

ATTORNEY GENERAL OF THE STATE OF NEW YORK
BUREAU OF CONSUMER FRAUDS & PROTECTION

In the Matter of the

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

Assurance No. 25-001

OURO GLOBAL, INC., f/k/a NETSPEND,

Respondent.

ASSURANCE OF DISCONTINUANCE

The New York State Office of the Attorney General (the “OAG”) commenced an investigation under Executive Law § 63(12) and General Business Law §§ 349 into aspects of the marketing, servicing, and charging of fees in connection with prepaid debit cards and payroll cards by Netspend Corporation (“Netspend”), which was subsequently rebranded as described below as Ouro Global, Inc. This Assurance of Discontinuance (the “Assurance”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and Ouro Global, Inc. (“Respondent” and, together with the OAG, the “Parties”).

OAG FINDINGS

1. From 1999 to 2023, Netspend Corporation was a leading participant in prepaid and payroll card markets with its mailing address at P.O. Box 2136, Austin, TX 78768-2136.
2. During the period covered by the OAG’s investigation, Netspend operated a prepaid debit card business in which it marketed directly to consumers prepaid, general purpose, reloadable debit cards (“GPR Cards”). Consumers could purchase and load funds onto GPR Cards, which were held in bank accounts maintained by certain third-party state or national banks, referred to herein as Partner Banks.

3. Netspend also operated a payroll card business in which it marketed to employers the option to offer employees payroll cards, as alternatives to paper checks or direct deposits, onto which their wages would be loaded (“Payroll Cards”). As with GPR Cards, wages loaded onto Payroll Cards were held in bank accounts maintained by certain Partner Banks.

4. The Partner Banks were the issuers of the GPR Cards and Payroll Cards (together, the “Card Products”) marketed and serviced by Netspend.

5. In connection with its Card Products, Netspend entered into agreements with its Partner Banks in which it was appointed a program manager or servicer. As program manager or servicer, Netspend was responsible for marketing the Card Products, resulting in Netspend’s name, brand, and logo appearing on Card Products, on their packaging, and in advertisements. Netspend also was responsible for transaction processing and servicing in connection with the Card Products, including the charging of fees, controlling consumers’ account access, and directly interacting with consumers or employees who purchased or used Card Products.

6. On or about April 26, 2023, Netspend’s GPR Card business and the card issuing and program management aspects of its Payroll Card business, together with the corporate entity Netspend, were sold by Global Payments Inc., Netspend’s former parent, to a partnership between Rêv Worldwide and Searchlight Capital Partners, L.P., with Global Payments Inc. retaining the employer relationships associated with Netspend’s Payroll Card business.

7. Netspend subsequently changed its name to Ouro Global, Inc., which is the Respondent to the Assurance, and which maintains its principal place of business at 10900-A Stonelake Boulevard, Suite 200, Austin, Texas 78759. Respondent currently operates Netspend’s former GPR Card business under the Netspend trade name. Respondent also provides Payroll Cards and certain program management services in connection with the Payroll Card business.

I. NETSPEND RESTRAINED AND TURNED OVER TO DEBT COLLECTORS PROTECTED FUNDS THAT WERE LOADED ONTO ITS CARD PRODUCTS

8. New York’s Exempt Income Protection Act (the “EIPA”), A.B. 8572A, was signed into law on September 25, 2008 and became effective on January 1, 2009.

9. The purpose of the EIPA is to ensure that New York residents maintain reliable access to money that is needed to pay for basic needs, such as housing, food, and medicine. Its target beneficiaries are populations that receive social security and other state and federal subsistence payments, including the elderly, disabled individuals, and veterans, as well as low-income workers and individuals living on limited budgets or paycheck-to-paycheck.

