

**2017 NORTH CAROLINA
NON-PARTICIPATING MANUFACTURER'S
APPLICATION / ANNUAL CERTIFICATION**

[Pursuant to N.C. Gen. Stat § 66-291 and § 66-294]

Date: _____

Please check the appropriate box:

- Initial Certification** —Tobacco Product Manufacturer/Applicant is not currently listed on the North Carolina Approved Tobacco Directory.
- Annual Certification** — NPMs must file by April 30, 2017 for all brands sold in North Carolina.
- Supplemental Certification** – Change of information provided to the Attorney General, or to request addition or deletion of brands to the North Carolina Tobacco Directory.

Sales year for which you are certifying compliance: **2016**

NOTE: NPMS SUBJECT TO ANNUAL ESCROW DEPOSITS:

ESCROW DEPOSIT DUE APRIL 15, 2017

NPM'S SUBJECT TO QUARTERLY ESCROW DEPOSITS:

FIRST QUARTER 2017 ESCROW DEPOSIT DUE APRIL 30, 2017

PLEASE TAKE NOTICE: If you are an importer or trademark owner on the multiple entity escrow agreement, you are required to fill out the information requested herein.

PART 1: Tobacco Product Manufacturer (TPM) Identification

North Carolina requires the entity or entities that control or own the manufacturing process and that control the Brand mark as well as any importer to apply and be responsible for Brand(s) approved for sale and for the related escrow deposits.

****Please complete every section for each entity making application/certification for a Brand.**

- A. Company Name: _____
Street Address: _____ PO Box: _____
City: _____ State: _____ Zip Code _____
Telephone Number: _____ Fax No: _____
Company contact email address: _____

Name of Person Completing Application/Certification: _____
Email Address: _____
ATF (TTB) Tobacco Permit Number: _____
N.C. Distributor's License Number: _____
(N. C. Gen. Stat. §§105.113.4(3)(b); 105.113.11(a)) (If applicable - see Part 3, Section B)

Identify the form of business entity:

- | | |
|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Company |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other _____
(explain) _____ |

The entity identified above is as of the date of this application/certification: (Check all applicable boxes)

- Trademark Owner of Brand Mark
 Fabricator of Tobacco Product
 First Importer for resale in the United States
 Other (please explain relationship) _____

If represented by an Attorney, provide the following information:

Attorney's Name: _____
Firm Name: _____
Firm Mailing Address: _____
Telephone Number: _____ Fax Number: _____
Email Address: _____
States where licensed: _____

****Importer/Trademark Owner Complete Section Below.**

B. Company Name: _____
Street Address: _____ P.O. Box _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number: _____
Company Contact email address: _____

Name of Person Completing Application/Certification: _____
Email Address: _____
ATF (TTB) Tobacco Permit Number: _____
N.C. Distributor's License Number: _____
(N. C. Gen. Stat. §§105.113.4(3)(b); 105.113.11(a)) (If applicable - see Part 3, Section B)

Identify the form of business entity:

- | | |
|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Company |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other _____
(explain) _____ |

The entity identified above is as of the date of this application/certification: (Check all applicable boxes)

- Trademark Owner of Brand Mark
- Fabricator of Tobacco Product
- First Importer for resale in the United States
- Other (please explain relationship) _____

If represented by an Attorney, provide the following information:

Attorney's Name: _____
Firm Name: _____
Firm Mailing Address: _____
Telephone Number: _____ Fax Number _____
Email Address: _____
States where licensed: _____

PART 2: Required Documentation - Attach a plain sheet of paper to the front of each document that identifies the document by item letter and name.

****Please complete every section for each entity making application/certification for Brand.**

- A. Service of Process Information: **Tobacco Product Manufacturer**

N.C. Gen. Stat. § 66-294(b)(1) states an NPM must appoint and continuously maintain a process service agent within North Carolina to accept service of any notification or enforcement of an action under this Article. The manufacturer/applicant shall file a certified copy of each instrument appointing a process service agent with the Secretary of State and the Office of the Attorney General, and provide a current letter from the registered agent accepting this appointment.

- **A.(1) Service of Process Information: Importer/Trademark Owner for Multiple Entity Escrow Only. The above in Item A. also applies to any importer pursuant to N.C. Gen. Stat. § 66-294.2.**

- B. Authority to Sign: **Tobacco Product Manufacturer**

If applicant is an entity other than an individual, including without limitation, all partnerships and/or corporations, the applicant must provide information showing that the person who signs has the authority to sign and make binding commitments for the applicant. Examples of such documents include, Partnership Agreements, Articles of Incorporation and Board Resolutions showing the names of the persons authorized to sign on behalf of the applicant.

