

## **Trading Partner Agreement**

(for use in electronic bankruptcy noticing)

This Agreement, by and between **United States Bankruptcy Court - Northern District of New York** ("Sender") and **[Subscriber]** ("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 in 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 notices, 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 its 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 current 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 X12 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**

1. **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:

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 \_\_\_\_\_, 19\_\_.

**For the Court:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Subscriber:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## **TRADING PARTNER AGREEMENT**

### **LIST OF EXHIBITS**

Exhibit 1 Bankruptcy Notices (see Authorizations ¶¶)

Exhibit 2 Standard Name and Postal Service Address, Standard Electronic Address, Synonyms for Name and Postal Service Addresses (see Authorizations ¶¶)

### **EXHIBIT 1**

#### **BANKRUPTCY NOTICES**

Following is the list of notices which have been provided to the Subscriber, including the date of issuance of each notice provided. The court may add notices to this list from time to time by providing the subscriber with copies of additional notices and a new list. The content or format of notices may be changed from time to time and subscriber will be provided with a copy of the modified notice and a list indicating the new date of issuance. These changes are not under the Notification provision of this Agreement.

#### **Form ID Form Title Date of Issuance**

270 Chapter 7 341 - Individual No Assets 04/09/99

271 Chapter 7 341 - Business No Assets 04/09/99

272 Chapter 7 341 - Individual With Assets 04/09/99

273 Chapter 7 341 - Business With Assets 04/09/99

274 Chapter 11 341 - Individual 04/09/99

275 Chapter 11 341 - Business 04/09/99

278 Chapter 13 341 04/09/99

149 Chapter 7 Discharge 04/09/99

## **EXHIBIT 2**

### **STANDARD NAME AND POSTAL SERVICE ADDRESS, STANDARD ELECTRONIC ADDRESS, SYNONYMS FOR NAME AND POSTAL SERVICE ADDRESSES**

The Subscriber may add to, subtract from or otherwise modify this list from time to time. The changes shall be sent to the Bankruptcy Noticing Center (BNC) with a copy to the court. The changes will be incorporated within five business days of receipt by the BNC. These changes are not under the Notification provision of this Agreement.