10. To accomplish its goals, the EIPA provides that banks, upon receipt of account restraints, levies, or other legal process related to enforcement of judgments under Article 52 of the CPLR (collectively, “Legal Process”), must not restrain consumers’ use of statutorily exempt funds, such as social security benefits, veterans benefits, and disability insurance (the “Exempt Funds”) in consumers’ bank accounts up to an amount set every three years by New York’s Department of Financial Services (“DFS”). As of April 1, 2024, the amount of Exempt Funds that banks must not restrain in consumers’ bank accounts is \$3,425.

11. The EIPA’s protections apply to Exempt Funds that are deposited into bank accounts through direct deposit or other electronic payments reasonably identifiable as Exempt Funds. In most situations, the electronic transfer codes and information received by banks and accessible to Netspend will demonstrate that deposits into accounts involve Exempt Funds.

12. The EIPA also provides that where bank accounts contain Exempt Funds and the account balances are below the limit set by DFS (the “Exempt Funds Threshold”), any Legal Process is deemed void by operation of law and banks must not restrain accounts at all.

13. In addition to Exempt Funds, the EIPA provides that banks must not restrain funds in bank accounts up to an amount equal to 240 multiplied by the higher of the current state or federal minimum wage (the “Protected Wages”). The current state minimum wage is \$16.00 for New York City, Long Island, and Westchester County residents and \$15.00 for all other New York residents. Thus, the EIPA bars banks from restraining up to either \$3,840 or \$3,600 of Protected Wages in bank accounts, depending on where consumers live in New York.

14. The EIPA further provides that where bank account balances are less than ninety percent of the current Protected Wages (the “Wage Threshold”)—\$3,456 for New York City, Long Island, and Westchester County residents and \$3,240 for all other residents—the Legal Process is deemed void by operation of law and banks must not restrain accounts at all.

15. The EIPA’s protections cannot be waived by individual consumers.

16. In its role as program manager or servicer of the Card Products, Netspend had the authority under its agreements with Partner Banks to limit or restrict consumers’ access to funds loaded on their Card Products and held in accounts at Partner Banks. Netspend also had the authority to facilitate payments of funds held in consumers’ accounts to third parties.

17. As a result of its marketing of Card Products and its interactions with consumers, debt collectors often served Legal Process directly on Netspend targeting consumer funds loaded onto Card Products and held in accounts at Partner Banks. Between 2017 and 2021, debt collectors served such Legal Process on Netspend on more than 1,400 occasions.

18. Netspend’s policies and procedures for the handling of Legal Process that targeted consumer funds loaded onto Card Products and held in accounts at Partner Banks acknowledged that the handling of Legal Process generally is governed by state law.

19. Moreover, Legal Process served directly on Netspend and examined by the OAG that targeted funds belonging to New York consumers were labeled as “Restraining Notices for Accounts Containing Non-Exempt Funds.” The same Legal Process also cited key provisions of New York law implementing the EIPA, including CPLR 5222 and CPLR 5232.

20. Despite Netspend’s acknowledgment of the relevance of state law and the notice provided by the Legal Process itself, its policies and procedures did not refer to the EIPA until recently, when Netspend voluntarily updated its policies during the OAG’s investigation.

21. Instead, Netspend’s policies and procedures instructed employees in receipt of Legal Process “to process them immediately upon receipt” and informed employees that this was “the best way to ensure that Netspend will not be liable.”

22. In some cases, Netspend provided the following instructions to employees who were responsible for responding to incoming inquiries by consumers about funds that were restrained as a result of Legal Process: “PLEASE DO NOT TRANSFER or CALL LEGAL.” Instead, employees were instructed to tell consumers that a court ordered the account restraint and that the restraint could not be removed for a minimum of one year.

23. Netspend also instructed employees to refer inquiring consumers directly to the debt collectors listed in the Legal Process. Debt collectors, in turn, attempted to negotiate deals in which they would agree to release accounts from restraints in exchange for a portion of the balance. In many such cases, the account balances were below the Exempt Funds Threshold or the Wage Threshold in the EIPA and thus the restraints were void by operation of law.

