

ASSURANCE OF DISCONTINUANCE OR VOLUNTARY COMPLIANCE

This Assurance of Discontinuance or Voluntary Compliance ("Assurance") is entered into between Electronic Clearing House, Inc. ("ECHO") and the Attorneys General for the States of California, New York and Idaho ("Attorneys General").

1. ECHO's principal place of business is located at 730 Paseo Camarillo, Camarillo, California 93010.

2. ECHO is an electronic payment processor that provides payment processing for Merchants, banks and collection agencies.

3. In 2006, the Attorneys General of California, New York and Idaho commenced investigations into whether certain tobacco businesses were engaging in violations of their state laws, including without limitation laws prohibiting or severely restricting the sale and direct delivery of cigarettes and/or other tobacco products to consumers and minors, the sale of tobacco products, in violation of the states' Tobacco Directory Laws, the sale of non-fire-safe cigarettes, and the sale of cigarettes in violation of the non-participating manufacturer escrow laws.

4. On or about June 28, 2007, the Attorney General of California caused a subpoena to be served on ECHO pursuant to California Government Code section 11180 et seq. seeking documents about whether ECHO may have facilitated the sales of cigarettes and other tobacco products via the internet and other remote means in violation of state and/or federal law.

5. ECHO has fully cooperated with the Attorneys General by providing certain documents and information concerning ECHO's business practices, has entered into this Assurance voluntarily, fully supports the efforts of the Attorneys General to eradicate illegal sales of cigarettes and/or tobacco products to minors via remote means, and is committed as a

company to assisting those efforts.

6. ECHO believes it has complied with all applicable laws and regulations in connection with the processing of internet tobacco sales, but nevertheless is committed to doing more to demonstrate its continuing commitment to ensure that it does not inadvertently facilitate illegal online tobacco sales and is therefore stepping forward to adopt additional safeguards designed to prevent youth access to tobacco products as well as violations of laws and regulations prohibiting online tobacco sales.

7. The Attorneys General have determined that it is in the public interest of their respective states and their residents to enter into this Assurance at this time to conclude such review and inquiry.

8. ECHO's Board of Directors voluntarily adopted a formal policy, effective June 22, 2007, that prohibits ECHO from doing business with any Merchant selling cigarettes and/or tobacco products via the internet or by other remote means.

9. ECHO represents that as of July 2007 it terminated all Merchants engaged in remote cigarette and tobacco sales, that as of the Effective Date it is not processing any transactions directly or indirectly with any Merchant engaged in remote cigarette and tobacco sales.

10. ECHO offers this Assurance in settlement of any alleged violations of and/or facilitating violations of the respective state laws identified above in paragraph 3, and/or other federal or state laws or regulations through the Effective Date of this Assurance.

11. ECHO does not admit or deny any violation of state or federal laws or regulations, and enters into this Assurance for the purpose of resolving the Attorneys Generals' inquiry into

ECHO's business practices, arriving at a complete and total settlement and resolution of any disagreement as to the matters addressed in this Assurance to avoid unnecessary expense, inconvenience, and uncertainty, without admitting any violation of law and without admitting any wrongdoing, and for settlement purposes only.

NOW, THEREFORE, IT IS UNDERSTOOD AND AGREED AS FOLLOWS:

12. In addition to the terms defined throughout this Assurance, the following terms shall have the meanings indicated for purposes of this Assurance:

(A) "Cigarette" shall mean any product that contains nicotine, and consists of (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette. "Cigarette" also includes "roll-your-own" tobacco, meaning any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

(B) "Tobacco Products" include smoking tobacco, cigars, pipe tobacco, smokeless tobacco, chewing tobacco, , snuff or any other article or product containing tobacco, but does not include cigarettes, as defined in Paragraph 12 (A), above.

(C) "Remote Seller" shall mean any person or business that sells Cigarettes and/or Tobacco Products in a non-face-to-face transaction by way of the Internet, online, fax, mail order,

or telephone; except that a "Remote Seller" shall not include a business whose online cigarette and tobacco sales constitute less than five (5) per cent of its business, and are transported to the purchaser by other than a common or contract carrier.

(D) "Merchant Agreement" shall mean any agreement, contract, or letter to do business between any Remote Seller and ECHO for services provided by ECHO.

(E) "Third Party Merchant Processor" shall mean a party that provides payment transaction services to Merchants that sell products via the Internet, mail order, telephone order or by any other non-face-to-face means and uses ECHO as a service provider to process the payment transactions on its behalf.

