

**State of California  
Office of Administrative Law**

In re:

Department of Justice

Regulatory Action:

Title 11, California Code of Regulations

Adopt sections: 999.24, 999.25, 999.26,  
999.29

Amend sections: 999.10, 999.11, 999.14,  
999.16, 999.17, 999.19,  
999.20, 999.21, 999.22

NOTICE OF APPROVAL OF CERTIFICATE OF  
COMPLIANCE

Government Code Section 11349.1 and  
11349.6(d)

OAL File No. 2012-0326-03 C

The Department of Justice (Department) submitted this timely Certificate of Compliance action to make permanent the emergency regulations adopted in OAL File Nos. 2011-0330-02E, 2011-0927-01EE, and 2011-1223-01EE. The emergency regulations were adopted to enhance title 11 procedures and requirements that govern the sale and distribution of cigarettes and roll-your-own tobacco products in California. The existing regulations were adopted to assure compliance with state financial responsibility laws pertaining to tobacco product manufacturers. Revenue and Taxation Code section 30165.1 requires that all tobacco product manufacturers and brand families be listed on a directory maintained by Department on its web site in order to conduct business in California. The emergency action implemented recent enhancements to Department's authority and jurisdiction over tobacco manufacturers and importers enacted in AB 2496 (Stats. 2010, ch. 265). The emergency regulations provide additional requirements, documentation, and forms that are required under AB 2496 for tobacco manufacturers to demonstrate compliance with the laws governing the sale and distribution of the specified tobacco-related products and to maintain listing on the Department's website.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: 5/7/2012



Richard L. Smith  
Staff Counsel

For: DEBRA M. CORNEZ  
Director

Original: Kamala Harris  
Copy: Erica Goerzen

**State of California  
Office of Administrative Law**

**In re:**  
**Department of Justice**

**NOTICE OF REPEAL AND DELETION**

**Regulatory Action:**

**Government Code Sections 11346.1 and  
11349.6(d)**

**Title 11, California Code of Regulations**

**OAL File No. 2012-0326-03 C**

**Adopt sections: 999.27, 999.28**

**Amend sections:**

**Repeal sections:**

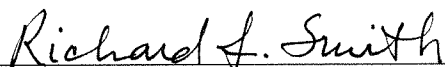
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Pursuant to section 11346.1 of the Government Code, you are hereby notified that regulatory changes (adoptions, amendments and/or repeals) made by the above described regulatory action were repealed by operation of law 90 days from their effective date. This repeal occurred because the regulatory adoption process was not completed in compliance with the Administrative Procedure Act within 90 days of the effective date of the regulatory action.

Notice is further given that the above described regulation(s) or amendment(s) thereto, will be deleted from the California Code of Regulations pursuant to provisions of section 11346.1 and 11349.6(d) of the Government Code. In the event the emergency action was an amendment or order of repeal, the text of regulation(s) as it existed prior to the amendment or order of repeal will be reprinted in the California Code of Regulations.

A copy of this notice will be filed with the Secretary of State today. If you have any questions regarding this notice, please contact Richard L. Smith, at (916)323-6809 or [rsmith@oal.ca.gov](mailto:rsmith@oal.ca.gov).

**Date:** Monday, May 07, 2012



Richard L. Smith  
Staff Counsel

**For:** DEBRA M. CORNEZ  
Director

**Original:** Kamala Harris  
**Copy:** Erica Goerzen

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER <b>2012-0326-03C</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		2012 MAY 20 P. 3:51	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Justice			AGENCY FILE NUMBER (if any)

## A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <b>2011, 46-2</b>	PUBLICATION DATE <b>11-18-11</b>

## B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Implement regulations needed by the enactment of AB 2496		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2011-0330-02E; 2011-0927-01EE; and 2011-1223-01EE	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 999.24, 999.25, 999.26, 999.27, 999.28, and 999.29 <i>AS OAL per agency</i>	
TITLE(S) Title 11		AMEND 999.10, 999.11, 999.14, 999.16, 999.17, 999.19, 999.20, 999.21, and 999.22	
3. TYPE OF FILING		REPEAL	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____		<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) January 5, 2012 to January 20, 2012			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Erica Goerzen		TELEPHONE NUMBER (916) 322-0908	FAX NUMBER (Optional) (916) 324-5033
		E-MAIL ADDRESS (Optional) Erica.Goerzen@doj.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

Rochelle C. East, Chief Deputy Attorney General, Legal Affairs

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 07 2012

Office of Administrative Law

**CALIFORNIA CODE OF REGULATIONS**  
**TITLE 11. LAW**  
**DIVISION 1. ATTORNEY GENERAL**  
**CHAPTER 16. ATTORNEY GENERAL REGULATIONS UNDER**  
**MASTER SETTLEMENT AGREEMENT**  
**WITH TOBACCO PRODUCT MANUFACTURERS**  
**AND NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER LAW**  
**(HEALTH & SAFETY CODE SECTIONS 104555-104557)**

**999.10 Scope and Purpose, Definitions, and Written Confirmation of Compliance with Reserve Fund Requirements by Non-Participating Tobacco Product Manufacturers**

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**(c) Confirmation of Compliance with Reserve Fund Requirements**

(1) Before an NPM sells or ships Cigarettes or Roll-your-own tobacco to a Distributor or Wholesaler for sale in California, the NPM shall provide written confirmation to the Distributor or Wholesaler that said manufacturer has either become a participating manufacturer under the MSA and is generally performing its financial obligations under the MSA, or has made the requisite escrow deposits and certification of compliance required of NPMs by Health and Safety Code section 104557 and these regulations. A copy of the CERTIFICATION OF COMPLIANCE AND AFFIDAVIT BY NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER REGARDING DEPOSIT OF RESERVE FUNDS INTO ESCROW ("Certificate of Compliance" JUS-TOB3 Rev. 02/2011) filed with the Attorney General by an NPM or an equivalent notarized statement which has been approved by the Attorney General pursuant to section 999.11 is adequate written confirmation for the purposes of this section.

(2) An NPM which has not sold tobacco products in California before these regulations become effective shall not sell or ship Cigarettes or Roll-your-own tobacco to a Distributor or Wholesaler purchasing or accepting orders for any Cigarettes or Roll-your-own tobacco for sale in California, unless the NPM has provided written confirmation to the Distributor or Wholesaler that the NPM has received and reviewed a copy of Health and Safety Code sections 104555-104557 and these implementing regulations. During the first quarter year of sales in California, an NPM must provide written confirmation of compliance either by producing a copy of the ACKNOWLEDGMENT OF RECEIPT & REVIEW OF NPM RESERVE FUND STATUTE, IMPLEMENTING REGULATIONS & FORMS ("Acknowledgment of Receipt & Review" form - JUS-TOB5 Rev. 04/2004), or an equivalent notarized statement which has been approved by the Attorney General, filed with the Attorney General.

An NPM shall complete and file the Acknowledgment of Receipt & Review (JUS-TOB5 Rev. 04/2004) with the Attorney General within thirty (30) days of receipt. Thereafter, the NPM shall provide copies of the form, as filed with the Attorney General, to Wholesalers and Distributors before the NPM sells or ships its tobacco products to a

Wholesaler or Distributor until the end of the first quarter year in which the NPM began selling in California, when it must file its first Certificate of Compliance (JUS-TOB3 Rev. 02/2011). The filed Acknowledgment of Receipt & Review (JUS-TOB5 Rev. 04/2004) shall constitute adequate written confirmation of compliance only until the end of the first quarter year in which the NPM began selling tobacco products in California. No deviation from the Acknowledgment of Receipt & Review shall be permitted without the prior written approval of the Attorney General.

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Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code; Sections 11110-11113, Government Code; Section 104557(c), Health and Safety Code; and Article 5, Section 13 of the California Constitution. Reference: Section 30165.1(a), Revenue and Taxation Code; and Sections 104555, 104556 and 104557, Health and Safety Code.

#### **999.11 Certificate of Compliance Form**

(a) The certification required of NPMs by Health and Safety Code section 104557(c) shall be on the Certificate of Compliance (JUS-TOB3 Rev. 02/2011). The completed form shall be signed under oath before a notary public and include the following information:

- (1) The escrow account number and the amount held in the account;
- (2) A copy of the receipt or other proof of escrow deposit from the financial institution;
- (3) A copy of the escrow agreement; and
- (4) Date and signature of a notary public.

(b) No deviation from the Certificate of Compliance (JUS-TOB3 Rev. 02/2011) shall be permitted without the prior written approval of the Attorney General. Except when more frequent escrow deposits and certifications are required by 999.20 or directed by the Attorney General, the completed Certificate of Compliance must be received by the Attorney General on or before April 30 of the year following the sales year that is the subject of the certificate. A BRAND FAMILIES UNIT SALES SCHEDULE 1 (JUS-TOB4 Rev. 02/2011 or "Schedule 1") must be completed and attached to the completed Certificate of Compliance.

Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code; Sections 11110 - 11113, Government Code; Section 104557(c), Health and Safety Code; and Article 5, Section 13 of the California Constitution. Reference: Section 30165.1(a), Revenue and Taxation Code; and Section 104557(c), Health and Safety Code.

## **999.14 Escrow Adjustments and Release Requests**

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### **(c) Form and contents of request**

To be eligible for consideration, a request for an adjustment by an NPM must be made in writing and must be accompanied by supporting documentation which establishes compliance with all other aspects of the reserve fund requirements and the basis for the escrow release request. The supporting documentation, at a minimum, must include:

(1) A timely filed Certification of Compliance (JUS-TOB3 Rev. 02/2011) or timely filed Acknowledgment of Receipt & Review (JUS-TOB5 Rev. 04/2004), a timely filed Schedule 1 (JUS-TOB4 Rev. 02/2011), an Escrow Agreement (JUS-TOB6 Rev. 02/2004) and an affidavit identifying all current officers, owners and agents for service of process for the manufacturer and all cigarette brands owned or made by the manufacturer. When a manufacturer does not own the trademark(s) for the cigarette brand(s) that it makes or imports or sells, the affidavit shall identify the trademark owner(s) of the cigarette brand(s) sufficiently to enable regular contact and communication with the brand owner(s) by the State. These forms must be completed and timely filed in compliance with Health & Safety Code sections 104555-104557.

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Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code; Sections 11110-11113, Government Code; Section 104557(c), Health and Safety Code; and Article 5, Section 13 of the California Constitution. Reference: Section 30165.1(a), Revenue and Taxation Code; and Sections 104556 and 104557, Health and Safety Code.

## **999.16 Certifying for Listing on Directory of Tobacco Product Manufacturers and Brand Families**

### **(a) Certification Process**

A Tobacco Product Manufacturer shall apply for listing on the Directory established by the Attorney General by submitting a complete, timely and accurate Certification with supporting documentation in the manner specified and on forms required by the Attorney General. A Tobacco Product Manufacturer and its Brand Families will not be listed on the Directory, or will be removed from the Directory, if the Tobacco Product Manufacturer or any of its Brand Families are not in full compliance with the terms and requirements of the Reserve Fund Statute, Revenue and Taxation Code section 30165.1 and any regulations adopted pursuant thereto.

(1) Timing: No later than April 30, 2004, all Tobacco Product Manufacturers whose Cigarettes are sold in California shall submit a completed CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (JUS-TOB1 Rev. 09/2010, or "Certification"), with supporting documentation as specified.

After April 30, 2004, Tobacco Product Manufacturers which intend to sell Cigarettes in California shall complete and submit a Certification and be listed on the Directory prior to any sales in California.

Thereafter, all Tobacco Product Manufacturers listed on the Directory must execute and submit a Certification with supporting documentation on or before April 30th each year.

(2) Only Authorized Individuals Can Sign

All forms required by these regulations shall be signed by an officer or other authorized individual of the Tobacco Product Manufacturer who certifies that the responses and disclosures in the forms are true and accurate and that the individual completing the forms is authorized to bind the Tobacco Product Manufacturer.

(b) Required Documentation: Tobacco Product Manufacturers must complete and submit the following documents with their annual Certification:

(1) All Tobacco Product Manufacturers must submit samples of packaging and labeling for all Brand Families and styles, their signed waiver of sovereign immunity pursuant to Section 999.24, ~~any documents providing reasonable assurances pursuant to Section 999.27 if the manufacturer or its importers engage in delivery sales,~~ and their completed Cigarette Brand Styles Authentication form pursuant to Section 999.29.

(2) Non-Participating Manufacturers (NPMs) must also submit:

(A) CERTIFICATION OF COMPLIANCE AND AFFIDAVIT BY NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER REGARDING DEPOSIT OF RESERVE FUNDS INTO ESCROW (JUS-TOB3 Rev. 02/2011, or "Certification of Compliance"). This form is required to comply with California's Reserve Fund Statute (Health and Saf. Code, §§ 104555-104557). The CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (JUS-TOB1 Rev. 09/2010) required by Revenue and Taxation Code section 30165.1 does not replace this form (JUS-TOB3 Rev. 02/2011). Both forms must be filed on or before April 30th of each year, unless the NPM is required by regulation or directed by the Attorney General to submit this form (JUS-TOB3 Rev. 02/2011) more frequently.

(B) BRAND FAMILIES UNIT SALES SCHEDULE 1 (JUS-TOB4 Rev. 02/2011, or "Schedule 1"): This form is required to comply with California's Reserve Fund Statute.

(C) NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT FOR NON-PARTICIPATING MANUFACTURER (JUS-TOB2 Rev. 02/2011): If a non-resident or foreign NPM is not registered to do business in California, the NPM shall complete, sign and file with the Attorney General a NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT FOR NON-PARTICIPATING

MANUFACTURER (JUS-TOB2 Rev. 02/2011). (See section 999.21 for requirements upon the termination of the appointed agent for service.)

(D) Copies of all current licenses, if any, issued by the Board pursuant to Division 8.6 (commencing with section 22970) of the Business and Professions Code.

(E) If the NPM is a corporation: (1) a current copy of its corporate charter or certificate of corporate existence or incorporation, and; (2) document(s) identifying officers and directors and each person who holds more than ten percent of the stock of such corporation.

(F) If the NPM is a partnership or association, a current copy of its articles of partnership or association, if any, or the certificate of partnership or association where required to be filed by any nation, state, county, or municipality.

(G) Documents filed under the federal Jenkins Act: Copies of all reports, if any, filed with the Board to comply with the Jenkins Act (15 U.S.C. section 375) for sales in the preceding 12 months.