- **B.(1) Authority to Sign: Importer/Trademark Owner for Multiple Entity Escrow Only. See information under B. directly above.**

- C. Escrow Agreement: **Tobacco Product Manufacturer**

**** FOR 2017 and beyond:** New Revised ESCROW AGREEMENT

A Tobacco Product Manufacturer and Importer or Trademark Owner (if applicable) must submit an Escrow Agreement previously approved by this office. Some states now require a Revised Escrow Agreement which more clearly describes the reporting and investment obligations under the Escrow Agreement. If submitted, North Carolina will consider approval of a Revised Escrow Agreement currently required by another state.

Provide copy of your current executed Escrow Agreement.

PLEASE NOTE that your company's Escrow Agreement must conform to North Carolina's Model Escrow Agreement and **any deviation in language will not be accepted**. North Carolina's Model Escrow Agreements, single and multi-entity, can be found at www.ncdoj.com.

- **C.(1) Revised Escrow Agreement: Importer/Trademark Owner for Multiple Entity Escrow Only.**

- D. CDC Letter:

A letter from the U.S. Center for Disease Control showing a current approval of the ingredient list for **each above referenced cigarette Brand**. (N.C. Gen. Stat. § 14-401.18)

- E. U.S. Federal Trade Commission:

A letter from the U.S. Federal Trade Commission showing current approval of the warning label plan for **each above referenced cigarette Brand**. (N. C. Gen. Stat. § 14-401.18)

- F. Proof of Trademark Ownership and Compliance with Federal Trademark Laws:

Adequate assurance that Applicant owns or has the exclusive U.S. right to use the **Brand(s) referenced above** and is in compliance with all intellectual property law. Please provide a certified copy of the trademark registration or other documentation showing exclusive right to use name and compliance with intellectual property laws. (N.C. Gen. Stat. § 14-401.18)

- G. Packaging:

Provide an **electronic sample** of the packaging for each member of the Brand of cigarettes as listed on your application. (N.C. Gen. Stat. § 14-401.18) **PLEASE**

DO NOT SEND TOBACCO PRODUCTS, JUST AN ELECTRONIC SAMPLE OF THE PACKAGING.

- H. ATF (TTB) Permit:

A copy of your ATF (TTB) cigarette manufacturing or importing permit. (N.C. Gen. Stat. § 14-401.18(b)(5)) (26 U.S.C. §§ 5712 and 5713.)

- I. Authority to Transact Business and Organizational Information: **Tobacco Product Manufacturer**

- **I.(1). Authority to Transact Business and Organizational Information: **Importer/Trademark Owner for Multiple Entity Escrow Only.**

Information of Entity:

a. Identify State or Country where business entity was formed and the date of formation. Attach copies of current Articles of Incorporation, Partnership Agreements and By-Laws and any documents filed with a government agency regarding the formation of the business entity. Please include a certification of good standing from the Secretary of State or country's equivalent documentation.

b(1). An organizational chart listing the name and role of all companies involved in the manufacturing process of the above referenced cigarette Brand and the relationship between the companies (e.g. parent / subsidiary, affiliate/sister).

b(2). Identify by name, address, telephone, and e-mail all officers, principals, general partners, limited partners, owners, guarantors or others that have any interest in the business entity.

Please describe the ownership interest for each person listed.

Production Information:

c. Identify the owner and location of all fabrication facilities. Provide copies of all contracts with the entity that owns facilities where the tobacco product is fabricated.

Import Information:

d. Identify each entity that imports the Brand(s). Provide copies of all contracts with importer(s) of the Brand(s).

- J. History: **Tobacco Product Manufacturer**

List of all Judgments, Fines, Penalties, Litigation in which Applicant(s) have been involved relating to or affiliated with tobacco products. Please explain in detail and include the Brand involved, jurisdiction, parties, and status of the matter.

- **J.(1) History: **Importer/Trademark Owner for Multiple Entity Escrow Only.**
List of all Judgments, Fines, Penalties, Litigation in which Applicant(s) have been involved relating to or affiliated with tobacco products. Please explain in detail and

include the Brand involved, jurisdiction, parties, and status of the matter.

K. Escrow Deposits:

For all deposits attach copies of your receipt or other proof of deposit from your financial institution.

L. PACT ACT:

Provide copy of PACT ACT Registration. For further information and/or questions, contact ATF (PACT ACT Info) at (202) 648-7130.