(F) "Merchant" shall mean a direct customer of ECHO and/or a Third Party Merchant Processor.

(G) "Secondary Merchant Processor" shall mean a company that does business as a customer of a Third Party Merchant Processor and aggregates its own customers' ACH, credit card, and demand draft transactions.

(H) "Effective Date" shall mean and refer to the date on which this Assurance is fully and completely executed by the parties hereto.

13. ECHO shall at all times maintain and adhere to an express formal policy ("Tobacco Policy") that (A) prohibits the direct or indirect use of its payment services by any Remote Seller, (B) prohibits the solicitation or acceptance of such business from any Remote Seller, (C) causes the immediate termination of (i) any Merchant who is determined to be a Remote Seller, and (ii) any Third Party Merchant Processor of a Remote Seller, unless the Third Party Merchant Processor agrees to stop processing payment transactions for any Remote Seller

with ECHO, and (D) Requires that ECHO be bound by the National Automated Clearing House Association ("NACHA") rules when the Automated Clearing House ("ACH") is used for payment and that all transactions will be in compliance with all state and federal laws;

14. Within thirty (30) days of the Effective Date, ECHO shall (A) ensure that all internal policies are consistent with the terms of this Assurance, and (B) ensure that each employee responsible for approving Merchants and monitoring ongoing Merchant transaction activity is knowledgeable and aware of ECHO's Tobacco Policy. Within ninety (90) days of the Effective Date, ECHO shall distribute its Tobacco Policy to each of its Merchants, including all Third Party Merchant Processors.

15. Before agreeing to provide any services to a new Merchant, ECHO shall conduct sufficient due diligence to determine whether the Merchant is a Remote Seller or a Third Party Merchant Processor who transacts business on behalf of a Remote Seller. ECHO's due diligence currently includes the following underwriting standards, but ECHO may substitute and/or consider additional or different factors in the future as long as ECHO can still determine whether a Merchant is a Remote Seller or a Third Party Merchant Processor who transacts business on behalf of a Remote Seller:

(A) Obtaining the Merchant's: (i) name (including all "doing business as" names), (ii) address, (iii) phone number, (iv) type of business or principal business activity, (v) taxpayer ID number, (vi) principals' names, (vii) principals' addresses, (viii) principals' phone numbers, and (ix) principals' taxpayer ID number, (x) geographic location, and (xi) web site address;

(B) Conducting a background check of the Merchant and its principals by: (i) cross-checking the pertinent information provided by the Merchant, including reviewing the

Merchant's website; (ii) checking if Merchant is on the MasterCard Member alert to Control (high-risk) Merchants ("MATCH") list, (iii) verifying the pertinent information provided by the Merchant with external agencies having the ability and expertise to provide such verification (e.g. The Better Business Bureau, Comscore, Dunn & Bradstreet, Credit Reporting Agencies, or Experian, etc.), (iv) validating the taxpayer ID through Credit Bureau reports or services, income tax filings, incorporation documents, business papers and/or bank account information, and (v) reviewing the Merchant's website for the products/services offered;

(C) Listing permissible standard entry class types or Standard Industrial Classification ("SIC") codes;

(D) Using a unique company identifier for each Merchant or Third Party Merchant Processor and including the Merchant's name for each Merchant (i.e., no acronyms, abbreviations or telephone numbers) for all transactions submitted for processing.

16. ECHO shall require any Third Party Merchant Processor with whom it does business by agreement to:

(A) Identify each of the Merchants for whom the Third Party Merchant Processor would be originating transactions and provide the name of the company, address, type of business, telephone numbers and principals to ECHO at least semi-annually;

(B) Identify all Secondary Merchant Processors that each such Third Party Merchant Processor does business with;

(C) Perform due diligence procedures which shall generally include the underwriting standards, described in paragraph 15 for each direct Merchant that the Third Party Merchant Processor processes for; except that, such Third Party Merchant Processor may substitute and/or

consider additional or different factors in the future as long as the Third Party Merchant Processor can still determine whether any Merchant is a Remote Seller or a Third Party Merchant Processor who transacts business on behalf of a Remote Seller;

(D) Require that each Secondary Merchant Processor that provides services for ECHO will perform the due diligence as described in paragraph 15 and supply the information as required in paragraph 16 (A) and (B);

(E) Require that the Third Party Merchant Processor and its Merchants be bound by NACHA rules when the ACH is used for payment and that all transactions will be in compliance with all state and federal laws;

(F) Require that each Third Party Merchant Processor cease origination services for any Merchants or Secondary Merchant Processors that violate or do not pass the due diligence procedures of the Third Party Merchant Processor;

(G) Obtain a copy of this Assurance from ECHO.