(H) For each Brand Family, a copy of the Federal Trade Commission's written approval of the annual cigarette health warning rotation plan prior to distribution in the United States (15 U.S.C. section 1333).

(I) A copy of all certificates of compliance received by the NPM from the U.S. Department of Health and Human Services for the annual ingredient reporting required by the Federal Cigarette Labeling and Advertising Act (15 U.S.C. section 1335a).

(J) A copy of the NPM's current permit as a manufacturer or importer of tobacco products obtained from the United States Treasury, Tobacco Tax Bureau (TTB), formerly Bureau of Alcohol Tax and Firearms (BATF), pursuant to 26 U.S.C. Chapter 52, and regulations issued thereunder.

(K) For each Brand Family that is imported into the United States, copies of the following documents:

1. the sworn statement(s) of the original manufacturer that it will timely submit ingredients to the Secretary of Health and Human Services as required by 19 U.S.C. section 1681a.
2. the importer's certificate(s) under penalty of perjury as required by 19 U.S.C. section 1681a regarding the precise format of warnings and the rotation plan for health warnings.
3. the trademark holder's certificate(s) under penalty of perjury that it has not withdrawn consent to import into the United States as required by 19 U.S.C.



section 1681a OR the importer's certificate(s) under penalty of perjury that the trademark owner has not withdrawn consent to import into the United States as required by 19 U.S.C. section 1681a.

(L) Copies of all the following forms completed by their importers as specified in section 999.25:

1. UNITED STATES IMPORTER DECLARATION ACCEPTING JOINT AND SEVERAL LIABILITY (JUS-TOB12 Rev. 02/2011)

2. NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT FOR IMPORTER (JUS-TOB13 Rev. 02/2011)

3. All current licenses issued by the Board pursuant to Division 8.6 (commencing with section 22970) of the Business and Professions Code to each United States importer who sell or will sell its cigarettes in California.

(M) All surety bonds posted as specified in section 999.26.

~~(N) All documents providing reasonable assurances pursuant to section 999.28.~~

(c) Changes in Ownership or Control Requiring New Certification

An NPM must submit a new CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (JUS-TOB1 Rev. 09/2010) whenever there are changes in ownership or control, including but not limited to:

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Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code. Reference: Section 30165.1(b), 30165.1(c), 30165.1(f) and 30165.1(g), Revenue and Taxation Code.

#### **999.17. Supplemental Certifications**

(a) In those instances in which a supplemental Certification is required by Revenue and Taxation Code section 30165.1(b)(1) or section 30165.1(b)(2)(D), a Tobacco Product Manufacturer shall submit a supplemental CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (JUS-TOB1 Rev. 09/2010) with the Attorney General no later than thirty (30) days prior to the specified changes.

(b) A Tobacco Product Manufacturer shall also submit a supplemental Certification where information in a previously submitted Certification or documents submitted along with the previously submitted Certification are no longer accurate and complete. The supplemental CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (JUS-TOB1 Rev. 09/2010)

must be submitted no later than thirty (30) days after the information has become inaccurate or incomplete.

(c) The Tobacco Product Manufacturer shall check the box marked “supplemental” at the top of the form, enter only the changed information and sign and date the form.

(d) The failure to timely submit supplemental Certifications may subject the Tobacco Product Manufacturer and its Brand Families to removal from the Directory.

Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code. Reference: Section 31065.1(b), Revenue and Taxation Code.

### **999.19 Records Retention by Distributors and Wholesalers and Availability for Review, Inspection, and Copying**

#### **(a) Records Retention**

A Wholesaler or Distributor of Cigarettes or tobacco products shall maintain in one designated location the following documents:

(1) Copies of all written acknowledgments of receipt by the Attorney General’s Office of a Tobacco Product Manufacturer’s Certification (JUS-TOB1 Rev. 09/2010), stamped Certifications of Compliance (JUS-TOB3 Rev. 02/2011) or Acknowledgments of Receipt & Review (JUS-TOB5 Rev. 04/2004) provided to the Distributor or Wholesaler by a Tobacco Product Manufacturer;

(2) Copies of all requests by the Distributor or Wholesaler for a copy of written acknowledgments of receipt by the Attorney General’s Office of a Tobacco Product Manufacturer’s Certification (JUS-TOB1 Rev. 09/2010), stamped Certifications of Compliance (JUS-TOB3 Rev. 02/2011), or Acknowledgments of Receipt & Review (JUS-TOB5 Rev. 04/2004) when not provided by the Tobacco Product Manufacturer;

(3) Copies of all reports by the distributor or wholesaler to the Attorney General of the failure of a Tobacco Product Manufacturer to provide copies of written acknowledgments of receipt by the Attorney General’s Office of a Tobacco Product Manufacturer’s Certification (JUS-TOB1 Rev. 09/2010), stamped Certification of Compliance (JUS-TOB3 Rev. 02/2011) or Acknowledgment of Receipt & Review (JUS-TOB5 Rev. 04/2004);

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Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code. Reference: Section 30165.1(b) and 30165.1(g), Revenue and Taxation Code.

## **999.20 More Frequent Installment Escrow Deposits for Certain Non-Participating Manufacturers**

(a) Quarterly or More Frequent Installments and Certifications: When directed by the Attorney General, an NPM shall make quarterly or more frequent deposits into a Qualified Escrow Fund and certify compliance to the Attorney General. Quarterly deposits are due on or before the following dates: April 21, July 20, October 21, and January 21. The NPM shall instruct the financial institution where its Qualified Escrow Fund is maintained to provide quarterly or more frequent reports of all the escrow transactions, including all deposits, withdrawals, or transfers made that quarter. Where the NPM is required to make quarterly or more frequent escrow deposits, the NPM shall also complete and file a Certification of Compliance (JUS-TOB3 Rev. 02/2011) and Schedule 1 (JUS-TOB4 Rev. 02/2011) for each such reporting period.

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Note: Authority cited: Section 30165.1(h) and 30165.1(o), Revenue and Taxation Code. Reference: Section 30165.1(g) and 30165.1(h), Revenue and Taxation Code.

## **999.21 Notices of Appointment or Termination of Agent for Service of Process**

(a) Every non-resident or foreign NPM that has not registered to do business in California must appoint and continuously engage the services of a California registered agent to receive service of process on behalf of the NPM and submit proof of the appointment and availability of the agent to the Attorney General by completing and filing a NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT FOR NON-PARTICIPATING MANUFACTURER (JUS-TOB2 Rev. 02/2011).

(b) A non-resident or foreign NPM shall provide at least thirty (30) days notice prior to termination of the appointment by the NPM of its resident agent for service of process in California by completing and filing with the Attorney General a notice of the termination of the agent (JUS-TOB2 Rev. 02/2011). The NPM shall further provide proof of the appointment of a new agent at least 5 days before termination by the NPM of the existing appointment (JUS-TOB2 Rev. 02/2011).

(c) In the event the designated agent for service terminates its agency relationship with the NPM, the non-resident NPM shall provide notice to the Attorney General of the termination within five days of receiving notice of the termination and shall include with such notice proof of the appointment of a new service agent by completing and filing a notice of the termination for service of process and appointment of new service agent (JUS-TOB2 Rev. 02/2011).

Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code. Reference: Section 30165.1(f), Revenue and Taxation Code.

## **999.22 Duties and Defenses of California Distributors**

(a) Distributor Duties. Every Distributor shall complete and submit a DISTRIBUTOR ELECTRONIC MAIL REGISTRATION (JUS-TOB8 Rev. 02/2004) for the purpose of receiving any notifications as may be required by Revenue and Taxation Code section 30165.1 and these regulations.

Every Distributor shall also maintain, for a period of five years, and make available to the Attorney General all invoices and documentation of sales and any other information relied upon in reporting to the Attorney General and as further specified in section 999.19.

(b) Distributor Defenses. In order to have the defense described in Revenue and Taxation Code section 30165.1, subdivision (i)(2), a Distributor shall, at the time of the violation,

(1) possess a copy of the Attorney General's Office most recent written acknowledgment of receipt of the Certification (JUS-TOB1 Rev. 09/2010) required as a condition of including the Brand Family on the Directory;

(2) have verified that the Brand Family was listed on the Directory; and

(3) have previously provided its electronic mail ("e-mail") address to the Attorney General for the purpose of receiving notifications of exclusions or removals from the Directory as required by section 30165.1, subdivision (c)(4), of the Revenue and Taxation Code.

Note: Authority cited: Section 30165.1(o), Revenue and Taxation Code. Reference: Section 30165.1(c), 30165.1(g) and 30165.1(i), Revenue and Taxation Code.

## **999.24 Waiver of Sovereign Immunity by Manufacturers and Importers**

(a) Every manufacturer and every importer of cigarettes for sale in California must either waive any sovereign immunity defense to enforcement by the Attorney General or the Board of Equalization of Division 8.6 (commencing with section 22970) of the Business and Professions Code, sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted to implement those statutes, or file a surety bond conditioned upon the performance by the manufacturer or importer of all its duties and obligations under those laws and regulations. The form and manner of any such waiver of sovereign immunity and surety bond must be acceptable to the Attorney General. If directed by the Attorney General, the manufacturer or importer shall include with its fully executed waiver a legal opinion from an attorney confirming that the person or persons executing the waiver have the requisite authority to waive the manufacturer's or importer's sovereign immunity defenses and that the waiver is effective and valid under all applicable federal, state, tribal and foreign laws.

(b) Every manufacturer and importer that may potentially assert tribal sovereign immunity defenses, or that is so directed by the Attorney General, shall complete a State of California

WAIVER OF TRIBAL SOVEREIGN IMMUNITY BY NATIVE AMERICAN TRIBE (JUS-TOB9 Rev. 10/2011), hereby incorporated by reference, in order to waive sovereign immunity defenses. Manufacturers and importers that may potentially assert tribal sovereign immunity defenses include companies where any of the following is true:

- (1) the business is owned by a Native American tribe;
- (2) the business is chartered by a Native American tribe;
- (3) the business is operated for the benefit of a Native American tribe; or
- (4) the business is an "arm" of a Native American tribe.

(c) Every manufacturer and importer that is directly owned, in whole or majority part, by a state, federal, or any other foreign or domestic governmental organization, or that is so directed by the Attorney General, shall have their government's ambassador to the United States complete a State of California WAIVER OF SOVEREIGN IMMUNITY BY GOVERNMENT-OWNED TOBACCO COMPANY (JUS-TOB10 Rev. 10/2011), hereby incorporated by reference.

(d) Every manufacturer and importer not described in (b) or (c) above shall complete California's STANDARD WAIVER OF SOVEREIGN IMMUNITY BY TOBACCO MANUFACTURER OR IMPORTER (JUS-TOB11 Rev. 08/2011), hereby incorporated by reference. This includes, but is not limited to, manufacturers and importers that:

- (1) are owned by a member or members of an Indian or native American tribe;
- (2) were formed by one or more members of a tribe;
- (3) were formed under an Indian tribal code; or
- (4) whose premises, including but not limited to, any manufacturing or storage facility of the manufacturer or its affiliate, including any importers, distributors, wholesalers, or retailers who distribute or sell cigarettes made by the manufacturer, are located on an Indian reservation or other Indian country.

(e) Every manufacturer and importer shall complete and attach a CIGARETTE BRAND STYLE AUTHENTICATION INFORMATION (JUS-TOB15 Orig. 02/2011), hereby incorporated by reference, as required in section 999.29 to identify precisely the cigarettes or roll-your-own tobacco manufactured or imported and to enable the Attorney General and the Board of Equalization to verify the authenticity of the cigarettes or roll-your-own tobacco.

Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code.  
Reference: Section 22979(a)(3) and Section 22979(a)(4), Business and Professions Code; and  
Sections 30165.1(c)(4) and 30165.1(f)(4), Revenue and Taxation Code.

#### **999.25 Declaration of Importer Accepting Strict, Joint and Several Liability**

(a) As a condition for listing on the California tobacco directory, every non-participating manufacturer located outside the United States must submit a notarized declaration from each of its importers into the United States of any of its brands that the importer accepts joint and several liability with the non-participating manufacturer for all escrow deposits due and for all penalties assessed in accordance with Article 3 (commencing with section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, and for payment of all fees, costs, attorney's fees, penalties, and refunds imposed or required under section 30165.1 of the Revenue and Taxation Code, including, but not limited to, all refunds resulting from the removal of the manufacturer or any of its brand families from the directory. In the declaration, the importer shall appoint a resident agent for service of process in California. Finally, the manufacturer must affirm that it has caused every importer that will sell its cigarettes and tobacco products in this state to obtain and maintain a license as an importer pursuant to Division 8.6 (commencing with section 22970) of the Business and Professions Code.

(b) Every non-participating manufacturer must submit a notarized UNITED STATES IMPORTER DECLARATION ACCEPTING JOINT AND SEVERAL LIABILITY (JUS-TOB12 Rev. 02/2011), hereby incorporated by reference, completed and signed by each of its U.S. importers that will sell the manufacturer's cigarettes and tobacco products in California.

(c) Every non-participating manufacturer must submit a notarized NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT FORM FOR IMPORTER (JUS-TOB13 Rev. 02/2011), hereby incorporated by reference, completed and signed by each of its U.S. importer that will sell its cigarettes in California.

(d) Every non-participating manufacturer must submit copies of all current licenses issued by the Board of Equalization pursuant to Division 8.6 (commencing with section 22970) of the Business and Professions Code to each of its U.S. importers that sell or will sell its cigarettes and tobacco products in California.

Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code.  
Reference: Sections 30165.1(b)(3)(E) and 30165.1(f)(4), Revenue and Taxation Code.

#### **999.26 Surety Bonds**

(a) Surety bonds executed by manufacturers and importers pursuant to Business and Professions Code section 22979 or Revenue and Taxation Code section 30165.1 must be issued by a surety corporation that is authorized to conduct business in this state. Business and Professions Code section 22979 requires manufacturers and importers that chose not to waive sovereign immunity defenses to post a surety bond in lieu of a waiver. Newly qualified and elevated-risk non-

participating manufacturers must post surety bonds pursuant to Revenue and Taxation Code section 30165.1(c)(4).