24. For example, on January 10, 2019, Netspend restrained a New York consumer’s bank account containing \$1,008.52, despite a balance substantially below the Wage Threshold. When the consumer contacted Netspend and informed Netspend that the account restraint was

illegal under New York law, Netspend incorrectly responded that the account had to remain blocked for a year “per the court order” and advised the consumer to contact the debt collector. Two months later, the debt collector submitted a stipulation in which the consumer agreed to pay over \$600 from the account to free up the remaining funds from the illegal restraint.

25. Netspend’s conduct in the handling of Legal Process, including both its restraint of funds loaded onto Card Products held in accounts at Partner Banks and its direct responses to inquiring consumers whose accounts were restrained, misled consumers, and violated the EIPA.

26. As a result of Netspend’s conduct, on more than 80 occasions between 2017 and 2021, Netspend restrained Exempt Funds or Protected Wages in accounts at Partner Banks and paid out amounts in those accounts to debt collectors. In September 2021, for example, Netspend restrained an account in response to Legal Process despite recent direct deposits of New York State unemployment benefits that were discernable from account records. Netspend restrained the entire account, and eventually paid out a portion of the benefits to a debt collector, despite the account balance being several hundred dollars below the Exempt Funds Threshold in the EIPA and the Legal Process being void by operation of law.

27. On hundreds of occasions between 2017 and 2021, Netspend restrained accounts with balances below the Exempt Funds Threshold or Wage Threshold. Consumers were deprived of use of the accounts, including some consumers who had been actively using the accounts or who had subsequent deposits into the accounts that were rendered inaccessible. And consumers with positive balances in their accounts were deprived of the use of their funds.

28. In April 2021, for example, Netspend restrained an account at a Partner Bank in response to Legal Process. The account balance was less than \$800, which was several thousand dollars below the Wage Threshold in the EIPA, and the Legal Process was void by operation of

law. The illegal restraint remained in place for a full year. Such illegal account restraints deprive consumers of access to critical funds and risk the illegal turnover of funds to debt collectors. In addition, illegal restraints can result in the loss of future deposits.

29. Between 2017 and 2021, Netspend restrained and allowed tens of thousands of dollars loaded by New York residents onto Card Products and held in accounts at Partner Banks with balances below the Exempt Funds Threshold or the Wage Threshold to be paid out, much of which belonged to members of New York's most vulnerable communities.

II. NETSPEND CHARGED FEES TO PAYROLL CARD USERS THAT WERE PROHIBITED BY NEW YORK'S PAYROLL CARD RULE

30. In connection with its Payroll Card program, Netspend offered employers the ability to pay wages to employees via Payroll Card. An employee who signed up for a Payroll Card would receive his or her wages via direct deposit to bank accounts at Partner Banks tied to the employee's Payroll Card. The employee then used the Payroll Card like a debit card to withdraw money from ATMs, pay for goods and services, and engage in banking activity.

31. Netspend charged fees for employees' use of Payroll Cards. Historically, these fees included, among other fees: fees for account maintenance; fees for inquiring about an account balance at domestic or international ATMs; fees for attempting transactions that were declined using domestic or international ATMs; foreign exchange fees; fees for using international ATMs; fees for transactions using PIN entry; and fees for declined transactions using either PIN entry or a signature (collectively, the "Subject Fees").

32. On September 7, 2016, New York's Department of Labor adopted final regulations governing receipt of wages in New York. Among other things, the final regulations set forth various requirements for payroll cards, including a prohibition that certain fees could

not be charged in connection with payroll cards (the “Payroll Card Rule”). The Subject Fees that Netspend historically charged its Payroll Card users were covered by the Payroll Card Rule.