M. Certificate of Authority: **Tobacco Product Manufacturer**

Provide copy of a Certificate of Authority granted by the North Carolina Secretary of State.

M.(1) Certificate of Authority: **Importer/Trademark Owner for Multiple Entity Escrow Only.

N. Bond Form/Irrevocable Letter of Credit: **Tobacco Product Manufacturer**

If this is an Initial Certification Application or if you are required by the North Carolina Attorney General's Office to post a bond, see Attachment 4 - include with this application either an executed **Tobacco Escrow Bond** or an **Irrevocable Letter of Credit** on the relevant form provided. (instructions are included)

The amount of the bond or irrevocable letter of credit must be the greater of \$50,000 or the highest previous quarterly or annual escrow deposit required in the past three years. (N.C. Gen. Stat. § 66-294.2 (b)(7))

We highly recommend you provide this Office with a draft prepared form prior to execution for approval.

PART 3: BRAND AND ESCROW INFORMATION

A. BRAND IDENTIFICATION: Complete Attachment 1 incorporated herein by reference.

B. DISTRIBUTOR INFORMATION: Complete Attachment 2 incorporated herein by reference. (See example)

Note: All Revenue questions should be directed to the North Carolina Department of Revenue Tobacco Products Unit at (919) 754-2631. List all distributors who sell TPM's brands in North Carolina. Provide a contact name, address, telephone number, the units sold and the dates TPM shipped to each distributor. TPM's who hold a North Carolina Distributor's License provide a copy of their Distributor's License. TPM's may obtain a North Carolina Distributor's License by contacting the North Carolina Department of Revenue Tobacco Products Unit.

C. ESCROW INFORMATION for 2016 Sales:

2016 Units Sold: _____ x \$0.0327588 = _____
(insert total from Attachment 1) (adjusted for inflation) (Escrow Payment)

NOTE: The base escrow amount for 2016 sales in North Carolina is \$.0188482 for each cigarette or .09 ounces of roll your own (RYO). The inflation adjustment percentage for escrow and deposits covering 2016 sales is 73.80355%. Thus, the amount of escrow which must be deposited for 2016 sales in North Carolina, including the base amount adjusted for inflation is \$.0327588 (as shown in formula) per each cigarette or per each 0.09 ounces of RYO.

PART 4: NON-PARTICIPATING MANUFACTURER (NPM) ESCROW CERTIFICATION INFORMATION

****Please complete every section for each entity making application/certification for a Brand.**

A. Registered Agent / Approved Agent for Service of Process

Agent's Name: _____
Company: _____
Address: _____
City/State/Zip: _____
Telephone No: _____ Fax: _____
Email: _____
Registered with Secretary of State? _____
Date Registered: _____
Is the registration current as of the date of Application/Certification? _____

A(1). Registered Agent / Approved Agent for Service of Process (Importer/Trademark Owner for Multiple Entity Escrow Only).

Agent's Name: _____
Company: _____
Address: _____
City/State/Zip: _____
Telephone No: _____ Fax: _____
Email: _____
Registered with Secretary of State? _____
Date Registered: _____
Is the registration current as of the date of Application/Certification? _____

NOTE: A NPM and its Brand may be deleted from the Approved Tobacco List if the manufacturer fails to continuously maintain an approved agent for service of process.

B. Qualified Escrow Fund - Financial Information

Name of Institution: _____

Address: _____
 Representative Name: _____ Telephone No: _____
 Escrow Acct. No.: _____ N.C. Subacct. No.: _____
 Has the Qualified Escrow Agreement been approved by the Attorney General? Yes ___ No ___

If yes, by Whom: _____ Approval Date: _____

If no, please attach Escrow Agreement for review and approval.

C. Escrow Deposit / Withdrawal History for North Carolina

Complete Attachment 3 incorporated herein by reference or attach a statement of current escrow.

D. Compliance Questions

1. **Escrow:** Has North Carolina made demand for payment of escrow or penalties for failure to pay escrow? _____ If the answer is "YES," explain circumstances and how violation was resolved. _____

Please list date(s) and amount(s) of payments made to resolve penalty demands:

Payment Date	Escrow Amount Paid	Penalty Amount Paid

2. **Brand Listing:** Since January 1, 2003, has the applicant:

a. Delivered or sold unlisted Brands into North Carolina directly or indirectly through distributors, wholesalers, affiliate businesses, the internet or any other means?
 Yes No

If the answer is "YES," explain the circumstances, how the violation was resolved. _____

b. Advertised, sold, or intends to advertise or sell Cigarettes/RYO via the Internet or in catalogs and use the mail or other delivery service to deliver Cigarettes/RYO to North Carolina consumers?
 Yes No