(b) A non-participating manufacturer may be deemed to pose an elevated risk of non-compliance if:

(1) The non-participating manufacturer or any affiliate has failed to deposit the full amount due on a tobacco escrow obligation with respect to any state at any time within the past three (3) calendar years; unless either of the following occur:

(A) The manufacturer did not underdeposit knowingly or recklessly and the manufacturer promptly cured the underdeposit within 180 days of notice of it; or

(B) The underdeposit or lack of deposit is the subject of a good faith dispute as documented to the satisfaction of the Attorney General and the underdeposit is cured within 180 days of entry of a final order establishing the amount of the required escrow deposit.

(2) Any state has removed the non-participating manufacturer or its brands or brand families or brands or brand families of an affiliate from the state's tobacco directory for noncompliance with a state tobacco escrow deposit or tobacco tax law within the past three (3) calendar years;

(3) Any state has litigation pending against, or an unsatisfied final judgment against, the non-participating manufacturer or any affiliate for escrow due or for penalties, fees, costs, refunds, or attorney's fees related to noncompliance with state tobacco escrow laws;

(4) The non-participating manufacturer sells its cigarettes or tobacco products directly to consumers via remote or other non-face-to-face means;

(5) A state or federal court has determined that the non-participating manufacturer has violated any tobacco tax or tobacco control law or engaged in unfair business practice or unfair competition;

(6) Any state has suspended or revoked the non-participating manufacturer's license to engage in any aspect of tobacco business;

(7) Any state or federal court has determined that the non-participating manufacturer has failed to comply with state or federal law imposing marking, labeling, and stamping requirements or requiring information to be affixed to, or contained in, the labels, markings, or packaging; or

(8) The non-participating manufacturer fails to submit or complete any required forms, documents, certification, or notices, in a timely manner or, to the satisfaction of the Attorney General or the State Board of Equalization.

(c) Manufacturers and importers shall post the required surety bond by using the CALIFORNIA TOBACCO MANUFACTURER AND IMPORTER SURETY BOND (JUS-TOB14 Rev. 10/2011), hereby incorporated by reference. Surety bond forms must also be signed by an attorney-in-fact or by a representative of the bonding company.

(d) Surety bonds must indicate the name of the manufacturer or importer as shown on the license issued by the Board of Equalization. For a limited partnership, the names of the general partners and the name of the limited partnership must also be shown. For partnerships, the names of the partners must be shown.

(e) Surety bonds shall be posted by a corporate surety in an amount equal to the greater of fifty thousand dollars (\$50,000) or the amount of escrow the manufacturer in either its current or predecessor form was required to deposit as a result of the largest of its most recent five (5) calendar years' sales in California. The bond shall be written in favor of the State of California. The bond may be drawn upon by the Attorney General to cover unsatisfied escrow obligations, tax obligations, claims for penalties, claims for monetary damages, and any other liabilities that are subject to the licensee's claim of sovereign immunity against enforcement of the laws specified above.

Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code; Section 11110, Government Code. Reference: Section 22979(a)(4), Business and Professions Code; Sections 30165.1(c)(4)(B) and 30165.1(c)(4)(C)(iv), Revenue and Taxation Code.

**999.27 Reasonable Assurances of Compliance & Compliance by Delivery Sellers** *per agency RS/OAL*

**(a) Reasonable Assurances of Compliance by Manufacturers and Importers:**

*W. J. R. W. J. R.*  
~~Pursuant to Revenue and Taxation Code section 30165.1, subdivision (e)(2)(E), neither a manufacturer nor a brand family will be included or retained on the California tobacco directory if the manufacturer or its importer engages in delivery sales and fails to provide reasonable assurances to the Attorney General that the delivery seller has complied with all the federal and state laws specified in (b), below, including all tax stamping, marking and labeling requirements and any other state laws applicable to the sale and distribution of tobacco products. Reasonable assurances include, but are not limited to:~~

~~(1) voluntarily providing a surety bond that guarantees compliance with all the federal and state laws specified in subdivision (b), below;~~

~~(2) entering into an enforceable agreement, compact or treaty with their distributors and the Attorney General to:~~

~~(A) sell only to and through entities that are licensed pursuant to Division 8.6 (commencing with Section 22970) of the Business and Professions Code and~~



per agency  
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distributors that are also licensed to affix California cigarette tax stamps pursuant to Revenue and Taxation Code sections 30140 or 30140.1, and;

(B) purchase, possess and sell only cigarettes whose brand families are listed on the California Tobacco Directory and purchase such cigarettes directly from the manufacturers listed on the California Tobacco Directory.

(3) ~~entering into an enforceable agreement, compact or treaty with the Attorney General and the Board of Equalization to:~~

(A) ~~place on each pack of cigarettes or tobacco products sold in California a unique serial number, in standardized form, which identifies the tobacco product's manufacturer and the location and date of manufacture so as to enable the Attorney General and the Board of Equalization to track and audit compliance by the manufacturer, and;~~

(B) ~~stipulate to pay penalties to the Board of Equalization of four (4) times the state taxes that should have been paid and penalties to the Attorney General of four (4) times the escrow deposits that should have been made to comply with Health and Safety Code section 104557, on any authentic cigarettes seized by law enforcement agencies in California for failure to affix any California tax stamps, pay any California taxes or make any escrow or other payment obligations, including, but not limited to, sections 104555 to 104557, inclusive, of the Health and Safety Code, for violations of Revenue and Taxation Code section 30165.1 or noncompliance with the laws specified in (b) below or any implementing regulations. Authenticity will be determined by the Attorney General, including through the use of the authentication information provided by the manufacturer on its CIGARETTE BRAND STYLE AUTHENTICATION (JUS-TOB15 Orig. 02/2011), as required in section 999.29.~~

(b) ~~A person may engage in delivery sales of cigarettes or tobacco products to a person in California only after the delivery seller files a completed Prevent All Cigarette Trafficking (PACT) Act registration with the U.S. Attorney General, as required by 15 U.S.C. section 376(a)(1), provides a copy of that registration to the Attorney General, and provides further reasonable assurances to the satisfaction of the Attorney General that all of the following conditions are met:-~~

(1) ~~The delivery seller fully complies with all of the requirements of Chapter 10A (commencing with section 375) of Title 15 of the United States Code, otherwise known as the Jenkins Act, including, but not limited to, registering with the Board of Equalization and filing all reports of sales of cigarettes and tobacco products into and in California with the Board of Equalization;~~

(2) ~~The delivery seller obtains and maintains any applicable licenses under Part 13, Division 2 of the Revenue and Taxation Code and Division 8.6 (commencing with~~

per agency  
RS/OAL

section 22970) of the Business and Professions Code, as if the delivery sales occurred entirely within this state, including obtaining and maintaining a distributor's license in compliance with Revenue and Taxation Code sections 30140 or 30140.1 so that the delivery seller is authorized to affix, and does affix, cigarette tax stamps to all cigarettes that it sells or distributes, or remits tax on all roll-your-own tobacco distributed in this state, as well as a license pursuant to Business and Professions Code section 22975;

(3) In the case of a delivery seller that is an importer that has accepted joint and several liability with a manufacturer pursuant to section 999.25, above, the delivery seller complies with any applicable state law that imposes escrow or other payment obligations on tobacco product manufacturers, including, but not limited to, sections 104555 to 104557, inclusive, of the Health and Safety Code;

(4) The delivery seller timely files a copy of its monthly report of its delivery sales of cigarettes and tobacco products to consumers in this state with the California Attorney General when it files with the Board of Equalization. The report must be filed by the 21st day of the month following the month of sale; and

(5) Pursuant to Business and Professions Code section 22980.1, if the delivery seller sells to a retailer, wholesaler, or distributor, the delivery seller agrees to sell only to a retailer, wholesaler, or distributor that is licensed by the Board of Equalization pursuant to Division 8.6 (commencing with section 22970) of the Business and Professions Code.

Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code. Reference: Sections 30101.7(d) and 30165.1(c)(2)(C) and 30165.1(c)(2)(E), Revenue and Taxation Code; Section 22980.1, Business and Professions Code; and Chapter 10A (commencing with Section 375) of Title 15 of the United States Code, including specifically 15 U.S.C. Sections 376a(a)(3), 376a(a)(4) and 376a(d).

#### **999.28 Reasonable Assurances of Compliance by Non-Participating Manufacturers**

(a) As a condition for listing on the California tobacco directory, a non-participating manufacturer must provide reasonable assurance to the Attorney General that it will comply with Revenue and Taxation Code sections 30165.1, 30165.2, and Article 3 (commencing with section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. The Attorney General may require non-participating manufacturers to provide reasonable assurance of compliance as a result of any concerns about the business plan, business history, trade connections, compliance and payment history in California, or any other state of the manufacturer or company or any of the company's principals. Reasonable assurances include, but are not limited to:

(1) Voluntarily providing a surety bond that meets or exceeds the terms of the surety bond specified in 999.26, above;

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(2) Entering into an enforceable agreement, compact or treaty with their distributors and the Attorney General to:

(A) sell only to and through entities that are licensed pursuant to Division 8.6 (commencing with Section 22970) of the Business and Professions Code and distributors that are also licensed to affix California cigarette tax stamps pursuant to Revenue and Taxation Code sections 30140 or 30140.1, and

(B) purchase, possess, and sell only brand families that are listed on the California Tobacco Directory and purchase those listed brand families directly from the manufacturers listed on the California Tobacco Directory;

(3) Entering into an enforceable agreement, compact, or treaty with the Attorney General and the Board of Equalization to:

(A) Place on each pack of cigarettes or tobacco products sold in California a unique serial number, in standardized form, which identifies the tobacco product's manufacturer and the location and date of manufacture so as to enable the Attorney General and the Board of Equalization to track and audit compliance by the manufacturer, and

(B) Stipulate to pay penalties to the Board of Equalization of four (4) times the state taxes that should have been paid and penalties to the Attorney General of four (4) times the escrow deposits that should have been made to comply with Health and Safety Code section 104557, on any authentic cigarettes seized by law enforcement agencies in California for failure to affix any California tax stamps, pay any California taxes or make any escrow or other payment obligations, including, but not limited to, sections 104555 to 104557, inclusive, of the Health and Safety Code or noncompliance with the laws specified in (b) below. Authenticity will be determined by the Attorney General, including through the use of the authentication information provided by the manufacturer on its CIGARETTE BRAND STYLE AUTHENTICATION INFORMATION (JUS-TOB15 Orig. 02/2011) as required in section 999.29.

(b) If a non-participating manufacturer or its importer engages in delivery sales, the manufacturer must post a surety bond pursuant to 999.26(b)(4). In addition, if the manufacturer or its importer engages in delivery sales, the manufacturer or its importer must provide reasonable assurances to the Attorney General that the delivery seller has complied with all the federal and state laws specified in 999.27(b), including the federal Jenkins Act, licensure under Revenue and Taxation Code sections 30140 or 30140.1, as well as licensure under Business and Professions Code section 22975, the escrow obligations of Health and Safety Code section 104555 *et seq.* all tax stamping, marking, and labeling requirements and all states laws applicable to the sale and distribution of tobacco products.

*per agency*  
*PS/DAL*  
*W.A. Drayton*  
Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code.  
Reference: Sections 30165.1(e)(2)(C) and 30165.1(e)(2)(E), Revenue and Taxation Code;  
Chapter 10A (commencing with Section 375) of Title 15 of the United States Code, including  
specifically 15 U.S.C. Sections 376a(a)(3), 376a(a)(4) and 376a(d).

**999.29 Cigarette Brand Styles Authentication Information for New Brand Styles and As Directed by the Attorney General**

(a) As a condition for listing on the California tobacco directory, a tobacco product manufacturer shall complete and submit a CIGARETTE BRAND STYLE AUTHENTICATION (JUS-TOB15 Orig. 02/2011) along with samples of the packaging for any new or revised, updated, or changed brand style the tobacco product manufacturer intends to be sold in California and whenever the manufacturer is directed by the Attorney General to do so. A revised, updated, or changed brand style includes, but is not limited to, any changes to the packaging, labeling, carton UPC Codes, pack UPC Codes or markings. A tobacco product manufacturer and its brand families will be removed from the California tobacco directory if the manufacturer fails to complete and submit, as ordered by the Attorney General, a CIGARETTE BRAND STYLE AUTHENTICATION INFORMATION (JUS-TOB15 Orig. 02/2011), to the satisfaction of the Attorney General within 30 days of the request. The failure to complete and submit the form as directed by the Attorney General shall constitute a refusal to produce a document or other evidence, without good cause, under Revenue and Taxation Code section 30165.1(q)(2).

(b) A manufacturer submitting a CIGARETTE BRAND STYLE AUTHENTICATION (JUS-TOB15 Orig. 02/2011) pursuant to this rule shall also file a supplemental certification pursuant to section 999.17.

Note: Authority cited: Sections 30165.1(h) and 30165.1(o), Revenue and Taxation Code.  
Reference: Sections 30165.1(e)(4), 30165.1(f)(4), 30165.1(g)(4) and 30165.1(q)(2), Revenue and Taxation Code.



## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

DATE OF APPLICATION: \_\_\_\_\_

☐ INITIAL

☐ SUPPLEMENTAL

PLEASE TYPE OF FILL OUT IN PERMANENT BLUE INK

### PART I: GENERAL BUSINESS AND OWNERSHIP INFORMATION

#### 1. APPLICANT TOBACCO PRODUCT MANUFACTURER IDENTIFICATION

APPLICANT: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

COUNTRY: \_\_\_\_\_

MAILING ADDRESS IF DIFFERENT FROM ABOVE:

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

COUNTRY: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ FACSIMILE (FAX) NUMBER: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_ WEBSITE ADDRESS: \_\_\_\_\_

NAME/TITLE OF PERSON COMPLETING CERTIFICATION: \_\_\_\_\_

MANUFACTURING PLANT(S) NAME AND ADDRESS IF DIFFERENT FROM ABOVE:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

COUNTRY: \_\_\_\_\_

MANUFACTURING PLANT PHONE NUMBER: \_\_\_\_\_ MANUFACTURING PLANT FACSIMILE (FAX) NUMBER: \_\_\_\_\_

NAME/TITLE/PHONE NUMBER OF PERSON AT PLANT IF DIFFERENT FROM ABOVE:

(ATTACH ADDITIONAL SHEET(S), IF NECESSARY, TO PROVIDE COMPLETE RESPONSE.)

PLEASE ATTACH A PHOTOGRAPH OR DIAGRAM OF YOUR MANUFACTURING FACILITY AND INDICATE ON THE PHOTOGRAPH OR DIAGRAM WHERE THE EQUIPMENT AND FACILITIES FOR MANUFACTURING (i.e. FABRICATING) THE CIGARETTES, IF ANY, ARE LOCATED.