33. The effective date of the Payroll Card Rule was March 7, 2017.

34. In February 2017, New York’s Industrial Board of Appeals (“IBA”) declared the entirety of the Department of Labor’s final regulations, including the Payroll Card Rule, invalid. The Department of Labor subsequently brought a CPLR Article 78 proceeding challenging the IBA’s ruling in New York Supreme Court. On May 23, 2018, the Supreme Court entered a Decision, Order, and Judgment annulling the IBA’s decision. Thus, the Department of Labor’s final regulations, including the Payroll Card Rule, were effective as of May 23, 2018.

35. The Supreme Court’s May 23, 2018 final judgment was not subject to any stay by effect of either its own terms or as a matter of law. In addition, no party to the Article 78 proceeding sought any stay of the final judgment before the Supreme Court.

36. Certain payroll card providers appealed the Supreme Court’s May 23, 2018 final judgment to the New York Appellate Division, Third Department, which affirmed in an opinion dated January 9, 2020. As in the Supreme Court, no party to the appeal sought a stay of the Supreme Court’s final judgment while the appeal was pending, nor did any party subsequently seek a stay of the final judgment after the Third Department’s affirming opinion.

37. On June 23, 2020, the New York Court of Appeals dismissed an appeal from the Third Department’s opinion affirming the Supreme Court’s May 23, 2018 final judgment.

38. From May 23, 2018, when the Supreme Court entered final judgment and the Payroll Card Rule became effective, to at or around the time of the Court of Appeal’s dismissal of any final appeal on June 23, 2020, Netspend continued to charge New York consumers the Subject Fees. The charging of these fees was in violation of the Payroll Card Rule.

III. NETSPEND COLLECTED FEES ON WAGE-BASED PAYMENTS AT RATES THAT EXCEEDED NEW YORK'S USURY AND WAGE ASSIGNMENT LIMITS

39. New York's General Obligations Law Section 5-501 prohibits the charging of interest on any loan or forbearance of any money, goods, or services in excess of the rate prescribed by Section 14-a of New York's Banking Law. This civil limitation in the Banking Law has been set at 16% annual interest for many years.

40. New York's Penal Law Section 190.40 makes it a Class E felony to charge interest on a loan or forbearance of any money or other property above 25% annually.

41. New York's Personal Property Law Section 46-f prohibits any person or entity from directly or indirectly receiving or accepting, in exchange for the making of any advance or loan of money on the security of an assignment of any earnings, an amount greater than 18% annually on the advance or loan, whether as a bonus, interest, or otherwise.

42. Beginning in 2022, Netspend began to offer to employers a program through which their employees could obtain an advance of money in amounts that were calculated based on the number of hours the employees had worked and a portion of the wages employees had already earned and would receive on their next payday. These advances of money, referred to herein as Wage-Based Payments, would be repaid through deductions from employees' paychecks soon thereafter. Netspend marketed the Wage-Based Payments as early payments of wages that employees had "earned" by virtue of having worked hours during the current pay cycle, but which employees had not yet received because the end of the pay cycle had not yet been reached.

43. Employees who signed up to participate in the program assigned the portion of their "earned" wages equal to the amount of the payment received, plus any fees, to Netspend's service provider, which then assigned the wages to Netspend. Beyond these assignments (which

were repaid via wage deduction), employees had no responsibility to repay any of the assigned wages to Netspend. Employees who participated in the program were informed that the Wage-Based Payments were non-recourse and that repayment would be deducted from their next paycheck.

44. Employers separately agreed to pay any such assigned wages to Netspend. And Netspend undertook credit analyses of employers to ensure its repayment.

45. In connection with Netspend's program, an employee could choose to receive a Wage-Based Payment in two to five business days to a linked bank account for no additional charge. In addition, an employee could choose to receive a Wage-Based Payment immediately, for no additional charge, to a linked Netspend Payroll Card or to a debit card linked to certain Netspend accounts. Finally, an employee could choose to receive payment immediately to a non-Netspend account for a fee of \$1.99 to \$3.99, depending on the employer, with most fees being \$2.99.

