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**STATE OF
COLORADO
DEPARTMENT OF LAW**

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Thank you for the opportunity to apply as a recognized UOOM. Please find answers to the application questions in line below in blue text.

John Ruder,
Founder, CEO of Known Privacy, PBC

COLORADO PRIVACY ACT: APPLICATION FOR INCLUSION IN COLORADO'S PUBLIC LIST OF UNIVERSAL OPT-OUT MECHANISMS

The Colorado Privacy Act (CPA) contains express Consumer¹ rights, including the rights of Colorado Consumers to opt out of the Sale of Personal Data and the Processing of Personal Data for Targeted Advertising. Beginning on July 1, 2024, organizations that fall within the CPA's application thresholds² must allow Consumers to opt-out of the Sale of their Personal Data or use of their Personal Data for Targeted Advertising using a Universal Opt-Out Mechanism ("UOOM") that meets the technical specifications set forth by the Attorney General in the CPA Rules. C.R.S. § 6-1-1306.

To ensure that Consumers and Controllers know which UOOMs will be enforced in Colorado, CPA Rule 5.07 explains that the Attorney General will "maintain a public list of Universal Opt-Out Mechanisms that have been recognized to meet the standards of this subsection," and that the list "shall be released no later than January 1, 2024, and shall be updated periodically." 4 CCR 904-3, Rule 5.07.

To compile the Colorado Attorney General's UOOM list (the "List"), the Department of Law ("The Department") will solicit applications and comment from the public. The information contained herein is intended to guide individuals or entities applying to have a specific UOOM included in the List.

I. Instructions

If you wish to apply to have a UOOM included in the List, please read all information contained herein and respond thoroughly to each question in this application packet. When you have completed your application, please save it as a .pdf file and submit it using the portal available at coag.gov/cpa. Please contact our office at coprivacy@coag.gov if you need special accommodations.

Applications will be accepted through the UOOM application portal located at coag.gov/cpa until 11:59 PM MST on November 6, 2023. Applications received outside of this specified

¹ All undefined terms capitalized herein shall be interpreted as defined in the CPA or CPA Rules.

² C.R.S. § 6-1-1304

period will not be considered. To ensure that your application is considered, please complete all required fields in the portal form, including the names of each person or entity involved in developing and submitting the UOOM application.

Once your application has been submitted, it will be reviewed by the Colorado Department of Law (the "Department") and may be selected for a narrow list of potential UOOMs (the "Shortlist"). The Department will publish the Shortlist of UOOMs and their accompanying applications on or around November 20, 2023. Members of the public will be invited to review the UOOMs included in the Shortlist and provide comments. If your UOOM is included in the Shortlist, the entire application will be made available to the public for public comment. Please do not include personal, trade secret, confidential, or proprietary information in your application.

II. Criteria

To be considered for the List, a UOOM must meet all requirements described in the CPA and CPA Rules. The Department strongly urges organizations and entities to work collaboratively in groups to propose UOOMs and to obtain broad pre-submission input from diverse sets of stakeholders. The Attorney General will prioritize and give paramount consideration to applications that have been submitted by groups that represent a broad cross-section of affected stakeholders. The specific factors that will be considered are:

- Compliance with the requirements of the CPA and the CPA rules
 - UOOMs included in the list must comply with:
 - Notice and choice requirements contained in 4 CCR 904-3, Rule 5.03.
 - Default setting limitations contained in 4 CCR 904-3, Rule 5.04.
 - Personal data use limitations discussed in 4 CCR 904-3, Rule 5.05.
 - The required technical specifications described in 4 CCR 904-3, Rule 5.06.
 - The standards set forth in 4 CCR 904-3, Rule 5.07 (C).
 - The standards set forth in CRS § 6-1-1313(2).
 - The Department will also consider the factors set forth in 4 CCR 904-3, Rule 5.07(D).
- The process used and breadth of participation in developing the UOOM submission – The breadth of participation in developing the proposed UOOM (e.g. participation by stakeholders such as users, developers, publishers, and advertisers).
 - The extent of solicited and considered third-party comments from other stakeholders, including from the general public.

• Criteria relating to the technical and business implementation:

- Interoperability and compatibility of the UOOM with the laws of other jurisdictions.
- Ability of the UOOM to adapt to changing technology.
- Scope of the UOOM.
- Results of previous tests or reviews concerning the UOOM.

• Other Relevant criteria

III. Application Questions

Please answer each question in this section thoroughly in a separate document, attaching additional information as needed. Once you have completed the answers to each question, please save your entire document as a .pdf file and submit the file through the application portal located at coag.gov/cpa.

1. What is the name of the proposed UOOM?

[The Opt-Out Machine](#)

2. What are the names of the individual(s) or organization(s) submitting this application?

[John Ruder, Founder & CEO of Known Privacy, PBC](#)

3. Please provide a general overview of the UOOM, in plain English.

[The purpose of the Opt-Out Machine is to proactively engage companies that have in the past collected 1st, 2nd or 3rd party data about individuals to request that they stop selling that personal data, send a copy of that data back to the individual, or delete it.](#)

[It does this proactively at scale, automatically, so that individuals do not need to visit hundreds or thousands of entities separately, fill out hundreds or thousands of forms, or verify their identities hundreds or thousands of times required by each entity.](#)

4. Please provide the specification for the UOOM.

[The primary mechanism the Opt-Out Machine uses is **email** correspondence.](#)

[We are advocating that if a company receives an email as the form of Opt-Out Mechanism, it must honor that email to be in compliance with the CPA.](#)

[It may in the future use Robotic Process Automation \(bots, either traditional or AI powered\) to automatically fill out forms, but this is creates its own set of challenges.](#)

5. What steps would a Consumer have to take to use the UOOM? Please include whether the UOOM will be a default setting for a tool that comes pre-installed with a device.