#### 2. THE UNDERSIGNED CERTIFIES THAT AS OF THE DATE OF THIS CERTIFICATION, THE ABOVE-MENTIONED APPLICANT IS: (INITIAL ONE)

\_\_\_\_\_ A PARTICIPATING MEMBER ("PM"). IF APPLICANT IS A PM, IT MAY SKIP THE REMAINDER OF PART I AND GO DIRECTLY TO PART II.)

\_\_\_\_\_ A NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER ("NPM") IN FULL COMPLIANCE WITH CALIFORNIA'S RESERVE FUND STATUTE (HEALTH & SAFETY CODE SECTIONS 104555-104557) AND IMPLEMENTING REGULATIONS, INCLUDING HAVING MADE ALL REQUIRED DEPOSITS INTO A QUALIFIED ESCROW FUND FOR ALL YEARS BEGINNING WITH YEAR 2000 SALES.

#### 3. APPLICANT IS THE MANUFACTURER (i.e., FABRICATOR) OF THE BRANDS LISTED IN THIS CERTIFICATION WHICH ARE INTENDED TO BE SOLD IN THE UNITED STATES, INCLUDING CIGARETTES INTENDED TO BE SOLD IN THE UNITED STATES THROUGH AN IMPORTER.

☐ YES

☐ NO

4. APPLICANT IS THE FIRST PURCHASER ANYWHERE FOR RESALE IN THE UNITED STATES OF CIGARETTES MANUFACTURED ANYWHERE THAT THE MANUFACTURER DOES NOT INTEND TO BE SOLD IN THE UNITED STATES.

IF THE ANSWER IS "YES," IDENTIFY EACH CIGARETTE MANUFACTURER (IE, FABRICATOR), ITS PLANT STREET ADDRESS, MAILING ADDRESS, CONTACT PERSON, TELEPHONE AND FACSIMILE PHONE NUMBERS, AND THE RELATIONSHIP TO APPLICANT. IDENTIFY THE LOCATION OF THE TRANSFER OF OWNERSHIP OF CIGARETTES AND A COPY OF EVERY AGREEMENT OR CONTRACT BETWEEN APPLICANT AND FABRICATOR. ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

☐ YES ☐ NO

6. IF APPLICANT ANSWERED "NO" TO QUESTIONS 3, 4, AND 5 ABOVE, EXPLAIN THE BASIS FOR APPLICANT'S CLAIM THAT IT IS A TOBACCO PRODUCT MANUFACTURER AS DEFINED UNDER SECTION 104556(I) OF THE HEALTH & SAFETY CODE AND SUBMIT ALL DOCUMENTATION TO SUPPORT APPLICANT'S CONTENTION. ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

ATTACH COPIES OF ALL CURRENT AND VALID LICENSES FROM THE BOE

MANUFACTURER OR IMPORTER PURSUANT TO 26 USC CHAPTER 52, AND REGULATIONS ISSUED THEREUNDER.

1. BRAND FAMILY IDENTIFICATION (PMs COMPLETE COLUMN A; NPMs COMPLETE COLUMN A THROUGH C.)

[illegible]

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

1. BRAND FAMILY IDENTIFICATION (PMs COMPLETE COLUMN A; NPMs COMPLETE COLUMN A THROUGH C.) CONT'D.

A. BRAND FAMILY (INDICATE WITH AN ASTERISK (*) THOSE BRANDS THAT WILL NOT BE SOLD IN APPLICATION YEAR)	B. UNITS SOLD IN PRECEDING CALENDAR YEAR	C. MANUFACTURER OF BRANDS LISTED (INCLUDE COMPLETE ADDRESS INFORMATION)

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

ATTACH SAMPLES OF THE ACTUAL PACKAGING AND LABELING OF CARTONS AND PACKS FOR EACH BRAND STYLE OF CIGARETTES THAT APPLICANT INTENDS TO SELL IN CALIFORNIA. ALSO SUBMIT, ON CD OR DVD, A COLOR PHOTOGRAPH IN ADOBE 6.0 (.PDF) SOFTWARE, OF THE PACKAGING AND LABELING. FINALLY, FOR EACH BRAND FAMILY, ATTACH COPIES OF YOUR WRITTEN CERTIFICATION OF COMPLIANCE WITH THE CALIFORNIA CIGARETTE FIRE SAFETY AND FIREFIGHTER PROTECTION ACT, WHICH YOU FILED WITH THE STATE FIRE MARSHAL. (H & S CODE §§14951(A))

2. TRADEMARK HOLDER(S) (IF APPLICANT IS A PM, IT MAY SKIP QUESTION 2 AND GO DIRECTLY TO DECLARATION, ACKNOWLEDGEMENT AND SIGNATURE PAGE 12.) PROVIDE THE NAME, ADDRESS AND PHONE NUMBER OF THE TRADEMARK HOLDER(S) OF EACH BRAND LISTED ABOVE.

BRAND	TRADEMARK HOLDER AND CONTACT PERSON	PHYSICAL ADDRESS	PHONE

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

### PART III: ADDITIONAL BUSINESS INFORMATION

1. ORGANIZATIONAL DOCUMENTS TO BE ATTACHED (SEE INSTRUCTIONS FOR LIST OF DOCUMENTS REQUIRED BY THIS QUESTION.)

2. COMPANY OFFICERS AND OWNERS

COMPLETE THE TABLE BY LISTING ALL COMPANY OFFICERS AND COMPANY OWNERS (ALL PERSONS WITH AN EQUITY INTEREST OF 10% OR MORE IN APPLICANT COMPANY.) ATTACH ADDITIONAL SHEET(S), AS NEEDED, TO PROVIDE A COMPLETE RESPONSE.

1. CHECK APPROPRIATE TITLE	<input type="checkbox"/> PRESIDENT <input type="checkbox"/> PARTNER OTHER _____	<input type="checkbox"/> VICE PRES. <input type="checkbox"/> PARTNER OTHER _____	<input type="checkbox"/> SECRETARY <input type="checkbox"/> PARTNER OTHER _____	<input type="checkbox"/> TREASURER <input type="checkbox"/> PARTNER OTHER _____
2. FULL NAME (first, mid, last)				
3. STREET ADDRESS				
4. TELEPHONE # FACSIMILE #				
5. DATE & PLACE OF BIRTH				
6. E-MAIL ADDRESS				

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

**3. AFFILIATES INFORMATION (SEE INSTRUCTIONS FOR FURTHER INFORMATION)**  
ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE)

BRAND FAMILY	AFFILIATE: NAME	TYPE OF BUSINESS	AFFILIATE: STREET ADDRESS

**4. APPLICANT INFORMATION**

PLEASE INDICATE WHETHER THE FOLLOWING STATEMENTS DESCRIBE APPLICANT BY CHECKING EITHER YES OR NO AFTER THE STATEMENT

- a. APPLICANT SOLD CIGARETTES IN CALIFORNIA IN THE PRECEDING YEAR: ☐ YES ☐ NO
- b. APPLICANT MADE ESCROW DEPOSITS PURSUANT TO CALIFORNIA'S RESERVE FUND STATUTE (HEALTH & SAFETY CODE, SECTIONS 104555-104557) IN THE PRECEDING YEAR: ☐ YES ☐ NO
- c. APPLICANT SOLD IN THE PRECEDING CALENDAR YEAR ONE OR MORE OF THE BRAND FAMILIES LISTED IN THIS CERTIFICATION: ☐ YES ☐ NO
- d. APPLICANT MADE ESCROW DEPOSITS IN THE PRECEDING CALENDAR YEAR PURSUANT TO CALIFORNIA'S RESERVE FUND STATUTE FOR ONE OR MORE OF THE BRAND FAMILIES LISTED IN THIS CERTIFICATION: ☐ YES ☐ NO
- e. THERE HAS BEEN A CHANGE IN MANUFACTURER (i.e. FABRICATOR) OR ONE OR MORE OF THE BRAND FAMILIES LISTED IN THIS CERTIFICATION WITHIN THE PAST TWO CALENDAR YEARS: ☐ YES ☐ NO
- f. APPLICANT ADVERTISES OR SELLS CIGARETTES VIA THE INTERNET OR IN CATALOGS AND USES THE MAIL OR OTHER DELIVERY SERVICE TO DELIVER CIGARETTES TO CALIFORNIA CONSUMERS: ☐ YES ☐ NO
- g. APPLICANT FAILED TO TIMELY COMPLY WITH THE RESERVE FUND STATUTE PRIOR TO THE ESTABLISHMENT OF THE DIRECTORY, OR AT ANY TIME THEREAFTER: ☐ YES ☐ NO
- h. APPLICANT OR ONE OF ITS BRAND FAMILIES LISTED IN THIS CERTIFICATION WAS PREVIOUSLY DENIED LISTING ON THE DIRECTORY OR WAS REMOVED FROM THE DIRECTORY: ☐ YES ☐ NO
- i. APPLICANT IS ENJOINED OR BANNED FROM SELLING ANY CIGARETTES BY COURT ORDER, STATE OR FEDERAL AGENCY RULING OR DETERMINATION: ☐ YES ☐ NO
- j. A BRAND FAMILY FORMERLY SOLD BY APPLICANT OR A BRAND FAMILY THAT APPLICANT INTENDED TO SELL IS ENJOINED FROM SALE BY A STATE COURT, STATE AGENCY OR A FEDERAL COURT: ☐ YES ☐ NO
- k. A STATE OR FEDERAL COURT HAS ENTERED A JUDGMENT FINDING THAT APPLICANT ENGAGED IN AN UNFAIR BUSINESS PRACTICE OR UNFAIR COMPETITION RELATING TO THE SALE OF TOBACCO PRODUCTS. ☐ YES ☐ NO
- l. APPLICANT SOLD MORE THAN 1,600,000 CIGARETTES IN CALIFORNIA DURING ANY QUARTER YEAR AFTER JANUARY 1, 2000. ☐ YES ☐ NO
- m. APPLICANT FAILED TO TIMELY FILE ANY COMPLETED FORM OR DOCUMENT REQUIRED BY THE RESERVE FUND STATUTE OR REVENUE & TAXATION CODE SECTION 30165.1 AND IMPLEMENTING REGULATIONS: ☐ YES ☐ NO



## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

### PART IV: MARKETING AND DISTRIBUTION INFORMATION

**1. TOBACCO PRODUCTS RECLASSIFIED AS CIGARETTE OR RYO TOBACCO**  
LIST ALL TOBACCO PRODUCTS SOLD BY APPLICANT THAT HAVE BEEN RECLASSIFIED WITHIN THE LAST TWO YEARS AS CIGARETTES OR AS ROLL-YOUR-OWN (RYO) TOBACCO BY A FEDERAL AGENCY, STATE OR LOCAL GOVERNMENT.

BRAND NAME OF RECLASSIFIED TOBACCO PRODUCT	NAME OF FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY THAT RECLASSIFIED THE THE TOBACCO PRODUCT AS A CIGARETTE OR RYO TOBACCO	GOVERNMENT ENTITY'S STREET ADDRESS	DATE OF RECLASSIFICATION

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**2. DISTRIBUTORS, WHOLESALERS AND RETAILERS**  
FOR EACH BRAND THAT APPLICANT INTENDS TO SELL, LIST THE NAME AND ADDRESS OF EVERY CALIFORNIA DISTRIBUTOR, WHOLESALER, OR RETAILER WHICH PURCHASED OR HANDLED TEN PERCENT OR MORE OF APPLICANT'S GROSS CIGARETTE SALES FOR THAT BRAND IN CALIFORNIA IN THE LAST CALENDAR YEAR.

#### DISTRIBUTORS

BRAND FAMILY	DISTRIBUTOR	STREET ADDRESS	PHONE NUMBER

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

#### WHOLESALER

BRAND FAMILY	WHOLESALER	STREET ADDRESS	PHONE NUMBER

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

### RETAILERS

BRAND FAMILY	RETAILER	STREET ADDRESS	PHONE NUMBER

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

### 3. AGREEMENTS WITH PARTICIPATING MANUFACTURERS (See Instructions)

BRAND FAMILY	PARTICIPATING MANUFACTURER	STREET ADDRESS	PHONE NUMBER

NATURE OF AGREEMENT(S):

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

### 4. AGREEMENTS REGARDING COMPLIANCE WITH THE MSA (See Instructions)

BRAND FAMILY	NAME	ADDRESS

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**CERTIFICATION FOR LISTING ON CALIFORNIA  
DIRECTORY (REV. & TAX. CODE SEC. 30165.1)**

**5. AGREEMENTS REGARDING COMPLIANCE WITH THE RESERVE FUND STATUTE (See Instructions)**

BRAND FAMILY	NAME	ADDRESS

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**PART V: MARKETING AND COMPLIANCE INFORMATION**

**1. MANUFACTURER(S)**

FOR EACH BRAND FAMILY, LIST THE NAME AND ADDRESS OF THE MANUFACTURER (I.E., FABRICATOR) OF THE CIGARETTES, IF OTHER THAN APPLICANT. INCLUDE ALL COMPANY NAMES AND ADDRESSES USED BY THE MANUFACTURER(S) IN MAKING CIGARETTES FOR SALE IN THE UNITED STATES.

BRAND FAMILY	MANUFACTURER (I.E. FABRICATOR)	ADDRESS

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**2. HEALTH WARNING ROTATION PLAN**

FOR EACH BRAND FAMILY, LIST THE NAME AND ADDRESS OF THE ENTITY WHICH FILED A CIGARETTE HEALTH WARNING ROTATION PLAN WITH THE FEDERAL TRADE COMMISSION BEFORE THE CIGARETTES WERE DISTRIBUTED INTO THE UNITED STATES.

BRAND	FILER	STREET ADDRESS

FOR EACH BRAND, ATTACH THE FEDERAL TRADE COMMISSION'S WRITTEN APPROVAL OF APPLICANT'S ANNUAL CIGARETTE HEALTH WARNING ROTATION PLAN. ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

**3. INGREDIENT REPORTING**

FOR EACH BRAND FAMILY, LIST THE NAME AND ADDRESS OF THE ENTITY WHICH SUBMITTED THE INGREDIENT REPORTING INFORMATION TO THE U.S. SECRETARY OF HEALTH AND HUMAN SERVICES AS REQUIRED BY THE FEDERAL CIGARETTE LABELING AND ADVERTISING ACT.

