



its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.
6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right it may have to any other means of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.
7. Proposed respondent has read the draft complaint and consent order. Proposed respondent understands that it may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

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they appear;

- B. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comp

extent to which consumers may exercise control over the collection, use, disclosure, or sharing of data collected from or about them, their computers or devices, or their online activities, or (B) the extent to which data from or about a particular consumer, computer, or device is collected, used, disclosed, or shared.

## II.

**IT IS FURTHER ORDERED** that respondent, directly or through any corporation, subsidiary, division, website, third party, or other means, in connection with the online advertising, marketing, promotion, offering for sale, sale, or dissemination of any product or service on websites other than respondent's, in or affecting commerce, shall:

- A. Within thirty (30) days after the date of service of the order, place a clear and prominent notice, including a hyperlink, on the homepage(s) of its website(s), which states, "We collect information about your activities on certain websites to send you targeted advertisements. To opt out of Chitika's targeted ads, click [here](#)." When selected, the hyperlink shall directly take consumers to the mechanism required by Part II.C. of the order;
- B. Within thirty (30) days after the date of service of the order, for a duration of

“opted in” or “opted out” of collection); and (4) that their choice is specific to the browser they are using, and they need to implement the mechanism again if they use a different browser; and

- D. Within ninety (90) days after the date of service of the order, within any advertisement that respondent serves as part of online behavioral advertising, include a hyperlink that directly takes consumers to the mechanism required by Part II.C. of this order. The hyperlink text shall clearly and prominently state: “Opt out?” While a consumer’s cursor, or functional equivalent, hovers over the hyperlink, a box shall be visible in close proximity to the hyperlink, which clearly and prominently states, “Opt out of Chitika’s targeted ads.”

### III.

**IT IS FURTHER ORDERED** that respondent, directly or through any corporation, subsidiary, division, third party, or other entity, shall not use, disclose, sell, rent, lease, or transfer any information that can be associated with a Chitika user or a Chitika user’s computer or device that respondent obtained prior to March 1, 2010. Within sixty (60) days after the date of service of the order, respondent shall permanently delete or destroy: (1) all such information stored in Chitika users’ cookies; and (2) all IP addresses and unique identifiers, including any Chitika user identification numbers, in log files on respondent’s server(s) and in backup tapes, and shall provide a written statement to the Commission, sworn under penalty of perjury, confirming that all such information has been deleted or destroyed. *Provided that*, if respondent is prohibited from deleting or destroying such information by law, regulation, or court order, respond

- A. For a period of five (5) years, any documents, whether prepared by or on behalf of respondent, that:
1. Comprise or relate to complaints or inquiries, whether received directly or indirectly, concerning: (a) any data collection by respondent; (b) the use, disclosure or sharing of such data; or (c) any mechanism to limit or prevent such collection of data or the use, disclosure, or sharing of data collected, as well as any responses to those complaints or inquiries;
  2. Are necessary to demonstrate full compliance with each provision of this order, including, but not limited to, all documents obtained, created, generated, or which in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order; or
  3. Contradict, qualify, or call into question respondent's compliance with this order; and
- B. For a period of five (5) years after the last public dissemination thereof, all advertisements, terms of use, end-user license agreements, frequently asked questions, privacy policies, and similar documents relating to: (a) any data collection by respondent; (b) the use, disclosure or sharing of such data; or (c) any mechanism to limit or prevent such collection of data or use, disclosure, or sharing of data collected, as well as any responses to those complaints or inquiries.

V.

**IT IS FURTHER ORDERED** that Chitika, Inc., and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of the order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

**IT IS FURTHER ORDERED** that Chitika, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the entity that may affect compliance obligations arising under this order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the entity name or address. *Provided, however,* that with respect to any

*Provided, further,* that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that this order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on a



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APPROVED:

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