

VOLUNTARY SELF DISCLOSURE AGREEMENT

Form VDA-2

State of Delaware
Delaware Secretary of State
820 North French Street, 4th Floor
Wilmington, DE 19801

This Voluntary Self Disclosure Agreement (“Agreement”) is entered into between the State of Delaware, by and through the Delaware Secretary of State (“STATE”), acting by its undersigned duly authorized representative, and [name of Holder], and certain subsidiaries and affiliated entities, as listed in Exhibit A, a corporation incorporated under the laws of the State of Delaware, (“HOLDER”), acting by its duly authorized officer:

WHEREAS, the HOLDER is not presently in compliance with the Delaware Abandoned Property Law, Chapter 11 of Title 12 of the Delaware Code, (“Abandoned or Unclaimed Property Law”); and

WHEREAS, the HOLDER voluntarily came forward on MONTH, XX, YEAR, and entered into a Disclosure and Notice Agreement of Intent to Voluntarily Comply with Abandoned or Unclaimed Property Law pursuant to 12 Del. C. § 1173, evidencing a good faith desire to comply with the Abandoned or Unclaimed Property Law and deliver to the STATE property presumed abandoned or unclaimed and, therefore, subject to escheatment to the STATE; and

WHEREAS, the HOLDER is not prohibited from participating in the Voluntary Disclosure Program by 12 Del. C. § 1173(e); and

WHEREAS, the HOLDER desires to resolve all claims which the STATE may assert and the STATE desires to induce the HOLDER to voluntarily comply with the Abandoned or Unclaimed Property Law, including compliance with future annual reporting requirements:

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1. The following terms shall have the following definitions:

- (a) The term “Abandoned or Unclaimed Property” shall mean property against which a full period of dormancy has run, pursuant to the Abandoned or Unclaimed Property Law.
- (b) The term “Agreement Look-Back Period” shall mean the period of time that covers all transactions starting on January 1, XXXX that reflect property that becomes or could become Abandoned or Unclaimed Property reportable to Delaware on or before March 1, 2017 for the reporting year ending December 31, 2016.
- (c) The term “HOLDER” shall mean [Name of Holder] (Federal Employer Identification Number (“FEIN”) # [redacted]) and the subsidiaries and affiliates listed in Exhibit A [Please include FEIN # in entities scoped into the VDA]
- (d) The term “Payable Property” shall mean [for example: accounts payable, accounts receivable, and payroll property], for which the dormancy period began during the Agreement Look-Back Period and that became Abandoned or Unclaimed Property. All

other property types/categories of property are excluded from the definition of Payable Property for purposes of this Agreement.

2. The HOLDER agrees to pay and deliver to the STATE, in accordance with § 1173 of the Abandoned or Unclaimed Property Law, the Payable Property for which the dormancy period began during the Agreement Look-Back Period and that became Abandoned or Unclaimed Property, which has been identified and fully described in the forms AP1 and AP2 (in a readable format) attached hereto as "Exhibit B." These forms shall constitute the HOLDER's reports required under § 1142 of the Abandoned or Unclaimed Property Law. After this Agreement is fully executed and returned to the HOLDER, the HOLDER agrees within 10 calendar days to electronically file the AP-2 report form in standard NAUPA format directly with the Delaware Department of Finance in accordance with the Department of Finance's policies and procedures. For the avoidance of doubt, the NAUPA file and payment shall occur after the STATE has returned the fully executed VDA-2 Agreement with any attachments.

3. The HOLDER has identified and designated the following individual as its contact for all correspondences with the STATE related to the Abandoned or Unclaimed Property Law or any matter associated with this Agreement, and has provided to the STATE the contact's mailing address, telephone number, email address, title, and the HOLDER's FEIN. The HOLDER is obligated to notify the STATE in the case of any change of the designated individual, or any change of contact information provided herein.

HOLDER Name and title of designated contact:

HOLDER Address:

HOLDER Telephone number:

HOLDER Email address:

HOLDER FEIN:

4. The HOLDER represents that, except as otherwise specifically made known to the STATE, and as noted in the Holder's Final Report attached hereto as "Exhibit C," the HOLDER is entering into this Agreement intending to fully comply with the Abandoned or Unclaimed Property Law and the rules of priority set forth by the United States Supreme Court in the cases of *Texas v. New Jersey* and *Delaware v. New York*. The HOLDER also represents that the payment and delivery of the Payable Property is made in good faith compliance with the Abandoned or Unclaimed Property Law, including but not limited to § 1153 of the Abandoned or Unclaimed Property Law.

5. In this Agreement, "good faith" requires, *inter alia*, that in presenting the final HOLDER's report of Abandoned or Unclaimed Property liability to the STATE, the HOLDER disclose to the STATE all determinations related to the Abandoned or Unclaimed Property Law made by the HOLDER in connection with this Agreement. This includes, but is not limited to, any determination by the HOLDER that a particular item, kind, or type of property is not abandoned or unclaimed property under the Abandoned or Unclaimed Property Law where such determination results in a reduction in the amount of property reported, by the HOLDER to the STATE, or the omission of a particular kind or type of property from disclosure, by the HOLDER to the STATE. The HOLDER's reliance on an independent third-party to process the HOLDER's

books and records and to determine the amount of the Payable Property does not, by itself alone, without more, constitute “good faith.”