BRAND	SUBMITTER	STREET ADDRESS

ATTACH COPIES OF ALL CERTIFICATES OF COMPLIANCE RECEIVED FROM THE U.S. HEALTH AND HUMAN SERVICES FOR APPLICANT'S ANNUAL INGREDIENT REPORTING REQUIRED BY THE FEDERAL CIGARETTE LABELING AND ADVERTISING ACT. (15 U.S.C. § 1335A). ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**4. CIGARETTE PACKAGING**

FOR EACH BRAND FAMILY, LIST THE NAME AND ADDRESS OF THE PERSON, COMPANY, OR ENTITY THAT PLACED THE CIGARETTES INTO PACKAGES WITH THE U.S. SURGEON GENERAL'S WARNINGS.

BRAND	PACKAGER	STREET ADDRESS

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**5. INTERNET OR MAIL ORDER SALES (SEE INSTRUCTIONS)**

a. WEBSITES:

b. PHYSICAL ADDRESS:

c. TOTAL SALES IN CALIFORNIA FOR THE PREVIOUS YEAR:

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.  
(ATTACH COPIES OF THE JENKINS ACT REPORTS FILED WITH THE CALIFORNIA BOARD OF EQUALIZATION, AS SPECIFIED IN THE INSTRUCTIONS.)

**CERTIFICATION FOR LISTING ON CALIFORNIA  
DIRECTORY (REV. & TAX. CODE SEC. 30165.1)**

**PART VI: DISCLOSURE OF ENFORCEMENT ACTIONS AND PRIOR DETERMINATIONS AFFECTING SALES TO  
DISTRIBUTORS**

**1. ENFORCEMENT ACTIONS BANNING OR ENJOINING SALES**

HAS APPLICANT OR ANY PERSON OR AFFILIATE LISTED IN APPLICANT'S RESPONSES TO PART II, QUESTION 2 AND PART III, QUESTIONS 2, 3, AND 4 HAD ANY OF ITS CIGARETTES BANNED OR ENJOINED FROM SALE BY ANY STATE OR FEDERAL COURT OR ADMINISTRATIVE AGENCY WITHIN THE U.S. JURISDICTION? FOR EVERY SUCH ACTION BANNING OR ENJOINING SALES, LIST:

- (a) THE BRAND FAMILY (IES) BANNED AND/OR ENJOINED;
- (b) THE GOVERNMENTAL ENTITY (FEDERAL, STATE, LOCAL OR FOREIGN) OR PRIVATE PLAINTIFF BRINGING THE ACTION;
- (c) THE CASE NUMBER;
- (d) THE NAME AND ADDRESS OF THE GOVERNMENT ATTORNEY OR OFFICIAL OR PRIVATE PLAINTIFF BRINGING THE ACTION.

☐ YES, THE DETAILS OF EACH OCCURANCE ARE ATTACHED TO THIS CERTIFICATION

☐ NOT APPLICABLE

**2. DENIALS, SUSPENSIONS, REVOCATIONS OF PERMITS OR LICENSES**

HAS APPLICANT OR ANY PERSON OR AFFILIATE LISTED IN APPLICANT'S RESPONSES TO PART II, QUESTION 2 AND PART III, QUESTIONS 2, 3, AND 4 BEEN DENIED A PERMIT, LICENSE, OR BEEN DENIED ANY OTHER AUTHORIZATION TO ENGAGE IN ANY BUSINESS RELATING TO THE SALE OF CIGARETTES BY ANY GOVERNMENT ENTITY (FEDERAL, STATE, LOCAL OR FOREIGN) OR HAD SUCH PERMIT, LICENSE OR OTHER AUTHORIZATION REVOKED, SUSPENDED, OR OTHERWISE TERMINATED? FOR EVERY SUCH DENIAL, SUSPENSION OR REVOCATION OF A PERMIT, LICENSE OR OTHER AUTHORIZATION, LIST:

- (a) THE NAME OF THE APPLICANT OR OTHER PERSON OR AFFILIATE THAT HAD SUCH PERMIT, LICENSE OR OTHER AUTHORIZATION REVOKED, SUSPENDED OR OTHERWISE TERMINATED;
- (b) THE GOVERNMENTAL ENTITY (FEDERAL, STATE, LOCAL OR FOREIGN) THAT DENIED, SUSPENDED, OR REVOKED SUCH PERMIT, LICENSE, OR OTHER AUTHORIZATION;
- (c) THE CASE NUMBER, IF ANY;
- (d) THE NAME AND ADDRESS OF THE GOVERNMENT ATTORNEY OR OFFICIAL OR PRIVATE PLAINTIFF BRINGING THE ACTION.

☐ YES, THE DETAILS OF EACH OCCURANCE ARE ATTACHED TO THIS CERTIFICATION

☐ NOT APPLICABLE

**3. CONVICTIONS**

HAS APPLICANT OR ANY PERSON OR AFFILIATE LISTED IN APPLICANT'S RESPONSES TO PART II, QUESTION 2 AND PART III, QUESTIONS 2, 3, AND 4 BEEN CONVICTED OF ANY CRIME UNDER FEDERAL, STATE OR FOREIGN LAWS IN CONNECTION WITH THE SALE OF CIGARETTES? FOR EVERY SUCH CONVICTION, LIST:

- (a) THE NAME OF THE APPLICANT OR OTHER PERSON OR AFFILIATE CONVICTED;
- (b) THE GOVERNMENTAL ENTITY (FEDERAL, STATE, LOCAL OR FOREIGN) THAT PROSECUTED APPLICANT OR OTHER PERSON OR AFFILIATE;
- (c) THE CASE NUMBER;
- (d) THE NAME AND ADDRESS OF THE GOVERNMENT ATTORNEY OR OFFICIAL THAT PROSECUTED APPLICANT OR OTHER PERSON OR AFFILIATE

☐ YES, THE DETAILS OF EACH OCCURANCE ARE ATTACHED TO THIS CERTIFICATION

☐ NOT APPLICABLE

**4. DENIAL OF LISTING**

HAS APPLICANT OR ANY PERSON OR AFFILIATE LISTED IN APPLICANT'S RESPONSES TO PART II, QUESTION 2 AND PART III, QUESTIONS 2, 3, AND 4 BEEN DENIED LISTING ON ANY STATE DIRECTORY, WHICH IS SIMILAR TO THE SUBJECT OF THIS CERTIFICATION? FOR EVERY SUCH DENIAL, LIST:

- (a) THE NAME OF THE APPLICANT OR OTHER PERSON OR AFFILIATE DENIED LISTING ON A STATE DIRECTORY;
- (b) THE TOBACCO PRODUCT MANUFACTURER AND/OR BRAND FAMILY(IES) DENIED LISTING; AND
- (c) THE STATE WHICH DENIED LISTING.

☐ YES, THE DETAILS OF EACH OCCURANCE ARE ATTACHED TO THIS CERTIFICATION

☐ NOT APPLICABLE

**5. RESERVE FUND STATUTE COMPLIANCE**

HAS ANY PERSON LISTED IN APPLICANT'S RESPONSES TO PART II, QUESTION 2 AND PART III, QUESTIONS 2, 3, AND 4, BEEN INVOLVED AS AN OFFICER OR OWNER OF ANY OTHER TOBACCO COMPANY OR AFFILIATE WHICH HAS NOT MADE ITS ESCROW DEPOSITS AS A NONPARTICIPATING MANUFACTURER UNDER A STATE RESERVE FUND STATUTE? FOR EVERY SUCH OCCURRENCE, LIST:

- (a) THE NAME OF THE APPLICANT OR OTHER PERSON OR AFFILIATE WHICH HAS NOT SATISFIED ITS NPM RESERVE FUND OBLIGATIONS;
- (b) THE BRAND FAMILIES FOR WHICH THERE WAS A FAILURE TO COMPLY; AND
- (c) THE AMOUNTS OF ANY ESCROW DEPOSITS THAT ARE STILL OWED.

☐ YES, THE DETAILS OF EACH OCCURANCE ARE ATTACHED TO THIS CERTIFICATION

☐ NOT APPLICABLE

## CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY (REV. & TAX. CODE SEC. 30165.1)

### PART VII: IMPORTED CIGARETTES - DOCUMENTATION & VERIFICATION

1. U.S. CUSTOMS DOCUMENTS

IF THE CIGARETTES APPLICANT SELLS OR INTENDS TO SELL ARE NOT MADE IN THE UNITED STATES, PROVIDE THE DOCUMENTS LISTED IN A-C:

- a. A COPY OF THE SWORN STATEMENT(S) OF THE ORIGINAL MANUFACTURER THAT IT WILL TIMELY SUBMIT INGREDIENTS TO THE SECRETARY OF HEALTH AND HUMAN SERVICES AS REQUIRED BY 19 USC 1681A(C)(1).
- b. A COPY OF THE IMPORTER'S CERTIFICATE(S) UNDER PENALTY OF PERJURY AS REQUIRED BY 19 USC 1681A(C)(2) REGARDING THE PRECISE FORMAT OF WARNINGS AND THE ROTATION PLAN FOR HEALTH WARNINGS.
- c. A COPY OF THE TRADEMARK HOLDER'S CERTIFICATE(S) UNDER PENALTY OF PERJURY THAT IT HAS NOT WITHDRAWN CONSENT TO IMPORT INTO THE UNITED STATES AS REQUIRED BY 19 USC 1681A(C)(3)(A) **OR** A COPY OF THE IMPORTER'S CERTIFICATE(S) UNDER PENALTY OF PERJURY THAT THE TRADEMARK OWNER HAS NOT WITHDRAWN CONSENT TO IMPORT INTO THE UNITED STATES AS REQUIRED BY 19 USC 1681A(C)(3)(B).

### PART VIII: NPM APPLICANT CERTIFICATION

1. AGENT FOR SERVICE OF PROCESS

- a. IS APPLICANT DOMICILED IN THE STATE OF CALIFORNIA? ☐ YES ☐ NO
- b. IS APPLICANT A NON-RESIDENT OR FOREIGN NPM THAT HAS REGISTERED TO DO BUSINESS IN CALIFORNIA AS A FOREIGN CORPORATION OR BUSINESS ENTITY? ☐ YES ☐ NO
- c. IF APPLICANT ANSWERED "NO" TO QUESTIONS "A" AND "B" ABOVE, APPLICANT MUST APPOINT A RESIDENT AGENT FOR SERVICE OF PROCESS BY SUBMITTING A COMPLETED NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT (JUS-TOB2). ☐ YES ☐ NO

2. QUALIFIED ESCROW FUND-FINANCIAL INSTITUTION

APPLICANT CERTIFIES THAT OF THE DATE OF THIS CERTIFICATION, APPLICANT:

- a. HAS ESTABLISHED AND CONTINUES TO MAINTAIN A QUALIFIED ESCROW FUND. ☐ YES ☐ NO
- b. HAS EXECUTED A QUALIFIED ESCROW AGREEMENT THAT HAS BEEN REVIEWED AND APPROVED BY THE ATTORNEY GENERAL FOR THE STATE OF CALIFORNIA AND THAT GOVERNS THAT QUALIFIED ESCROW FUND FOR THE STATE OF CALIFORNIA. ☐ YES ☐ NO

((**NOTE:** THE NPM MUST CERTIFY SATISFACTION OF BOTH OF THE ABOVE-REFERENCED REQUIREMENTS REGARDING THE QUALIFIED ESCROW FUND TO BE ELIGIBLE FOR THE DIRECTORY. A QUALIFIED ESCROW FUND IS CREATED ONLY BY USING THE CALIFORNIA MODEL ESCROW AGREEMENT (JUS-TOB6). (11 CAL. CODE REGS. §§ 999.13.)) CALIFORNIA'S MODEL ESCROW AGREEMENT IS AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE AT <http://caag.state.ca.us/tobacco>

3. QUALIFIED ESCROW FUND DEPOSIT/WITHDRAWAL HISTORY FOR CALIFORNIA

DATE	DEPOSIT	WITHDRAWAL	BALANCE

ATTACH ADDITIONAL SHEET(S), AS NECESSARY, TO PROVIDE A COMPLETE RESPONSE.

**NOTE: THIS CERTIFICATION WILL NOT BE PROCESSED OR  
CONSIDERED UNTIL ALL THE REQUIRED DOCUMENTS ARE SUBMITTED.**

## DECLARATION, ACKNOWLEDGMENT AND SIGNATURE

UNDER PENALTY OF CRIMINAL PROSECUTION UNDER THE LAWS OF CALIFORNIA, I DECLARE AND ACKNOWLEDGE THAT:

1. I HAVE READ THE INSTRUCTIONS FOR THIS CERTIFICATION FOR LISTING ON CALIFORNIA DIRECTORY.
2. I UNDERSTAND THAT THE ATTORNEY GENERAL MAY REQUIRE ADDITIONAL INFORMATION AND/OR DOCUMENTATION TO DETERMINE IF APPLICANT IS QUALIFIED FOR LISTING ON THE CALIFORNIA DIRECTORY.
3. APPLICANT WILL IMMEDIATELY NOTIFY THE TOBACCO LITIGATION AND ENFORCEMENT SECTION IN THE ATTORNEY GENERAL'S OFFICE (OFFICE OF THE ATTORNEY GENERAL FOR THE STATE OF CALIFORNIA, TOBACCO LITIGATION ENFORCEMENT SECTION, P.O. BOX 944255, SACRAMENTO, CA 94244-2550) IF ANY INFORMATION ON THIS CERTIFICATION CHANGES, BEFORE THE ATTORNEY GENERAL APPROVES THE CERTIFICATION.
4. I ACKNOWLEDGE THAT TITLE 11, CALIFORNIA CODE OF REGULATIONS SECTION 999.17 REQUIRES EVERY APPLICANT TO SUBMIT A SUPPLEMENTAL CERTIFICATION WHEN INFORMATION IN THIS CERTIFICATION IS NO LONGER ACCURATE AND COMPLETE. THE SUPPLEMENTAL CERTIFICATION MUST BE SUBMITTED NO LATER THAN THIRTY (30) DAYS AFTER THE INFORMATION HAS BECOME INACCURATE OR INCOMPLETE.
5. I ACKNOWLEDGE THAT BUSINESS AND PROFESSIONS CODE SECTION 22980.1 PROHIBITS A MANUFACTURER, DISTRIBUTOR OR WHOLESALER FROM SELLING CIGARETTES FOR RESALE IN CALIFORNIA TO ANY PERSON WHO IS NOT LICENSED BY THE CALIFORNIA BOARD OF EQUALIZATION OR WHOSE LICENSE HAS BEEN SUSPENDED OR REVOKED. SECTION 22980.1 ALSO PROHIBITS IMPORTERS, DISTRIBUTORS, AND WHOLESALERS FROM PURCHASING CIGARETTES FROM A MANUFACTURER THAT IS NOT SO LICENSED.
6. I ACKNOWLEDGE THAT BUSINESS AND PROFESSIONS CODE SECTION 22979(A)(3) REQUIRES EVERY MANUFACTURER AND IMPORTER TO CONSENT TO THE JURISDICTION OF THE CALIFORNIA COURTS FOR ENFORCEMENT OF THE CALIFORNIA CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 (DIVISION 8.6 OF THE BUSINESS AND PROFESSIONS CODE).
7. CALIFORNIA REGULATIONS REQUIRE THAT THIS CERTIFICATION BE SIGNED BY A QUALIFIED COMPANY OFFICER OR OTHER SUCH INDIVIDUAL AUTHORIZED TO BIND THE APPLICANT COMPANY. MY POSITION WITH THE COMPANY AND MY ACTUAL AUTHORITY TO CERTIFY ON BEHALF OF APPLICANT MEETS THE FOREGOING REQUIREMENTS.
8. I HAVE EXAMINED THIS CERTIFICATION, INCLUDING ATTACHMENTS AND SUPPORTING DOCUMENTS AND, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS CERTIFICATION, INCLUDING ATTACHMENTS AND SUPPORTING DOCUMENTS, IS TRUE, CORRECT, AND COMPLETE.