(H) Certify in writing that it has conducted sufficient due diligence to make a determination that its customers are not Remote Sellers and do not transact business on behalf of a Remote Seller. Such certification shall be: (i) provided to ECHO semi-annually; (ii) retained by ECHO for three (3) years, (iii) provided to any Attorney General within five (5) business days of a written demand. A Third Party Merchant Processor's failure to timely provide such certification raises a presumption that its customers are Remote Sellers or that it transacts business on behalf of a Remote Seller, and that ECHO's Tobacco Policy is being violated, which is grounds for immediate termination by ECHO; and

(I) Terminate Third Party Merchant Processors who fail to:

1. Provide accurate Merchant information;
 2. Notify ECHO of new Merchants, independent sales organizations or other Secondary Merchant Processors;
 3. Terminate Merchants that violate ECHO's Tobacco Policy or engage in activity that violates state or federal laws;
 4. Terminate Merchants that switch ACH activity to demand drafts once notified of the problem; or
 5. Terminate Merchants that offer demand drafts to avoid ACH return scrutiny.
17. ECHO shall perform the following verification procedures at least semi-annually:
- (A) Review Merchant listings provided by Third Party Merchant Processors to determine if any Merchants are Remote Sellers;
 - (B) Review company names and type of business for consistency; and
 - (C) Perform due diligence as described in paragraph 15 (A) and (B), or perform a background check (e.g., by reviewing the Merchant's website for the products/services offered) on a random sample of at least 25 of the Merchants supplied by each Third Party Merchant Processor.
18. As a result of undertaking these identification procedures, if ECHO identifies a Merchant that is a Remote Seller, ECHO shall promptly terminate that Merchant.
19. Within ten (10) days of the Effective Date, ECHO shall investigate each Remote Seller identified by the Attorneys General.
20. If ECHO otherwise becomes aware that a Merchant may be a Remote Seller,

ECHO shall confirm such violation within ten (10) business days. If ECHO confirms such violation, ECHO shall promptly terminate ECHO's relationship with that Merchant or Third Party Merchant Processor unless such Third Party Processor immediately agrees to stop processing payment transactions for any Remote Seller with ECHO.

21. If following an investigation pursuant to Paragraphs 19 or 20, ECHO determines that a Merchant is not a Remote Seller, as defined in this Assurance, but that Merchant does sell cigarettes and/or tobacco products online, ECHO shall, within ten (10) days, provide to the Attorneys General representatives referred to in paragraph 23, the name, address and telephone number of such Merchant.

22. The following ECHO officer ("Business Officer") is the person to whom the Attorneys General or any other law enforcement or regulatory agency can provide information relating to: (a) individuals or businesses that are believed to be using or have used ECHO's services to sell Cigarettes and/or Tobacco Products; and (b) any other information relating to this Assurance:

Chuck Harris
Vice President
Electronic Clearing House, Inc.
21215 Burbank Blvd., Suite 100
Woodland Hills, CA 91367
(800) 397-0707

Access to Information

23. All communications submitted to the Attorneys General pursuant to this Assurance shall be sent to the attention of:

Laura Kaplan, Deputy Attorney General
Office of the Attorney General

Tobacco Litigation and Enforcement Section
P.O. Box 944255
Sacramento, CA 94244-2550

Christopher K. Leung, Assistant Attorney General
New York State Office of the Attorney General
Tobacco Compliance Bureau
120 Broadway
New York, NY 10271
All correspondence must reference AOD #_____.

Brett T. DeLange, Deputy Attorney General
Consumer Protection Division
Office of the Attorney General
Len B. Jordan Building
650 W. State St., Lower Level
P.O. Box 83720
Boise, ID 83720-0010

24. ECHO shall retain all information relating to its compliance with this Assurance for a period of not less than three 3 years.

Affidavit of Compliance

25. Within four (4) months after the Effective Date, ECHO's Business Officer shall send an affidavit to the Attorneys General verifying that ECHO is in full compliance with all of the terms of this Assurance and setting forth the details of all compliance measures undertaken by ECHO pursuant to the terms hereof, with specific reference to the sections of this Assurance. Such affidavit shall include as attachments sufficient documents reasonably necessary for the Attorneys General to determine whether ECHO has complied with this Assurance.