If the answer is "YES," explain the circumstances. _____

c. Sells Cigarettes/RYO onto or through a Stamping Agent or Distributor who sells the Cigarettes/RYO onto an Indian Reservation located in North Carolina?
 Yes No

PART 5: ADDITIONAL INFORMATION

Provide the following additional information:

- A. Names of other states where the Brand(s) are currently approved. _____

PART 6: Affirmation and Execution by Authorized Representative

****Please complete every section for each entity making application/certification for Brand (All parties to the Escrow Agreement).**

I, _____, as the duly appointed and authorized representative of _____, the Tobacco Product Manufacturer (TPM) and (check the applicable forms)

_____ (a) an applicant for approval for the Brands set forth in the above application/certification;

_____ (b) Compliant NPM requesting retention of Brands on Approved Tobacco List and certifying escrow compliance;

_____ (c) Compliant NPM requesting the delisting Brands set forth above, **and if applicable,**

I, _____, as the duly appointed and authorized representative of _____, the Importer/Trademark Owner;

certify and declare under penalty of perjury that I completely accurately and truthfully prepared this Application/Certification Document (which means the answers to questions in Parts 1 - 4 set forth above plus applicable Attachments and Documents attached and incorporated herein by reference as a part of this Application/Certification) and I represent on behalf of the TPM/Applicant the following: **(INITIAL each item listed below, sign and date the affirmation)**

_____ 1. TPM/Applicant completed this Certification, answered all questions and prepared all Attachments and Documents completely, accurately and truthfully.

_____ 2. TPM/Applicant appointed and will continuously maintain a process service agent within the State of North Carolina.

_____ 3. TPM/Applicant filed a certified copy of the instrument appointing the process service agent with the Secretary of State and the Attorney General as evidenced by the documentation included with this Application/Certification.

_____ 4. TPM/Applicant submitted, on or before April 30th (in each year its Brands

were sold in the State of North Carolina) and will continue to submit an Annual Certification to the Office of the Attorney General in accordance with N.C. Gen. Stat. §§ 66-291 and 66-294.

_____ 5. TPM/Applicant will notify the Office of the Attorney General of any proposed changes affecting the list of Brands the TPM offers for sale at least 30 days prior to the change via a Brand Addition or Brand Deletion form found at the North Carolina Attorney General's website <http://www.ncdoj.com> and **will not sell or deliver, directly or indirectly, a Brand into North Carolina until applicant receives written notification of approval.**

_____ 6. TPM/Applicant has made all escrow payments required under N. C. Gen. Stat. § 66-291.

_____ 7. Neither the TPM/Applicant, its predecessors nor any of its officers, directors and employees have been involved with any tobacco product that has failed to comply with the Escrow or Brand Listing laws in North Carolina or any other State, unless this information has been disclosed and explained as a part of this Application/Certification in subsection J of Part 2 and subsection D of Part 4 above.

_____ 8. TPM/Applicant is adequately capitalized and has sufficient assets to comply with all escrow requirements for the Brands which applicant requests be listed on the Approved Tobacco List. TPM/Applicant understands that a fraudulent statement concerning the financial capability of the TPM/Applicant designed to induce the State of North Carolina to approve the TPM/Applicant as a Compliant NPM and add the TPM/Applicant and its Brands to the Approved Tobacco List may be considered a violation of North Carolina laws, including but not limited to the Unfair and Deceptive Trade Practices Act.

_____ 9.(a) TPM/Applicant submitted and received written approval of an escrow agreement and any amendments in the form required by the State of North Carolina and such agreement is attached hereto; or

_____ (b) TPM/Applicant submits, attached to this Application/Certification as Part 2, Document "C" an Escrow Agreement in the form required by North Carolina and subject to approval by the North Carolina Attorney General's Office.

_____ 10. TPM/Applicant is currently in compliance with all applicable laws. Complete, true and accurate copies of documents necessary to support this claim are attached and incorporated herein as part of this Application/Certification as Documents A through K.

_____ 11. TPM/Applicant represents that Attachments 1, 2 and 3 of this application

(circle applicable #'s) contain complete, true and accurate information and are attached and incorporated herein as a part of this Application/Certification by reference.

_____ 12. TPM/Applicant is the appropriate entity to pay escrow for the Brand(s) contained in this Application/Certification and to defend any claims that may arise related to the Brand(s).