NAME OF AUTHORIZED OFFICER: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED OFFICER: \_\_\_\_\_ DATE: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

COUNTRY OF \_\_\_\_\_ )

ON \_\_\_\_\_, BEFORE ME, \_\_\_\_\_ PERSONALLY APPEARED \_\_\_\_\_

\_\_\_\_\_ PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: \_\_\_\_\_

MY COMMISSION EXPIRES ON: \_\_\_\_\_

THIS CERTIFICATION MUST BE FILED WITH THE ATTORNEY GENERAL'S OFFICE:

MAILING ADDRESS:

OFFICE OF THE ATTORNEY GENERAL  
FOR THE STATE OF CALIFORNIA  
TOBACCO LITIGATION AND ENFORCEMENT SECTION  
P. O. BOX 944255  
SACRAMENTO, CA 94244-2550

OR

STREET ADDRESS:

OFFICE OF THE ATTORNEY GENERAL  
FOR THE STATE OF CALIFORNIA  
TOBACCO LITIGATION AND ENFORCEMENT SECTION  
P. O. BOX 944255 1300 I Street  
SACRAMENTO, CA 94244-2550 95814



**NOTICE OF APPOINTMENT OF REGISTERED AGENT AND****REGISTERED AGENT'S STATEMENT FOR NON-PARTICIPATING MANUFACTURER****(Rev. & Tax Code § 30165.1)**

JUS-TOB2 (Rev. 02/2011)

*Please type or print in permanent blue ink.**Sign, date, and return original to:***Office of the Attorney General of the State of California****Tobacco Litigation & Enforcement Section****P.O. Box 944255****Sacramento, CA 94244-2550**

The undersigned Non-Participating Manufacturer ("NPM"), \_\_\_\_\_

hereby appoints \_\_\_\_\_

as its registered agent. Said registered agent is authorized to receive service of process on behalf of the NPM. The NPM agrees to do the following: (1) provide notice to the Office of the Attorney General of the State of California ("Attorney General") at least 30 calendar days prior to termination of the authority of the registered agent; and (2) provide proof to the satisfaction of the Attorney General of the appointment of a new agent at least five (5) calendar days prior to the termination of the existing agent appointment. The NPM further agrees that if the agent terminates its agency appointment, the NPM shall provide notice to the Attorney General of the termination within five (5) calendar days and shall include proof to the Attorney General of the appointment of a new agent.

I hereby certify and declare that all of the statements and information contained in this Notice of Appointment, including but not limited to any accompanying statements and attachments herewith, are true and complete and that I am a person authorized to bind the NPM submitting this Notice of Appointment either under the laws of California or of the jurisdiction where the manufacturer resides or is organized. The failure to file this form is a basis for removal of the undersigned NPM and its Brand Families from the Directory.

**This Notice of Appointment must be signed and dated in the presence of a notary public.**

Signature of authorized representative for NPM: \_\_\_\_\_

Authorized Representative (Print Name): \_\_\_\_\_

Title: \_\_\_\_\_

Principle Place of Business (physical address): \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

COUNTRY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

My Commission expires: \_\_\_\_\_

**NOTICE OF APPOINTMENT OF REGISTERED AGENT AND  
REGISTERED AGENT'S STATEMENT FOR NON-PARTICIPATING MANUFACTURER  
(Rev. & Tax Code § 30165.1)**

JUS-TOB2 (Rev. 02/2011)

**NAME AND ADDRESS OF CALIFORNIA STATE REGISTERED AGENT:**

Name: \_\_\_\_\_

Street Address (Required-Must be within the state of California): \_\_\_\_\_

P.O. Box (Optional): \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

I consent to serve as the Registered Agent in the state of California for \_\_\_\_\_  
(name of NPM), pursuant to California Revenue and Taxation Code section 30165.1. I understand it will be my responsibility to  
receive Service of Process on behalf of the NPM; to forward mail to the NPM; and to immediately notify the Office of the Attorney  
General if I resign or change the office address of the Registered Agent.

**This Notice of Appointment must be signed and dated in the presence of a notary public.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

COUNTRY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_ personally appeared  
\_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which  
the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

My Commission expires: \_\_\_\_\_



**CERTIFICATION OF COMPLIANCE AND AFFIDAVIT BY  
NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER  
REGARDING DEPOSIT OF RESERVE FUNDS INTO ESCROW**

Year: \_\_\_\_\_ \*

\*If your Company is required to make deposits into escrow more frequently than annually, indicate the specified reporting period for which deposit was made:

Quarter ending: \_\_\_\_\_ Other Period: \_\_\_\_\_ to \_\_\_\_\_

Complete a separate Certification of Compliance for each reporting period

**NOTE TO DISTRIBUTORS: YOU MAY STAMP AND SELL ONLY THE BRANDS OF MANUFACTURERS WHICH ARE LISTED ON THE ATTORNEY GENERAL'S DIRECTORY: [HTTP://CAAG.STATE.CA.US/](http://CAAG.STATE.CA.US/). PRODUCTS NOT LISTED ON THE DIRECTORY ARE CONTRABAND AND SUBJECT TO SEIZURE AND FORFEITURE.**

**This Certification Is Not Valid Unless a stamp from the Attorney General's Office appears in the box below.**

For Official Use Only

**A Copy of This Stamped Certification of Compliance Must Be Provided to California Distributors and Wholesalers Which Sell Your Product.**

**Part 1: Tobacco Product Manufacturer's Identification\***

Company Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Board of Equalization (BOE) Manufacturer's License No.: \_\_\_\_\_

**\*All manufacturers (i.e., fabricators) must complete and sign this Certification. Use as many copies of this form as needed.**

**Part 2: Units Sold**

Total number of individual Cigarettes, including "roll-your-own" tobacco, sold by the manufacturer identified above during the sales period is: \_\_\_\_\_

*(Attach Brand Families Unit Sales Schedule 1 (JUS-TOB4))*

**Part 3: Calculation of Deposit Amount**

For the sales year: *(Use the rates listed below to figure the appropriate deposit amount)*

2000 - The rate per cigarette is ..... 0.0104712

2001 - 2002 - The rate per cigarette is ..... 0.0136125

2003 - 2006 - The rate per cigarette is ..... 0.0167539

2007 and thereafter - The rate per cigarette is ..... 0.0188482

The appropriate rate for the sales year is ..... \_\_\_\_\_

Subtotal *(Multiply units in Part 32 by the appropriate rate in Part 43)* ..... \$ \_\_\_\_\_

The Inflation Adjustment according to Exhibit C\* of MSA is ..... \$ \_\_\_\_\_

This is the amount that has been paid into the Qualified Escrow Fund by the manufacturer identified above:

Total: \$ \_\_\_\_\_

*\*See instructions and attached copy of Exhibit C to the MSA*

**PROOF OF DEPOSIT OF THE ABOVE AMOUNT  
FROM YOUR FINANCIAL INSTITUTION MUST BE ATTACHED.**



**CERTIFICATION OF COMPLIANCE AND AFFIDAVIT BY  
NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER  
REGARDING DEPOSIT OF RESERVE FUNDS INTO ESCROW**

**Part 4: Financial Institution Information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Authorized Escrow Agent: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Escrow Account Number: \_\_\_\_\_  
Total Funds Held in Separate Account For California: \$ \_\_\_\_\_

**Part 5: Notarized Signature**

Under penalty of perjury under the laws of the state of California, I declare that I am authorized to certify, on behalf of the Tobacco Product Manufacturer named in Part 1, that all of the certifications and information contained in this Certification of Compliance is complete and accurate.

*This document must also be signed and dated in front of an authorized notary public, who also signs as a witness.*

Name (Type or Print): \_\_\_\_\_ Title: \_\_\_\_\_  
Signature of Authorized Agent: \_\_\_\_\_ Date: \_\_\_\_\_  
Subscribed and Sworn to Before Me on this Date: \_\_\_\_\_ City of: \_\_\_\_\_  
Signature of Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_  
Name (Type or Print): \_\_\_\_\_

This form must be filed with the Attorney General's Office:

Mailing Address:

Office of the Attorney General  
for the State of California  
Tobacco Litigation & Enforcement Section  
P.O. Box 944255  
Sacramento, CA 94244-2550

OR

Street Address:

Office of the Attorney General  
for the State of California  
Tobacco Litigation & Enforcement Section  
1300 I Street, Suite 125  
Sacramento, CA 95814

SALES YEAR: 20

THIS FORM MUST BE SUBMITTED WITH THE CERTIFICATE OF COMPLIANCE (JUS-TOB3) FOR THE SPECIFIED REPORTING PERIOD.

☐ importer

Board of Equalization License Number:

Street Address:

\_\_\_\_\_

\*If your Company is required to make deposits into escrow more frequently than annually, indicate the specified reporting period for which deposit was made.

Reporting Period: From (month/date/year): \_\_\_\_\_ to \_\_\_\_\_

• **Column A:** List all Brand Families sold during this reporting period.

- Instructions:
- Column A: List all Brand Families sold during this reporting period.
  - Column B: Write "C" after any brand style of Cigarettes, (RYO) after any brand of Roll-Your-Own tobacco, and "LC" after any brands of Little Cigars.
  - Column C: List all units sold in California during the reporting period, i.e., annual, quarterly or other specified period. (1 Unit = an individual cigarette or individual Little Cigar or .09 oz. of RYO.)
  - Column D: If the reporting company is not the manufacturer (i.e. fabricator), provide the name and street address of the manufacturer(s).

Attach additional sheets, as necessary, to provide a complete answer.

[illegible]

Complete information and declaration on page 2.

This page requires the company to report the total sales made in California during the **preceding** calendar year. Rev. & Tax Code § 30165.1(b)(2)(a).

**INSTRUCTIONS**

- Column A: List all Brand Families sold in the **preceding calendar year**. Indicate by asterisk (\*) any Brand Family that is no longer being sold in California.
- Column B: Write "C" after any brand style of Cigarettes, (RYO) after any brand of Roll-Your-Own tobacco, and "LC" after any brands of Little Cigars.
- Column C: List the total units sold in California during the preceding calendar year. (1 Unit = an individual cigarette or individual Little Cigar or .09 oz. of RYO.)
- Column D: If the reporting company is not the manufacturer (i.e. fabricator), provide the name and street address of the manufacturer (i.e. fabricator) of the Brand Family.

[illegible]

Signature of Company Officer: \_\_\_\_\_ Date: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Fax No: \_\_\_\_\_  
 Print Company Officer Name: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_  
 Print Company Officer Title: \_\_\_\_\_



## WAIVER OF TRIBAL SOVEREIGN IMMUNITY BY NATIVE AMERICAN TRIBE

RESOLUTION OF THE \_\_\_\_\_  
[Name of Tribe]

WHEREAS, \_\_\_\_\_ and/or  
[Name of Tobacco Manufacturer]

\_\_\_\_\_ is owned by, chartered by, operated for the benefit of,  
[Name of Tobacco Importer, if any]  
and/or an "arm" of, the \_\_\_\_\_ ("the Tribe");  
[Name of Tribe]

WHEREAS, \_\_\_\_\_ and/or  
[Name of Manufacturer]

\_\_\_\_\_ was formed for all business purposes allowed  
[Name of Importer, if any]  
under the laws of the Tribe, including the manufacture of cigarettes and tobacco products;

WHEREAS, the premises and manufacturing facility of the foregoing cigarette and/or tobacco manufacturer and the premises of cigarette and/or tobacco importer, if any, are located on the Tribe's Reservation or other Indian Country;

WHEREAS, \_\_\_\_\_ has applied to the State of  
[Name of Manufacturer]  
California to be placed on the State of California Directory of compliant tobacco manufacturers whose products may be legally sold in the State of California ("California Tobacco Directory");

WHEREAS, pursuant to California Business and Professions Code section 22979(a), every manufacturer and importer must obtain and maintain a license to engage in the sale of cigarettes, and as one condition for obtaining and maintaining such license, all manufacturers and importers shall waive any sovereign immunity defense that may apply to any enforcement action brought by the Attorney General or the Board of Equalization to enforce Division 8.6 of the Business and Professions Code, sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted pursuant to these laws;

WHEREAS, the State of California requires that all tobacco manufacturers on the California Tobacco Directory either sign the Master Settlement Agreement and make payments pursuant to that agreement or make escrow deposits as required by the California reserve fund statute (Health & Safety Code, sections 104555-104557);

WHEREAS, because of the location of \_\_\_\_\_ and/or the  
[Name of Manufacturer]  
business premises of \_\_\_\_\_ on the Tribe's Reservation or other  
[Name of Importer, if any]  
Indian Country and because the manufacturer and/or the importer is owned by, chartered by, operated for the benefit of, or an "arm" of the Tribe, the manufacturer and/or the importer may be shielded by tribal sovereign immunity or treaty rights from full enforcement and remedies available against tobacco manufacturers; and

WHEREAS, because the protection afforded by tribal sovereign immunity and treaty rights includes immunity from suit, liability, judgment and collection, including enforcement of judgments on tribal land by way of attachment of property or otherwise, the State of California requires that the manufacturer and/or the importer and their owner(s) waive tribal sovereign immunity and treaty rights.