46. From September 30, 2022 to June 30, 2023, Netspend obtained fees for more than 7,300 payments made to New York employees who elected immediate disbursement. The median transaction for this period was a \$50 payment and a \$2.99 fee. If repayment of this median payment occurred one week later, the estimated annualized cost was in excess of 300%.

47. Based on comparable calculations, more than 6,900 payments made by Netspend under its program had estimated annualized costs of more than 100%, while more than 4,000 payments had estimated annualized costs of more than 300%.

48. Through its program, Netspend collected more than \$23,000 in fees from just a few hundred New York employees from September 30, 2022 to June 30, 2023.

49. This fee revenue was concentrated: approximately 230 employees accounted for more than 97% of Netspend's fee revenue. These employees obtained a new payment every two to four days, on average, and almost always elected immediate disbursement and paid a fee.

IV. NETSPEND FAILED TO ADEQUATELY DISCLOSE CERTAIN FEES FOR ATM USAGE FOR USERS OF CARD PRODUCTS

50. New York users of Netspend's Card Products could use their Card Products to withdraw funds from ATMs. Two separate fees might be incurred in connection with this transaction: (i) an ATM fee specified by the ATM operator and (ii) an ATM withdrawal fee specified by Netspend and disclosed in its terms and conditions and fee schedule.

51. Users could avoid fees charged by ATM operators by using in-network ATMs (as defined by Netspend) to withdraw funds.

52. Whether using an in-network ATM or an out-of-network ATM, New York users of Netspend's Card Products who withdrew cash from an ATM would incur the ATM withdrawal fee specified in the user agreements for Netspend's Card Products.

53. From July 1, 2019 to December 31, 2022, New York users of Netspend's Card Products incurred millions of dollars in ATM withdrawal fees.

54. During this same period, Netspend's marketing materials for its Card Products did not sufficiently call out the difference between fees charged by ATM operators and Netspend, creating the deceptive net impression that users of Netspend's Card Products could avoid all fees while getting cash from ATMs by following certain practices such as using in-network ATMs.

55. For example, certain marketing materials for Netspend's Payroll Cards informed New York employees that they could "access cash surcharge-free at" in-network ATMs, while other materials instructed New York consumers to "locate your nearest Surcharge-Free ATM."

56. Similarly, on its website at times during the same period, Netspend advised New York consumers in posts about avoiding ATM fees to “stick to your ATM network” because such a practice is “one method for avoiding fees is opting for in-network ATMs.”

57. In many marketing materials, Netspend also included a caveat that ATM withdrawal fees “may apply” and that users should check their user agreements. Where such a caveat was included, it did not appear as prominently as Netspend’s marketing statements. Instead, the caveats appeared in small typeface located far below the marketing statements or in footnotes at the bottom of a website. For certain marketing materials, the caveats did not appear on the same page as the marketing statements. And the caveat only ever stated a fee “may apply” despite all of Netspend’s Card Products carrying such a fee during the period.

* * *

58. The OAG finds that the acts and practices described above constitute repeated violations of the EIPA, CPLR § 5205 *et seq.*, the Payroll Card Rule, 12 N.Y.C.C.R. § 192-2.3, the General Obligations Law § 5-501, the Penal Law § 190.40, and the Personal Property Law § 46-F, and thus constitute repeated illegal acts in violation of Executive Law § 63(12).

59. The OAG finds that the acts and practices described above constitute repeated illegal acts in violation of Executive Law § 63(12) and General Business Law § 349.