[Sign up for the Opt-Out Machine service, either as an employee of a company, or as an individual. The Opt-Out Machine then reaches out proactively to likely holders of consumer data via email, primarily Data Brokers.](#)

[The individual provides identifying data to match records against those held in 3rd party databases, grants limited power of attorney for the tool to exercise data and privacy rights](#)

requests (only) and then initiates the process of proactively opting out to 3rd parties, such as data brokers.

The Opt-Out Machine may also be bundled with other services - cyber security services, data wallets, VPNs or other service offerings that are of relevance.

6. What steps would a Controller have to take to detect the UOOM?

Make an email address publicly available and then monitor it.

7. When your UOOM is used by a Consumer, how can a Controller determine that the consumer using the UOOM is a Resident of the State of Colorado and that the use represents a legitimate request to opt out of the Processing of Personal Data?

In all cases, we ask the consumer to provide their physical address as a data matching mechanism. In some cases, we ask the consumer to provide proof of identity, which the Opt-Out Machine verifies with a 3rd party service provider. The Opt-Out Machine then notifies the Controller that it has done that identity verification.

8. What are the costs of use, implementation, and detection of the UOOM by Consumers and Controllers?

The cost varies as we discover price elasticity in the marketplace. The highest price we have charged in the market is \$150 per consumer, per year. The lowest is a 'Do it yourself version' for \$30 per Consumer per year.

We anticipate that there will be cases where the Opt-Out Machine is offered for free, but this is dependent on many factors and market conditions.

9. Is the UOOM based on an open system or standard that is free for adoption without permission or on fair, reasonable, and non-discriminatory terms?

Yes, since email is a pervasive technology that is low or no cost to leverage.

10. How will personal data collected in connection with the Consumer's utilization of the UOOM be used, disclosed, or retained? Please include whether the UOOM will be used as part of a digital fingerprint.

Upon sign up of the Opt-Out Machine, certain data is collected in order to match against other databases in which it is held.

11. Has the UOOM been adopted by Consumers or Controllers?

Yes. Many companies voluntarily accept email as a legitimate channel to make Opt-Out requests, but not all. Many reject it in their attempts to avoid compliance with privacy laws.

12. Has the UOOM been approved or is being actively considered by a widely recognized, legitimate standards body after multistakeholder participation in the standards-making process? If so, which?

No. We are a startup business using simple and available technical approaches to solve problems for consumers.

13. Which individuals and organizations have been involved in developing the UOOM?

Known Privacy, PBC developed the Opt-Out Machine. John Ruder and Brendan Roberts are the founders of the company.

14. How did you solicit and consider stakeholder input while developing the UOOM and/or this application?

We have tested the application in the marketplace and have received feedback from both Consumers and Data Brokers.

15. Which stakeholders provided input on the UOOM?

Consumers and Data Brokers. We can't publicly disclose who our customers are, but have engaged with over 300 Data Brokers in our operation of the platform.

16. Is the UOOM likely to comply with the requirements of other jurisdictions that recognize universal opt-out mechanisms or signals by law?

Yes. We have mostly relied on the CPRA as the primary benchmarks for what privacy law will look like.

17. Has the UOOM already been recognized by any jurisdiction?

Our interpretation of the CPRA is that email is an acceptable form of communication to make Opt-Out Requests and other data or privacy rights requests. It is possible for others to interpret the statutes in such a way as to make counter arguments, but these are certainly not within the spirit of the law.

18. Is the UOOM flexible, especially in light of changing user preferences, business model changes, and shifts in the laws of other regulations?

Yes, there are many ways to leverage basic messaging to automate the process of consumer rights requests. Email is very mature as a technology and there are many tools to automate the processing of these requests at scale.

19. What is the scope of the UOOM?

- a. Does the UOOM function with phones, computers, and/or any other devices? Does the UOOM provide just one opt out right as opposed to both?

The Opt-Out Machine is flexible in that it can use different channels when combined with other technologies.

For instance,

- 'text-to-speech' technology combined with telephony systems would allow the system to place a phone call and read the email request over the phone.
- API could act as a channel for messages making privacy or data requests

These capabilities are not built, but could be if there were sufficient market or regulatory need

The scope of the Opt-Out Machine will scale to handle all privacy related requests:

- Right to Opt-Out of the sale or sharing of personal data (defining personal data to the full extent possible)
- Right to Know requests, to get a copy of the data held by 3rd parties and put it in the hands of the consumer
 - Known Privacy will not be able to access that data without explicit permission from the consumer.
- Right to delete requests
- Right to correct requests

20. Has the UOOM been vetted by expert reviewers? Has it been tested in laboratory or real world environments?

a. If yes, please share the results of any tests or reviews.

Yes, it has been tested in real world settings with Data Brokers. We have developed score cards for each data broker and their commitment to compliance. We are not prepared to share the results yet, but will in the future.

21. Are there any additional factors that you would like the Attorney General to consider in reviewing your UOOM application?

The way that privacy laws are currently constructed, consumers can't practically leverage them. There are over 500 hundred data brokers listed in state-level registries (in CA and VT) that collect consumer data without the genuine understanding, knowledge or permission from those consumers.

Businesses that collect this data at scale all direct consumers to fill out a form and make them jump through a series of hoops to exercise their privacy rights. Businesses insist on reducing their cost of compliance by shifting the burden to Consumers and making them fill out forms.

No consumers will fill out hundreds of forms or verify their identity hundreds of times.

We are advocating that if a company receives an email as the form of Opt-Out Mechanism, it must honor that email to be in compliance with the CPA.