## WAIVER OF TRIBAL SOVEREIGN IMMUNITY BY NATIVE AMERICAN TRIBE

THEREFORE, the \_\_\_\_\_ Indian Nation, through  
[Name of Tribe]

\_\_\_\_\_  
[Name of Tribal Entity or Official Authorized To Waive Tribal Sovereign Immunity]  
has on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, adopted this Resolution waiving the  
[Month]  
Tribe's sovereign immunity and treaty rights as follows:

The \_\_\_\_\_ hereby waives its sovereign immunity and  
[Name of Tribe]  
treaty rights against suit, liability, judgment and collection with respect to the obligations and duties of  
\_\_\_\_\_  
[Name of Tobacco Manufacturer] and/or \_\_\_\_\_  
[Name of Tobacco Importer, If any]  
under the reserve fund statute (Health & Saf. Code, § 104555 *et seq.*); the Cigarette and Tobacco  
Products Tax Law (Rev. & Tax. Code, Div. 2, Part 13, § 30001 *et seq.*), including the tobacco directory law  
(Rev. & Tax. Code, § 30165.1); the California Cigarette and Tobacco Products Licensing Act of 2003, (Bus.  
& Prof. Code, § 22970 *et seq.*); and regulations implementing those laws. The Tribe recognizes and  
agrees that the foregoing regulatory laws (reserve fund statute, the Cigarette and Tobacco Products Tax  
Law, tobacco directory law, and the Cigarette and Tobacco Products Licensing Act of 2003), which require  
(1) the creation of a reserve fund in escrow, (2) qualifying for listing on a directory of compliant tobacco  
companies, and (3) state licensing, apply equally to everyone, including the Tribe, and are regulations  
which impose their restrictions for a public purpose unrelated to revenue generation. In so waiving its  
immunity, the Tribe recognizes and agrees that any suits or administrative actions brought against  
\_\_\_\_\_  
[Name of Manufacturer] and/or \_\_\_\_\_  
[Name of Importer, If any]  
and their owner(s) relating to the duties and obligations referenced above may be brought in the California  
Superior Court, and that all such actions and proceedings shall be governed by California's substantive  
and procedural law.

Finally, for the actions described in this waiver, the Tribe agrees to the jurisdiction of the California  
Superior Court over the Tribe, waives personal service of process, and agrees that service of process by  
certified or registered mail, return receipt requested, to the following address shall constitute adequate  
service:

[Tribal manufacturer/importer name] \_\_\_\_\_  
[Street Address or P.O. Box] \_\_\_\_\_  
[City and State, postal code] \_\_\_\_\_

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
[Month]





## WAIVER OF TRIBAL SOVEREIGN IMMUNITY BY NATIVE AMERICAN TRIBE

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[Signature(s) of Tribal Official(s) authorized to  
adopt this Resolution]

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[Printed Name(s)]

Attached to this Resolution is a letter from legal counsel for the Tribe to the California Attorney General evidencing legal counsel's written legal opinion to the State of California that the Tribal entity(ies) or officer(s) adopting this Resolution and waiving the Tribe's sovereign immunity and treaty rights is/are authorized under Tribal law to do so and have the ability to bind the Tribe, and that all procedures required by Tribal and Federal law (including, if applicable, the Foreign Sovereign Immunities Act of 1976 (28 U.S.C. section 1605(a)(1))), were followed and that the actions in waiving sovereign immunity and treaty rights are binding and enforceable under Tribal, Federal and California State law.



## WAIVER OF SOVEREIGN IMMUNITY BY GOVERNMENT-OWNED TOBACCO COMPANY

WHEREAS, the Government of the country of \_\_\_\_\_ directly  
owns, in whole or majority part, the following company(ies) [List the company names of the manufacturer and/or distributor below]:

Manufacturer: \_\_\_\_\_

Distributor: \_\_\_\_\_

WHEREAS, \_\_\_\_\_ was formed for all business and commercial  
purposes allowed under the laws of the country of \_\_\_\_\_, including the  
manufacture of cigarette and tobacco products and the export and sale of cigarette and tobacco products in the  
United States, and specifically the State of California;

WHEREAS, \_\_\_\_\_ has applied to the State of California to  
be placed on the State of California Directory of compliant tobacco manufacturers whose products may be legally  
sold in the State of California ("California Tobacco Directory");

WHEREAS, pursuant to California Business and Professions Code section 22979(a), every manufacturer  
and importer must obtain and maintain a license to engage in the sale of cigarettes, and as one condition for  
obtaining and maintaining such license, all manufacturers and importers shall waive any sovereign immunity  
defense that may apply to any enforcement action brought by the Attorney General or the Board of Equalization  
to enforce Division 8.6 of the Business and Professions Code, sections 104555 to 104557, inclusive of the Health  
and Safety Code, Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code,  
and regulations adopted pursuant to these laws;

WHEREAS, the State of California requires that all tobacco manufacturers on the California Tobacco  
Directory either sign the Master Settlement Agreement and make payments pursuant to that agreement or make  
escrow deposits as required by the California reserve fund statute (Health & Safety Code, sections  
104555-104557);

WHEREAS, because of the ownership of \_\_\_\_\_ and of  
\_\_\_\_\_ by Government of the country of \_\_\_\_\_  
these entities may be shielded by government sovereign immunity or treaty rights from full enforcement and  
remedies available against tobacco manufacturers; and

WHEREAS, because the protection afforded by government sovereign immunity and treaty rights may  
include immunity from suit, liability, judgment and collection, including enforcement of judgments on the  
government-owned companies by way of attachment of properties or otherwise, the State of California requires  
that \_\_\_\_\_ and \_\_\_\_\_, their  
owners and the Government of \_\_\_\_\_ waive sovereign immunity and  
treaty rights.



## WAIVER OF SOVEREIGN IMMUNITY BY GOVERNMENT-OWNED TOBACCO COMPANY

THEREFORE, the Government of \_\_\_\_\_, through its ambassador to  
the United States, \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_  
20 \_\_\_\_\_, waives sovereign immunity and treaty rights of the country of \_\_\_\_\_  
as follows:

The Government of \_\_\_\_\_ hereby expressly waives its  
sovereign immunity and treaty rights against suit, liability, judgment and collection with respect to the foregoing  
government-owned companies' obligations and duties under the reserve fund statute (Health & Saf. Code, §  
104555 et seq.), the Cigarette and Tobacco Products Tax Law (Rev. & Tax. Code, Div. 2, Part 13,  
(§ 30001 et seq.), the California tobacco directory law (Rev. & Tax. Code, § 30165.1), the California Cigarette  
and Tobacco Products Licensing Act of 2003 (Bus. & Prof. Code, § 22970 et seq.), and regulations implementing  
those laws.

The Government of \_\_\_\_\_ and the foregoing companies  
recognize and agree that the foregoing regulatory laws (reserve fund statute, the Cigarette and Tobacco Product  
Tax Law, tobacco directory law, and the California Cigarette and Tobacco Products Licensing Act of 2003) are  
applicable to commercial activities involving cigarettes and tobacco products, which require (1) the creation of a  
reserve fund, (2) qualifying for listing on a directory of compliant tobacco companies, and (3) state licensing,  
apply equally to everyone, including the Government of \_\_\_\_\_ and are  
commercial regulations that impose their restrictions on commercial activity, within the meaning of the federal  
Foreign Sovereign Immunities Act of 1976 (28 U.S.C. section 1605(a)(2)), for a public purpose. In so waiving its  
immunity, the Government of \_\_\_\_\_ recognizes and agrees that any suits, or  
administrative actions brought against \_\_\_\_\_ and  
\_\_\_\_\_ or the Government of \_\_\_\_\_ relating  
to the duties and obligations referenced above, may be brought in the California Superior Court, and that all such  
actions and proceedings shall be governed by California's substantive and procedural law.

Finally, for the actions described in this waiver, the Government of \_\_\_\_\_  
agrees to the jurisdiction of the California Superior Court over their persons, waives personal service of process,  
and agrees that service of process by certified or registered mail, return receipt requested, to the following  
address shall constitute adequate service:

[Manufacturer's or Distributor's Name] \_\_\_\_\_  
[Street Address or P.O. Box] \_\_\_\_\_  
[City and State, Postal Code] \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
[Signature of Ambassador to the United States] [Printed name of Ambassador to the United States]  
of the Country of \_\_\_\_\_  
[Insert Country]



## STANDARD WAIVER OF SOVEREIGN IMMUNITY BY TOBACCO MANUFACTURER OR IMPORTER

WHEREAS, \_\_\_\_\_  
[Manufacturer's or Importer's Name] represents that it is not a foreign state or directly owned in whole or majority part by a foreign state, within the meaning of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1603;

WHEREAS, \_\_\_\_\_  
[Manufacturer's or Importer's Name] represents that it is not owned by, chartered by, operated for the benefit of, or an "arm" of a Native American Tribe;

WHEREAS, \_\_\_\_\_  
[Manufacturer's or Importer's Name] was formed for all business and commercial purposes allowed under the laws of the country of \_\_\_\_\_, state or jurisdiction of \_\_\_\_\_, including the manufacture and sale of cigarettes and tobacco products in the United States, and specifically the State of California;

WHEREAS, \_\_\_\_\_  
[Manufacturer's or Importer's Name] has applied to the State of California to be placed on the State of California Directory of compliant tobacco manufacturers whose products may be legally sold in the State of California;

WHEREAS, the State of California requires that all tobacco manufacturers on the State Tobacco Directory, to the full extent allowed by law, be subject to State regulations and enforcement of California law, including being susceptible to all remedies and enforcement measures permitted under California law;

WHEREAS, the State of California requires that all tobacco manufacturers on the State Tobacco Directory, either sign the Master Settlement Agreement and make payments pursuant to that agreement or make escrow deposits as required by the California reserve fund statute;

WHEREAS, the State of California requires that all tobacco manufacturers sell cigarettes and tobacco products only to a distributor, wholesaler, importer, retailer or other person holding a valid license from the California Board of Equalization;

WHEREAS, the State of California requires that the distributor either pay applicable state taxes and surcharges on sales of cigarettes and tobacco products in the State of California or collect them from the consumer;

THEREFORE, \_\_\_\_\_  
[Manufacturer's or Importer's Name] hereby expressly waives any claim or defense based in whole or in part on sovereign immunity and treaty rights, including but not limited to any claims or defenses based on the fact that any of the manufacturer's facilities are located on tribal or government lands and/or that its owner or owners are members of a Native American tribe, against suit, liability, judgment and collection with respect to the manufacturer's obligations and duties under the California reserve fund statute (Health & Saf. Code, § 104555 *et seq.*), the California Tobacco Directory Law (Rev. & Tax. Code, § 30165.1), the California Cigarette and Tobacco Products Licensing Act of 2003 (Bus & Prof. Code, § 22970 *et seq.*), the Cigarette and Tobacco Products Tax Law (Rev. & Tax. Code, Division 2, Part 13, 30001 *et seq.*), regulations implementing those laws, and any other California law, rule or regulation that pertains to the sale of tobacco products in the state of California.



## STANDARD WAIVER OF SOVEREIGN IMMUNITY BY TOBACCO MANUFACTURER OR IMPORTER

In so waiving its immunity, \_\_\_\_\_  
[Manufacturer's or Importer's Name]

recognizes and agrees, that any suits, or administrative actions brought against the manufacturer or any of its affiliates relating to the duties and obligations referenced above, may be brought in the California Superior Court, and that all such actions and proceedings, shall be governed by California's substantive and procedural law.

\_\_\_\_\_ agrees that upon the request of the State, the  
[Manufacturer's or Importer's Name]  
manufacturer and its distributor or distributors will assist the State of California in the assessment and collection of any California taxes, surcharges and escrow deposits due.

Finally, \_\_\_\_\_ agrees to the jurisdiction of the  
[Manufacturer's or Importer's Name]  
California Superior Court, waives personal service of process, and agrees that service of process by certified or registered mail, return receipt requested, to the following address shall constitute adequate service:

[Manufacturer or Importer's Name] \_\_\_\_\_

[Street Address or P.O. Box] \_\_\_\_\_

[City and State, Postal Code] \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
[Month]

\_\_\_\_\_  
[Signature of company official authorized to bind Manufacturer/Importer]

\_\_\_\_\_  
[Printed name of company official authorized to bind Manufacturer/Importer]



**UNITED STATES IMPORTER DECLARATION ACCEPTING JOINT AND SEVERAL LIABILITY**

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**Statutory Requirements**

Pursuant to California Revenue and Taxation Code section 30165.1(b)(3)(E) and (f)(4), a Non-Participating Manufacturer ("NPM") located outside of the United States must provide a declaration from each of its importers to the United States that such importer accepts joint and several liability with the NPM for:

1. All escrow deposits due under Health and Safety Code section 104557 and implementing regulations;
2. All penalties assessed in accordance with Article 3 (commencing with Section 104555) of Chapter 1 or Part 3 of Division 103 of the Health and Safety Code;
3. Payment of all fees, costs, attorney's fees, penalties, and refunds imposed or required by Revenue and Taxation Code section 30165.1, including, but not limited to, all refunds resulting from the removal of the manufacturer or any of its brand families from the California tobacco directory.

The importer must also:

1. Appoint a resident agent for service of process in California;
2. Consent to the jurisdiction of the California courts for the purpose of enforcement of Division 8.6 (commencing with section 22979) of the Business and Professions Code, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Section 30165.1 of the Revenue and Taxation Code, and regulations adopted pursuant thereto;
3. Waive any sovereign immunity defenses in a form and manner acceptable to the Attorney General or post a surety bond in a form and manner directed by the Attorney General, as required by Business & Professions Code section 22979(a)(4); and
4. Attach a copy of the current tobacco importer's permit issued by the U.S. Alcohol and Tobacco Trade Bureau with any amendments.