60. Respondent neither admits nor denies the OAG’s findings.

61. The OAG finds that the relief and agreements contained in the Assurance are both appropriate and in the public interest. THEREFORE, the OAG is willing to accept the Assurance under Executive Law § 63(15) in lieu of commencing a statutory proceeding or other civil action for violations of Executive Law § 63(12) and General Business Law § 349 based on the conduct described above from 2016 to the present.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

Changes to Business Practices

62. Respondent will not engage, or attempt to engage, in conduct in violation of New York's Exempt Income Protection Act, including CPLR §§ 5222 & 5232, Payroll Card Rule, 12 N.Y.C.C.R. § 192-2.3, General Obligations Law § 5-501, Penal Law § 190.40, Personal Property Law § 46-F, Executive Law § 63(12), or General Business Law § 349.

63. Within thirty (30) days of the Effective Date, Respondent will implement policies and procedures that (i) require Respondent to refer any account restraint, levy, or other legal process targeting funds belonging to a New York resident to its banking partners, including the Partner Banks, or (ii) ensure compliance with the New York's EIPA in connection with Respondent's handling of account restraints, levies, or other legal process.

64. Within ninety (90) days of the Effective Date, Respondent will either:

- a. cease its provision of services in connection with any Wage-Based Payment offered to New York residents; or
- b. ensure that any amounts charged, collected, or received in connection with any Wage-Based Payment offered to a New York resident for which Respondent provides services do not reflect annualized costs in excess of the costs permitted by New York's General Obligations Law § 5-501, Penal Law § 190.40, and Personal Property Law § 46-F.

65. Respondent may, within ninety (90) days of the Effective Date, request from the OAG a reasonable extension for implementation of the requirements set forth in sub-paragraph (b) of the preceding paragraph along with an explanation of the need for additional time and a revised estimated date of implementation, which extension will not be unreasonably denied.

66. Within ninety (90) days of the Effective Date, Respondent will update all new marketing materials that represent that ATM usage is or can be surcharge-free to (i) make clear in an equally prominent manner as any surcharge-free statement that ATM withdrawal fees do apply where the advertised products include ATM withdrawal fees and (ii) ensure that any additional context is provided in an equally prominent manner. This paragraph does not require Respondent to revise or remove existing advertising materials that have already been produced or published, including any materials produced or published within ninety (90) days of the Effective Date (and any extensions), except that: (i) Respondent will update existing websites under its control, including www.netspend.com; and (ii) Respondent will provide updated compliant marketing materials as replacements for existing marketing materials in the normal course of its business and will not withhold or omit such materials for purposes of maintaining existing marketing materials.

Monetary Relief

67. Respondent will make restitution in the total amount of \$735,669.78, as follows:
- a. \$681,285.73, which Respondent will distribute to New York users of Payroll Cards who incurred Subject Fees between July 2019 and September 2020 by:
 - i. crediting the Payroll Card accounts of users with active accounts within ninety (90) days of the Effective Date and providing notice to those users via their preferred communication channel;
 - ii. mailing a paper check to the last-known addresses of users without active accounts within ninety (90) days of the Effective Date; and

- iii. remitting all amounts not distributed in sub-paragraph (ii) to the New York State Comptroller as abandoned property within two-hundred-and-seventy (270) days of the Effective Date in accordance with New York Abandoned Property Law.
- b. \$31,918.17, which Respondent will distribute to New York users of Card Products who had funds loaded onto Card Products and who did not receive restitution payments in connection with the OAG's Assurance of Discontinuance No. 24-031, with Pathward, N.A., one of the Partner Banks, as identified by the OAG to Respondent, by:
 - i. crediting the Card Product accounts of users with active accounts within ninety (90) days of the Effective Date and providing notice to those users via their preferred communication channel;
 - ii. mailing a paper check to the last-known addresses of users without active accounts within ninety (90) days of the Effective Date; and
 - iii. remitting all amounts not distributed in sub-paragraph (ii) to the New York State Comptroller as abandoned property within two-hundred-and-seventy (270) days of the Effective Date in accordance with New York Abandoned Property Law.
- c. \$23,382.58, which Respondent will distribute to New York users of Wage-Based Payments who incurred fees in connection with Wage-Based Payments between September 30, 2022 and June 30, 2023 by:
 - i. crediting the current designated preferred payment of users with active accounts within ninety (90) days of the Effective Date and

providing notice to those users via their preferred communication channel; and

- ii. remitting all amounts not distributed in sub-paragraph (i) to the New York State Comptroller as abandoned property within two-hundred-and-seventy (270) days of the Effective Date in accordance with New York Abandoned Property Law.

