

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

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*In the Matter of*

**TRUE ULTIMATE STANDARDS  
EVERYWHERE, INC., a corporation,  
d/b/a TRUSTe, Inc.**

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**AGREEMENT CONTAINING  
CONSENT ORDER**

**DOCKET NO.**

The Federal Trade Commission (“Commission”) has conducted an investigation of certain acts and practices of True Ultimate Standards Everywhere, Inc., a corporation d/b/a TRUSTe, Inc. (“TRUSTe” or “proposed Respondent”). Proposed Respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

**IT IS HEREBY AGREED** by and between True Ultimate Standards Everywhere, Inc., and counsel for the Federal Trade Commission that:

1. Proposed Respondent True Ultimate Standards Everywhere, Inc., also doing business as TRUSTe, Inc., is a privately-owned, Delaware corporation with its principal office or place of business at 835 Market Street, Suite 800, San Francisco, California 94103.
2. Proposed Respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed Respondent waives:
  - A. Any further procedural steps;
  - B. The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
  - C. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve

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 addresses 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 manner of service. The complaint may be used in construing the terms of the order. 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.

## **ORDER**

## **DEFINITIONS**

For purposes of this order, the following definitions shall apply:

1. "Seal" shall mean any trustmark, logo, seal of approval, emblem, shield, or other insignia Respondent has offered or provided for placement on a company's website, including, but not limited to TRUSTed Websites, COPPA/Children's Privacy, EU Safe Harbor, TRUSTed Cloud, TRUSTed Apps, and TRUSTed Data.
2. Unless otherwise specified, "Respondent" shall mean True Ultimate Standards Everywhere, Inc., and its successors and assigns.
3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. "COPPA" shall mean the Federal Trade Commission's Children's Online Privacy Protection Rule, 16 C.F.R. Part 312.

5. “COPPA safe harbor program” shall mean any self-regulatory program [guidelines] established pursuant to 16 C.F.R. § 312.11 of the Federal Trade Commission’s Children’s Online Privacy Protection Rule and operated by Respondent.

#### I.

**IT IS ORDERED** that Respondent, directly or through any corporation, subsidiary, division, or other device, including franchisees, or licensees, in connection with the advertising, promotion, offering for sale, sale, or distribution of seals or certifications, or any other substantially similar product, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication:

- A. The steps it takes to evaluate, certify, review, or recertify a company’s privacy practices;
- B. The frequency with which Respondent conducts any such evaluation, certification, review, or recertification of a company’s privacy practices;
- C. The corporate status of Respondent and its independence; and
- D. The extent to which the person or entity is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy program sponsored by Respondent.

#### II.

**IT IS FURTHER ORDERED** that Respondent, directly or through any corporation, subsidiary, division, or other device, including franchisees, or licensees, shall not provide to any person or entity the means and instrumentalities with which to make directly or by implication any misrepresentation prohibited by Part I of this order. For purposes of this Part, “means and instrumentalities” shall mean any information, including but not necessarily limited to, any required or model language, for use in any privacy policy or statement for display on a website or mobile application covered by any seal or certification provided by Respondent, or any other product or service covered under this order, in or affecting commerce.

#### III.

**IT IS FURTHER ORDERED** that Respondent for ten (10) years after the date of service of this order, as part of its annual report required to be submitted pursuant to 16 C.F.R. §312.11(d)(1) of the COPPA Rule, shall, in a sworn statement provide:

- A. The total number of new seals awarded to participants in any COPPA safe harbor program in the preceding reporting period;
- B. A detailed explanation of the mechanisms used by Respondent to assess the fitness of new applicants to any COPPA safe harbor program for membership in the program;

- C. A detailed explanation of the mechanisms used by Respondent to assess the continuing fitness of an existing participant in any COPPA safe harbor program for membership in the program; and
- D. Any additional steps Respondent undertook to comply with the requirements of 16 C.F.R. § 312.

Unless otherwise directed by a representative of the Commission, all statements required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the Matter of TRUSTe, Inc.*, FTC File No. 1323219. *Provided, however*, that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at [Debrief@ftc.gov](mailto:Debrief@ftc.gov).