**Importer Information**

Importer Name: \_\_\_\_\_

Contact Name and Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Federal Taxpayer ID Number: \_\_\_\_\_

**Non-Participating Manufacturer Identification**

Importer declares that it is a United States importer for the following NPM. (Please identify below the foreign NPM whose products you import into the United States. Complete this form for each foreign NPM from whom you import cigarettes or tobacco products.)

Manufacturer Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_



UNITED STATES IMPORTER DECLARATION ACCEPTING JOINT AND SEVERAL LIABILITY

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Importer's Resident Agent for Service of Process

Resident Agent Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Proof of Appointment: Attach notarized Importer's Notice of Appointment of Registered Agent and Registered Agent Form (JUS-TOB13).

Importer's Declaration

I certify that, based upon my personal knowledge, all of the information contained in this declaration and any attachments are true and accurate, and that I am authorized, under the laws of the state of California or the jurisdiction where the importer resides or is organized, to bind the importer making this certification.

Pursuant to Revenue and Taxation Code section 30165.1(b)(3)(E) and (f)(4), I declare that the importer accepts strict, joint and several liability with the above identified Non-Participating Manufacturer for:

- (1) All escrow deposits due under Health and Safety Code section 104557 and implementing regulations,
- (2) All penalties assessed in accordance with Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code; and
- (3) Payment of all fees, costs, attorney's fees, penalties, and refunds imposed or required by Revenue and Taxation Code section 30165.1, including, but not limited to, all refunds resulting from the removal of the manufacturer or any of its brand families from the California tobacco directory.

In addition, I also declare that the importer:

1. Has appointed a resident agent for service of process in California;
2. Consents to the jurisdiction of the California courts for the purpose of enforcement of Division 8.6 (commencing with section 22979) of the Business and Professions Code, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Section 30165.1 of the Revenue and Taxation Code, and regulations adopted pursuant thereto; and
3. Has waived any sovereign immunity defenses in a form and manner acceptable to the Attorney General or posted a surety bond in a form and manner directed by the Attorney General, as required by Business & Professions Code section 22979(a)(4).

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Signature of Authorized Officer or Agent for Importer

\_\_\_\_\_  
Name (Please Print Legibly)

\_\_\_\_\_  
Title (Please Print Legibly)

KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



UNITED STATES IMPORTER DECLARATION ACCEPTING JOINT AND SEVERAL LIABILITY

JUS-TOB12 (Rev. 02/2011) PAGE 3 of 3

Notary:

City/County of \_\_\_\_\_, State of \_\_\_\_\_

Subscribed and affirmed before me on this date: \_\_\_\_\_

Signature: \_\_\_\_\_ Printed Name: \_\_\_\_\_

[Notary Public]

My commission expires: \_\_\_\_\_

Send original fully executed Declaration, including attachments and supporting documents to:

NPM Enforcement Coordinator  
Tobacco Litigation and Enforcement Section  
Office of the Attorney General  
P.O. Box 944255  
Sacramento, CA 94244-2550





**NOTICE OF APPOINTMENT OF REGISTERED AGENT AND  
REGISTERED AGENT'S STATEMENT FOR IMPORTER  
(Rev. & Tax Code § 30165.1)**

*Please type or print in permanent blue ink.*

*Sign, date, and return original to:*

**Office of the Attorney General of the State of California  
Tobacco Litigation & Enforcement Section  
P.O. Box 944255  
Sacramento, CA 94244-2550**

The undersigned Importer ("Importer"), \_\_\_\_\_

Hereby appoints \_\_\_\_\_

as its registered agent. Said registered agent is authorized to receive service of process on behalf of the IMPORTER. The IMPORTER agrees to do the following: (1) provide notice to the Office of the Attorney General of the State of California ("Attorney General") at least 30 calendar days prior to termination of the authority of the registered agent; and (2) provide proof to the satisfaction of the Attorney General of the appointment of a new agent at least five (5) calendar days prior to the termination of the existing agent appointment. The IMPORTER further agrees that if the agent terminates its agency appointment, the IMPORTER will provide notice to the Attorney General of the termination within five (5) calendar days and shall include proof to the Attorney General of the appointment of a new agent.

I hereby certify and declare that all of the statements and information contained in this Notice of Appointment, including but not limited to any accompanying statements and attachments, are true and complete and that I am a person authorized to bind the IMPORTER submitting this Notice of Appointment either under the laws of California or of the jurisdiction where the manufacturer resides or is organized. The failure to file this form is a basis for removal from the Directory of the manufacturer and its Brand Families for which the IMPORTER has agreed to Joint and Several Liability.

**This Notice of Appointment must be signed and dated in the presence of a notary public.**

Signature of authorized representative for IMPORTER: \_\_\_\_\_

Authorized Representative (Print Name): \_\_\_\_\_

Title: \_\_\_\_\_

Principle Place of Business (physical address): \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

COUNTRY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_ personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

My Commission expires: \_\_\_\_\_



**NOTICE OF APPOINTMENT OF REGISTERED AGENT AND  
REGISTERED AGENT'S STATEMENT FOR IMPORTER  
(Rev. & Tax Code § 30165.1)**

**NAME AND ADDRESS OF CALIFORNIA STATE REGISTERED AGENT:**

Name: \_\_\_\_\_

Street Address (Required-Must be within the state of California): \_\_\_\_\_

P.O. Box (Optional): \_\_\_\_\_

City and State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile Number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

I consent to serve as the Registered Agent in the state of California for \_\_\_\_\_  
(name of IMPORTER), pursuant to California Revenue and Taxation Code section 30165.1. I understand it will be my  
responsibility to receive Service of Process on behalf of the IMPORTER; to forward mail to the IMPORTER; and to immediately  
notify the Office of the Attorney General if I resign or change the office address of the Registered Agent.

**This Notice of Appointment must be signed and dated in the presence of a notary public.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

COUNTRY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_ personally appeared  
\_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which  
the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

My Commission expires: \_\_\_\_\_



# CALIFORNIA TOBACCO MANUFACTURER AND IMPORTER SURETY BOND

STATE OF \_\_\_\_\_ BOND NUMBER \_\_\_\_\_

COUNTY/CITY OF \_\_\_\_\_

KNOW ALL PEOPLE BY THIS DOCUMENT that we,

\_\_\_\_\_  
(Name of Principal)

of \_\_\_\_\_

\_\_\_\_\_  
(Address of Principal)

as Principal, doing business at

\_\_\_\_\_  
(Street address of Principal - no P.O. Boxes)

And \_\_\_\_\_

\_\_\_\_\_  
(Name of Bonding Company)

Of \_\_\_\_\_

\_\_\_\_\_  
(Street address of Bonding Company)

as Surety authorized to transact business in California, are held and firmly bound unto the STATE OF CALIFORNIA, as Obligee, in the full

and just sum of \_\_\_\_\_ THOUSAND DOLLARS AND \_\_\_\_\_ CENTS,

(Amount in Words)

(Amount in Words)

(\$ \_\_\_\_\_), for which payment we hereby bind ourselves, our heirs, administrators, executors,

(Amount in Figures)

successors and assigns firmly by this document.

*Principal check all that apply:*

- ☐ WHEREAS, pursuant to California Revenue and Taxation Code section 30165.1(c)(4), to be listed on the California Tobacco Directory, a newly qualified or "elevated risk" nonparticipating manufacturer, or the United States importer of a newly qualified or "elevated risk" nonparticipating manufacturer that undertakes joint and several liability for the manufacturer's performance in accordance with California Revenue and Taxation Code section 30165.1(c)(4)(A), must post a bond in favor of the State of California, conditioned upon the performance by the nonparticipating manufacturer and, if applicable, its United States importer, of all of its escrow deposit duties and obligations under Article 3 (commencing with § 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, for all penalties assessed in accordance with Article 3 (commencing with § 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code and regulations adopted pursuant to these laws, for payment of all fees, costs, attorney's fees, penalties, and refunds imposed or required under California Revenue and Taxation Code section 30165.1, including, but not limited to, all refunds resulting from the removal of the manufacturer or any of its brand families from the directory, and payment of all state taxes for the sale or distribution of cigarettes and tobacco products in this state during the year in which the certification is filed and the next succeeding calendar year.

NOW, THEREFORE, the condition of this obligation is such that if the above-named nonparticipating manufacturer and, if applicable, its importer, as Principal, shall faithfully and truly fulfill all of its duties and obligations under Article 3 (commencing with § 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code and regulations adopted pursuant to these laws, and California Revenue and Taxation Code section 30165.1, then this obligation shall be void, otherwise it shall remain in full force and effect.

- ☐ WHEREAS, pursuant to California Business and Professions Code section 22979(a)(4), to be eligible for obtaining and maintaining a license to engage in the sale of cigarettes, a manufacturer or importer, in lieu of waiving any sovereign immunity defense that may apply to any enforcement action brought by the Attorney General or the Board of Equalization to enforce Division 8.6 of the Business and Professions Code, sections 104555 to 104557, inclusive, of the Health and Safety Code, or Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted pursuant to these laws, must post a bond in favor of the State of California, conditioned upon the performance by the manufacturer or importer of all its duties and obligations under this division, sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted pursuant to these laws.

NOW, THEREFORE, the condition of this obligation is such that if the above-named manufacturer and, if applicable, its importer, as Principal, shall faithfully and truly fulfill all of its duties and obligations under division 8.6 of the Business and Professions Code, sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted pursuant to these laws, then this obligation shall be void, otherwise it shall remain in full force and effect.



# CALIFORNIA TOBACCO MANUFACTURER AND IMPORTER SURETY BOND

☐ WHEREAS, pursuant to California Revenue and Taxation Code section 30165.1(c)(2)(E), to be included or retained on the California Tobacco Directory, a manufacturer or importer as defined in section 30019 of the Revenue and Taxation Code, that engages in delivery sales must provide "reasonable assurances," which includes voluntarily posting a bond pursuant to California Code of Regulations, Title 11, section 999.27(a), that the delivery seller has fully complied with all requirements of applicable federal and state law, including, but not limited to, the following:

- (i) The Prevent All Cigarette Trafficking Act of 2009 (PACT Act; Public Law 111-154);
- (ii) The Jenkins Act (Chapter 10A (commencing with section 375) of Title 15 of the United States Code);
- (iii) The requirements of Revenue and Taxation Code section 30101.7;
- (iv) All stamping, marking, and labeling requirements, including, but not limited to, Revenue and Taxation Code section 30163, and any other information or indicia requirements imposed by federal law; and
- (v) All other state laws generally applicable to the sale and distribution of tobacco products, including, but not limited to, those listed in California Code of Regulations, Title 11, section 999.27(b).

NOW, THEREFORE, the condition of this obligation is such that if the above-named manufacturer and, if applicable, its importer, as Principal, shall faithfully and fully fulfill all of its duties and obligations under California Revenue and Taxation Code section 30165.1(c)(2)(E) and California Code of Regulations, Title 11, section 999.27(b), then this obligation shall be void, otherwise it shall remain in full force and effect.

PROVIDED, HOWEVER, this bond is issued subject to the following express conditions:

1. This bond is executed by the Principal to comply with the above-described provisions, and said bond shall be subject to all of the terms and conditions thereof.
2. The aggregate accumulated liability of the Surety under this bond shall in no event exceed the penal sum named herein, for any and all claims which may accrue during the term thereof.
3. This bond may be cancelled by the Surety in accordance with Article 13 (commencing with section 996.310), Chapter 2, Title 14, Part 2 of the Code of Civil Procedure.
4. This bond shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at twelve and one minute o'clock A.M., Pacific Time, and continues in effect until the Surety withdraws from this bond by giving 60 days advance written notice by registered mail to the Tobacco Litigation and Enforcement Section, Office of the Attorney General, P.O. Box 944255, Sacramento, California, 94244-2550, provided such withdrawal shall not release said Surety from any liability existing hereunder at the time of the effective date of the said withdrawal, and further provided that said 60 days shall begin to run on the day following receipt of notice by the Tobacco Litigation and Enforcement Section, Office of the Attorney General.
5. More particularly, all obligations existing on the effective date of Surety's withdrawal, including but not limited to escrow obligations, penalties, costs of investigation and attorneys' fees, shall continue to be protected by this bond, even though no cause of action has accrued at the time of the withdrawal, until the running of the statute of limitations on actions claiming against this bond.

Signed, sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Principal (SEAL)

\_\_\_\_\_  
Surety (SEAL)

By \_\_\_\_\_

By \_\_\_\_\_

Signed and acknowledged by Surety's agent \_\_\_\_\_ before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Approved by: \_\_\_\_\_  
Attorney General or designee



# CALIFORNIA TOBACCO MANUFACTURER AND IMPORTER SURETY BOND

When completed, this bond should be mailed to the Tobacco Litigation and Enforcement Section, Office of the Attorney General, P.O. Box 944255, Sacramento, California 94244-2550.

## I. INFORMATION FOR THE PREPARATION AND EXECUTION OF THIS BOND

- A. The legal name of Principal on the bond should be fully and correctly stated and should precisely agree with the name of applicant on its local business license or articles of incorporation (any material variation may delay acceptance of bond).
- B. The name in which business is conducted should follow the name or names of the Principal where the applicant does business under a fictitious name.

### Examples:

Individual operating in own name: "Henry Smith"

Individual owner operating in another name: "Henry Smith d/b/a/ City Extended Contract Provider"

Partners operating in another name: "John Doe, Richard, Doe, and Mary Doe d/b/a Contract Provider"

Corporation operating in own name: "Chase Company (a corporation)"

Corporation operating in another name: "John Doe Enterprises, Inc. d/b/a Superior Contract Provider"

## II. EXECUTION BY PRINCIPAL

If the Principal of this bond is:

- A. An individual: This bond must be signed by the Principal.
- B. A partnership: This bond must be executed in the name of the partnership, and must be signed by at least one of the partners.
- C. A corporation: This bond must be executed in the name of the corporation, and signed by its President or Vice President, with an impression of corporate seal affixed, and attested to by the Secretary or Assistant Secretary of the corporation.

## III. EXECUTION BY SURETY

- A. This bond must be executed by a properly authorized person, whose title must be shown, with an impression of the corporate seal of the Surety affixed.
- B. Attach an original or certified copy of Power-of-Attorney authorizing said execution.

MANUFACTURER:

MSA Status:

OPM

SPM

NPM

NUMBER OF STYLES:

DATE:

Position in Company:

Name of Person Completing this Form:

[illegible]

Attach additional sheets, as necessary, to provide a complete response.