminate** this Agreement **on** thirty (30) days notice to the other Party.

MISCELLANEOUS

I. SEVERABILITY: Any provision of this Agreement **which** is determined to be invalid or unenforceable **will** be ineffective to the limited extent of such determination, without invalidating the remaining provisions of this Agreement or affecting **the** validity or enforceability of such remaining provisions, unless their invalidity or **enforceability are** so critical to **this** Agreement as to make it unreasonable to proceed in their absence.

2. ENTIRE AGREEMENT: This Agreement constitutes the full and complete agreement **between** the **Parties** relating to the **matters** specified in this Agreement and **supersedes all** prior representations and **agreements**, whether oral or written, with respect to such matters. This **does** not include the agreement(s) either party may have **with** service providers **referred** to **in** this Agreement. No oral modification or waiver of any **of the** provisions of this Agreement shall be binding on either **Party**.

3. LIMITATION OF DAMAGES: Neither **Party** shall be liable to the other for any **actual**, special, incidental, exemplary or consequential damages arising from or as a result of any delay, omission or error **in** the **electronic transmission** or **receipt** of any data pursuant to **this Agreement**, **even if either** party has been advised of the possibility of such damages.

4. MODIFICATION: This Agreement, including all Exhibits, may be **modified** from time to time **as** agreed to by **the Parties, in writing**.

5. NOTIFICATION: **Unless** otherwise specified herein, **any notification** between Sender and

Receiver required **under this Agreement** shall be **in conventional** paper form, sent first class by United States mail, or by a recognized courier service, postage prepaid, and addressed to **the intended** recipient **as** follows:

Internal Revenue Service
Attention: **Janice Pilkington**
320 **Federal** Place - Room 335
Greensboro NC 27401

Either **Party** may from **time to time** designate a different notice address by giving the other Party **thirty** days notice of the change in writing.

EFFECTIVE DATE This Agreement shall take effect **on** October 1, 1998

For the Court: Brenda K. Nease Date: 10-2-98
Subscriber: _____ Date: _____