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

OFFICE OF
CHIEF COUNSEL

January 12, 1999

Number: **200212031**
Release Date: 3/22/2002

CC:EL:GL:Br2
GL-612822-98
UIL 78A.01.02-00

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 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 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:

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. Hagge **Date:** 10-2-98

Subscriber:_____ **Date:**_____