#### IV.

**IT IS FURTHER ORDERED** that Respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, a print or electronic copy of, for a period of ten (10) years from the date of preparation:

- A. A detailed explanation of assessments Respondent conducted during the preceding reporting period to determine the fitness of new applicants to any COPPA safe harbor program for membership in the program;
- B. A detailed explanation, including the frequency, of assessments Respondent conducted during the preceding reporting period to determine the continuing fitness of an existing participant in any COPPA safe harbor program for membership in the program;
- C. Any documents related to consumer complaints, received in the preceding reporting period, alleging violations of any COPPA safe harbor program by Respondent or by participants in any COPPA safe harbor program;
- D. Any documents related to records of disciplinary actions taken in the preceding reporting period against participants in any COPPA safe harbor program; and
- E. Any documents related to approvals of COPPA safe harbor program participants' use of verifiable parental consent mechanism under 16 C.F.R. § 312.11(d)(1).

#### V.

**IT IS FURTHER ORDERED** that within five (5) days of the date of service of this order, Respondent shall pay \$200,000 to the United States Treasury as disgorgement, as follows:

- A. The payment shall be made by wire transfer to the Treasurer of the United States, in accordance with instructions provided by the Federal Trade Commission.
- B. In the event of any default in payment, interest shall accrue, computed pursuant to 28 U.S.C. § 1961, from the date of default to the date of payment.
- C. Respondent relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Respondent shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise.

## VI.

**IT IS FURTHER ORDERED** that Respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, a print or electronic copy of, for a period of five (5) years from the date of preparation or dissemination, whichever is later, all documents, whether in written or electronic form, that relate to compliance with this order, including but not limited to:

- A. all advertisements and promotional materials containing any representations covered by this order, with all materials used or relied upon in making or disseminating the representation;
- B. consumer complaints (whether received directly, indirectly, or through any third party) that relate to Respondent's activities as alleged in the draft Complaint and Respondent's compliance with the provisions of this order; and any responses to such complaints;
- C. copies of all subpoenas and other communications with law enforcement entities or personnel, if such documents bear in any respect on Respondent's activities as alleged in the draft Complaint and Respondent's compliance with the provisions of this order; and
- D. any documents, whether prepared by or on behalf of Respondent, that call into question Respondent's compliance with this order.

## VII.

**IT IS FURTHER ORDERED** that Respondent shall deliver a copy of this order to all current and future subsidiaries, current and future principals, officers, directors, and managers having responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current subsidiaries and personnel within thirty (30) days after service of this order, and to such future subsidiaries and personnel within thirty (30) days after the person assumes such position or responsibilities. For any business entity resulting from any change in structure set forth in Part VIII, delivery shall be at least ten (10) days prior to the change in structure. Respondent must secure a signed and dated statement acknowledging receipt of this order, within thirty (30) days of delivery, from all persons receiving a copy of the order pursuant to this Part.

## VIII.

**IT IS FURTHER ORDERED** that Respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) 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 corporation; 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 corporate name or address. *Provided, however*, that, with respect to any proposed change in the corporation(s) about which Respondent learns fewer than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580, with the subject line *In the matter of True Ultimate Standards Everywhere, Inc.*, FTC File No. 1323219. *Provided, however*, that in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of any such notice is contemporaneously sent to the Commission at [Debrief@ftc.gov](mailto:Debrief@ftc.gov).

## IX.

**IT IS FURTHER ORDERED** that Respondent, within one hundred twenty (120) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit an additional true and accurate written report.

## X.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in fewer than twenty (20) years;
- B. This order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

*Provided, further*, that if such complaint is dismissed or a federal court rules that 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 as to such Respondent will terminate according to this Part as though the complaint had never been filed, except that the 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 appeal.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**True Ultimate Standards Everywhere, Inc.  
d/b/a TRUSTe, Inc.**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
CHRIS BABEL, Chief Executive Officer  
TRUSTe, Inc.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
D. REED FREEMAN JR., Esq.  
Morrison & Foerster, LLP  
2000 Pennsylvania Ave., N.W., Suite 6000  
Washington, DC 20006  
Attorney for Respondent

**FEDERAL TRADE COMMISSION**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
JAMIE E. HINE  
Counsel for the Federal Trade Commission

By: \_\_\_\_\_  
JESSICA LYON  
Counsel for the Federal Trade Commission

APPROVED:

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CHRISTOPHER OLSEN  
Assistant Director  
Division of Privacy and Identity Protection

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MANEESHA MITHAL  
Associate Director  
Division of Privacy and Identity Protection

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JESSICA L. RICH  
Director  
Bureau of Consumer Protection