Fees, Costs and Stipulated Penalties

26. In addition to agreeing to comply with all of the provisions of the Assurance described above, ECHO agrees to the following:

(a) ECHO shall pay to the State of California a stipulated penalty of \$2,000 for each and every tobacco or cigarette transaction it processes for any Remote Seller that sells to a buyer located in California, not to exceed \$20,000 per Merchant ; provided, however, that no penalty shall be imposed if ECHO has conducted the due diligence described in Paragraphs 15(A) through (D) and 16(A) through (D), or such due diligence would not have revealed that the Merchant was a Remote Seller.

(b) ECHO shall pay to the State of New York a stipulated penalty of \$2,000 for each and every tobacco or cigarette transaction it processes for any Remote Seller that sells to a buyer located in New York, not to exceed \$20,000 per Merchant; provided, however, that no penalty shall be imposed if ECHO has conducted the due diligence described in Paragraphs 15(A) through (D) and 16(A) through (D), or such due diligence would not have revealed that the Merchant was a Remote Seller. Any payment and all correspondence to the New York Office of the Attorney General related to this Assurance must reference AOD # _____.

(c) ECHO shall pay to the State of Idaho a stipulated penalty of \$2,000 for each and every tobacco or cigarette transaction it processes for any Remote Seller that sells to a buyer located in Idaho, not to exceed \$20,000 per Merchant; provided, however, that no penalty shall be imposed if ECHO has conducted the due diligence described in Paragraphs 15(A) through (D) and 16(A) through (D), or such due diligence would not have revealed that the Merchant was a Remote Seller.

(d) In addition to the above stipulated penalties, ECHO shall pay a penalty of not

more than \$1,000 for each knowing violation of this Assurance occurring after the Effective Date.

Miscellaneous Provisions

27. The Attorneys General, on behalf of themselves and the general public of their respective states, release ECHO from any and all claims relating to violations of and/or facilitating violations of any of the laws and/or regulations referenced in paragraphs 3 or 4, through the Effective Date of this Assurance.

28. The acceptance of this Assurance by the Attorneys General shall not be deemed or construed as an approval by the Attorneys General of any of the activities of ECHO, its officers, directors, employees, agents, assignees and any individual, corporation, subsidiary, or division through which ECHO may now or hereafter act, or any successors in interest; and none of the parties shall make any representations to the contrary.

29. ECHO agrees not to take any action to make or permit to be made public any statement denying, directly or indirectly, any finding in this Assurance or creating the impression that the Assurance is without factual basis. Nothing in this paragraph affects ECHO's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Attorneys General are not parties.

30. This Assurance constitutes the entire agreement between the Attorneys General and ECHO pertaining to the subject matter herein, and represents a voluntary agreement and settlement of the parties' claims and defenses, entered into as a result of arm's-length negotiations in which all parties hereto were represented by counsel. The agreements contained herein are made without reliance upon any inducement, statement, promise or representation,

other than those expressly contained in this Assurance.

31. This Assurance shall be binding on and apply to ECHO, its officers, directors, employees, assignees, any subsidiary or division of ECHO through which ECHO may now or hereafter act, as well as successors in interest.

32. This Assurance contains the entire agreement among the parties. This Assurance may not be altered, amended modified or otherwise changed in any respect or particular whatsoever, except in writing duly executed by the parties or their authorized representatives. To the extent the Attorneys General's agreement with First Regional Bank would impose different or additional obligations on ECHO than those contained in Paragraphs 13 through 20 of this Assurance, the Attorneys General agree that ECHO shall follow, and First Regional Bank shall not be in breach of its agreement with the Attorneys General for allowing ECHO to follow, the obligations contained in this Assurance rather than those contained in the First Regional Bank agreement.

33. The individuals executing this Assurance represent that they have full and complete authority to sign this document and to bind their respective parties to all the terms and conditions set forth herein.

34. This Assurance terminates automatically five (5) years after the Effective Date.

Date:

Electronic Clearing House, Inc.

By: _____

President, CEO

Date:

Date: 12/18/08

Edmund G. Brown, Jr.
Attorney General of the State of California

By: Laura Kaplan

Laura Kaplan, Deputy Attorney General

Date:

Andrew M. Cuomo
Attorney General of the State of New York

By: _____

Christopher K. Leung
Assistant Attorney General

Date:

Lawrence G. Wasden
Attorney General of the State of Idaho

By: _____

Brett DeLange, Deputy Attorney General