6. The STATE releases the HOLDER from all claims, demands, interest, penalties, fines, actions or causes of action the STATE may have from the beginning of time through and including the date of this Agreement that relate to the Payable Property, subject only to the conditions in paragraph nos. 7 and 10 below. Upon payment of the Payable Property, the STATE agrees to indemnify the HOLDER pursuant to the terms of § 1153 of the Abandoned or Unclaimed Property Law. Notwithstanding the foregoing provisions of this paragraph 6, for Payable Property for which complete names and addresses do exist, the HOLDER assumes the applicable reporting responsibilities and any such amounts due or paid to any state other than the STATE are not subject to the release and indemnification provisions contained in this paragraph 6.

7. The STATE releases the HOLDER from any further reporting requirements for the Payable Property from the beginning of time through the Abandoned and Unclaimed Property Report due to Delaware for reporting year 2013/2014, which Report was due March 1, 2014/2015. The HOLDER agrees to file and report, to the STATE, abandoned or unclaimed property annually as required by the Abandoned or Unclaimed Property Law. Should the HOLDER, or any successor entity of the HOLDER or any of its subsidiaries and affiliates listed on Exhibit A, fail to fulfill Delaware’s annual reporting requirements in any of the subsequent three (3) report years after the execution of this Agreement, the STATE will issue a warning letter to the HOLDER to the individual listed in paragraph 3, notifying the HOLDER of its failure to comply with the Agreement, no earlier than 30 days after the deadline to submit the annual report. In the event that the HOLDER fails to adhere to the reporting requirements of the Abandoned or Unclaimed Property Law after the STATE issues a warning letter, the STATE, at its sole discretion, may void paragraph nos. 6 and 10 of this Agreement and, at the STATE’s discretion, audit the HOLDER for any time, including but not limited to the Agreement Look-Back Period.

8. The HOLDER has disclosed to the STATE any estimation techniques which were used to determine the Payable Property for any periods where the HOLDER attests that records either do not exist, or are inadequate to determine the exact amount of property which became abandoned or unclaimed during the Agreement Look-Back Period. The HOLDER swears that no estimation techniques were used to infer, create, or otherwise identify addresses for persons appearing to be owners of abandoned or unclaimed property where the HOLDER’s books and records do not in fact contain the addresses of the persons appearing to be owners of the abandoned or unclaimed property.

9. The STATE will maintain the confidentiality of information voluntarily disclosed and shall only disclose such information as provided in § 1189 of the Abandoned or Unclaimed Property Law, or as otherwise required by law.

10. The STATE recognizes that the HOLDER has come forward on a voluntary basis and hereby enters into compliance with the Abandoned or Unclaimed Property Law. Except in circumstances where there is evidence of fraud or willful misrepresentation by the HOLDER or those acting on the HOLDER’s behalf or non-compliance with annual reporting requirements in the Abandoned or Unclaimed Property Law and described in paragraph no. 7 above, the STATE waives its right to audit the HOLDER with respect to the Payable Property, pursuant to the Abandoned or Unclaimed Property Law, concerning property that became Abandoned or Unclaimed Property during or prior to the Agreement Look-Back Period. In other words, the STATE waives its right

to audit the HOLDER, pursuant to the Abandoned or Unclaimed Property Law, concerning the categories of Payable Property that became Abandoned or Unclaimed Property for the Agreement Look-Back Period and all preceding years.

11. The Parties agree and acknowledge that this settlement and the terms of this Agreement (including all statements, representations, and communications made by the Parties or their attorneys or other representatives in the course of negotiating this Agreement) shall not be taken or construed to be an admission of liability with respect to the Payable Property described in paragraph 2 (or non-liability with respect to property excluded from the Payable Property described in paragraph 2) for any other matter, property, agreement, settlement, or administrative or judicial proceeding or purpose regarding the Parties or any other organization or Holder that is not a party to this Agreement. This Agreement is directed solely to the Parties identified herein. It is based on the facts relevant to this matter and is not binding precedent and should not be cited as binding by any organization or Holder not a party to this Agreement.

Agreed to by:

HOLDER:

I, NAME, TITLE, on behalf of _____ and certain affiliated companies as detailed in Exhibit A to this Agreement, declare under penalty of perjury that I am authorized to sign this Agreement on behalf of the Holder, have examined this Agreement and the accompanying schedules and exhibits and swear that they are true and correct to the best of my knowledge, information and belief.

(Signature)

Date: _____

Agreed to by:

STATE OF DELAWARE:

The Honorable Jeffrey W. Bullock
Secretary of State
State of Delaware

Date: _____