68. Payment of the relief identified in sub-paragraphs (a)(iii), (b)(iii), and (c)(ii) of paragraph 67 will be made by wire transfer pursuant to instructions provided by the OAG to Respondent. Respondent will provide at least ten (10) days' notice to the OAG before payment.

69. Within thirty (30) days of the Effective Date, Respondent will pay to the State of New York \$357,775 in penalties and costs. Payment of this relief will be made by wire transfer pursuant to instructions provided by the OAG to Respondent.

Ongoing Monitoring & Compliance

70. One year and two years from the Effective Date, Respondent will transmit by email or mail in the manner specified in paragraph 81 below the following statement to the OAG: "Ouro Inc. has ensured compliance in all material respects with New York's Exempt Income Protection Act, including CPLR Sections 5222 and 5232, in connection with its direct handling of all account restraints, levies, or other legal process targeting funds belonging to New York residents, or has otherwise referred to such legal process to its banking partners for handling." The statement will be executed by Ouro Inc.'s general counsel, chief legal officer, chief compliance officer, or comparable officer, and will be notarized.

71. To the extent that Respondent continues to provide services subject to sub-paragraph (b) of paragraph 64 above, Respondent: (i) will provide notice to the OAG of the date

of its implementation of the requirements of sub-paragraph (b) within ten (10) days of such date; and (ii) will, within three-hundred-and-ninety-five (395) days of such date, either (x) provide a sworn statement that no fees are being charged in connection with these services or (y) voluntarily provide to the OAG transaction-level data for all Wage-Based Payments provided to New Yorkers for one (1) year following the date of implementation.

72. Respondent will voluntarily cooperate with any OAG reasonable requests for supplemental information, documents, or data related to its handling of any Legal Process, its compliance with New York's Payroll Card Rule, its provision of services in connection with any Wage-Based Payments to New York residents, and its advertising of fee-free ATM usage, subject to Respondent's reservation of rights to request reasonable limitations or modifications.

MISCELLANEOUS

Subsequent Proceedings

73. Respondent expressly agrees and acknowledges: that a default in the performance of any obligation under paragraphs 62 to 72 is a violation of the Assurance; that thereafter the OAG may commence the special proceeding or civil action contemplated in paragraph 61, in addition to any other appropriate investigation, action, or proceeding; and that evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations described in paragraphs 8 to 59, as provided by Executive Law § 63(15).

74. In any subsequent investigation, action, or proceeding by the OAG to enforce the Assurance, for violations of the Assurance, or if the Assurance is voided under paragraph 82, Respondent expressly agrees and acknowledges that:

- a. any statute of limitations or other time-related defenses are tolled from and after the Effective Date of the Assurance;

- b. the OAG may use statements, documents, or other materials provided by the Respondent prior to or after the Effective Date of the Assurance; and
- c. any action or proceeding will be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, forum, or venue.

75. If a court of competent jurisdiction determines that Respondent has violated the Assurance, Respondent shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing the Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance

76. Acceptance of the Assurance by the OAG is not an approval or endorsement by the OAG of any of Respondent's policies, practices, or procedures, and Respondent shall make no representation to the contrary.

77. All terms and conditions of the Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondent. Respondent shall cause the Assurance to apply to any successor, assignee, or transferee in any transfer, assignment, or other change-of-control transaction. The rights and obligations under the Assurance shall not be assigned, delegated, or otherwise transferred without the prior written consent of the OAG.

78. If, subsequent to the Effective Date, state or federal laws or regulations are enacted or adopted that provide or otherwise have the effect of providing that the Wage-Based Payments described in paragraphs 39 to 49 above are not subject to New York's General Obligations Law § 5-501, Penal Law § 190.40, or Personal Property Law § 46-F, then upon

request of Respondent the OAG will adopt modifications of the requirements of paragraphs 64 and 65 of the Assurance in a manner that is consistent with the changed laws or regulations.

79. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

80. Any failure by the OAG to insist upon the strict performance by Respondent of any provision of the Assurance shall not be deemed a waiver of any provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any provision of the Assurance to be performed by Respondent.

Communications

81. All notices, reports, requests, and other communications related to the Assurance shall reference Assurance No. 25-001, shall be in writing, and shall, unless expressly provided otherwise herein, be addressed as follows and given by (i) hand delivery, (ii) express courier, or (iii) electronic mail, with such electronic mail to be followed by postage prepaid mail.

If to Respondent:

Ouro Inc.
Attn: Austin Smithers, General Counsel
10900-A Stonelake Boulevard, Suite 200
Austin, TX 78759
Email: asmithers2@ouro.com

with a copy to:

Leonard Gordon
Venable LLP
151 W. 42nd Street, 49th Floor
New York, NY 10036
Email: llgordon@venable.com

or in Mr. Smithers' absence, to the person hold the title of General Counsel.

If to the OAG:

New York State Office of the Attorney General
Bureau of Consumer Frauds and Protection
Attn: Christopher L. Filburn, Assistant Attorney General
28 Liberty Street, 20th Floor
New York, NY 10005
Phone: 212.416.8303
Email: christopher.filburn@ag.ny.gov

or in his absence, to the person holding the title of Bureau Chief, Bureau of Consumer Frauds and Protection.

Representations & Warranties

82. The OAG has agreed to the terms of the Assurance based on, among other things, representations made by Respondent and its counsel and the OAG's own factual investigation as set forth in Findings, paragraphs 1 to 57 above. Respondent represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent or its counsel are later found to be inaccurate or misleading, the OAG may in its sole discretion take action to void the Assurance.

83. No representation, inducement, promise, understanding, condition, or warranty not set forth in the Assurance has been made to or relied upon by Respondent in agreeing to the Assurance.

84. Respondent represents and warrants, through the signatures below, that the terms and conditions of the Assurance are duly approved. Nothing in this paragraph affects Respondent's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the OAG is not a party.

85. Respondent agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis.

General Principles

86. Nothing in the Assurance shall relieve Respondent of other obligations imposed by any applicable state or federal law or regulation, or other applicable law.

87. Nothing in the Assurance shall be construed to limit the remedies available to the OAG in the event that Respondent violates the Assurance after the Effective Date.

88. The Assurance may not be amended except by an instrument in writing (which may be electronic) signed on behalf of the Parties to the Assurance.

89. In the event that any one or more of the provisions contained in the Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of the Assurance.

90. Respondent acknowledges that it has entered the Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

91. The Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

92. The Assurance and all its terms, other than the OAG Findings, shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

93. The Assurance may be executed in multiple counterparts by the Parties, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. For purposes of the Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned, or transmitted electronically, and electronic signatures, shall be deemed original signatures for purposes of the Assurance.

94. The effective date of the Assurance shall be the date upon which it has been fully executed by all of the signatories hereto (the "Effective Date").

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By: Jane M. Azia
Date: 1/30/25

Jane M. Azia
Bureau Chief
Bureau of Consumer Frauds and Protection

By: [Signature]
Date: 1-30-25

Christopher L. Filburn
Assistant Attorney General
Bureau of Consumer Frauds and Protection

OURO GLOBAL, INC.

By: [Signature]
Date: January 28, 2025

Austin Smithers, Esq.
General Counsel

VENABLE LLP

By: [Signature]
Date: 1-29-25

Leonard L. Gordon, Esq.