_____ 13. It is unlawful to offer for sale in the State of North Carolina any cigarette that is not compliant with the North Carolina Fire Safety Standard and Firefighter Protection Act. The brands sought to be certified in this application are fire safe compliant with the North Carolina Fire Safety Standard and Firefighter Protection Act. <http://www.ncdoi.com/osfm/FireSafetyPrograms>

_____ 14. TPM/Applicant will promptly update this Application/Certification in writing if any changes or modifications occur to the information provided herein.

_____ 15. TPM/Applicant agrees to comply with all requirements of the Prevent All Cigarette Trafficking Act (PACT Act), including all reporting requirements to the N.C. Department of Revenue and the N.C. Attorney General's Office, as the Act applies to all shipments, deliveries or sales of cigarettes or other tobacco products in or into the State of North Carolina. TPM/Applicant acknowledges that failure to do so may result in de-listing or other legal action.

_____ 16. TPM/Applicant assumes responsibility for all representations and all escrow deposit obligations for the Brands listed in this Application/Certification until TPM/Applicant receives written notification that TPM/Applicant is released by the North Carolina Office of the Attorney General from responsibility for the Brand(s) listed in the Application/Certification.

_____ 17. The TPM/Applicant consents to being sued in North Carolina Superior Court for the purpose of the State of North Carolina enforcing any provisions of the North Carolina General Statutes, Article 37, and the application of North Carolina law relating to tobacco enforcement and the duties of tobacco manufacturers. Attached is appropriate documentation authorizing the Authorized Designee to consent on behalf of NPM/Applicant and all parties constituting "the Company" on the Escrow Agreement to being sued in a North Carolina Superior Court.

Authorized Representative for **TPM**:

Title: _____

Signature of Representative: _____

Date: _____

Subscribed and sworn to before me, this the _____ day of _____, 201____.

Signature of Notary Public (SEAL)
Printed Name of Notary Public: _____
City or County of _____
My Commission Expires: _____

Authorized Representative for Other Applicant (Importer/Trademark Owner for Multiple Entity Escrow):

Title: _____

Signature of Representative: _____ Date: _____

Subscribed and sworn to before me, this the _____ day of _____, 201____.

Signature of Notary Public (SEAL)
Printed Name of Notary Public: _____
City or County of _____
My Commission Expires: _____

MAIL THE COMPLETED APPLICATION/CERTIFICATION TO:
OFFICE OF THE NORTH CAROLINA ATTORNEY GENERAL
Special Litigation Section - Tobacco Unit
114 W. Edenton Street
P.O. Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6900
Facsimile: (919) 716-6763

**NOTE: 1. Please do not forward an incomplete Application/Certification.
North Carolina can only process completed Applications/Certifications.
Incomplete Applications/Certifications will be returned upon receipt.**

**2. Any additions, changes or deletions which may arise during the year
should be sent in writing to the address above.**

ATTACHMENT 1

TPM Name: _____

BRAND IDENTIFICATION:

A/R	D	BRAND NAME	TRADEMARK OWNER	FABRICATOR	2016 UNITS SOLD (thru 12/31/2016)	2017 UNITS SOLD (thru App. date)
R		THEO	Smith Tobacco Holding Corp.	Jones Tobacco Company	20,000,000	40,000,000
				TOTAL:		

* A= Add a Brand; R= Retain as a Listed Brand; D= Delete a Brand
 Copy and attach if additional space required.

ATTACHMENT 2

TPM Name: _____

DISTRIBUTOR INFORMATION:

Distributor's Name	Contact Name	Address/ Street & E-mail	Telephone Number	Units Sold	Date of Shipment
XYZ Company	John Doe	318 ABC Lane, ZEE, NC	999-9999	10	1/1/09

Copy and attach if additional space required

ATTACHMENT 3

TPM Name: _____

Escrow Agent: _____

Escrow Deposit / Withdrawal History for North Carolina

Date	Amount of Deposit	Amount of Withdrawal	Escrow Account Balance

Copy and attach if additional space required.

ATTACHMENT 4

TOBACCO ESCROW BOND
NORTH CAROLINA DEPARTMENT OF JUSTICE

BOND NO. _____

KNOW ALL MEN BY THESE PRESENTS, that _____ of,
(PRINCIPAL Name)

_____,
(PRINCIPAL Street Address) , _____
(City/State/Ctn) as PRINCIPAL,
 and _____
(SURETY Company) having its principal place of business at

(SURETY Complete Address) and duly authorized to engage in business as a
 SURETY company in the State of North Carolina, as SURETY, are held and firmly bound unto the State of North
 Carolina in the sum of _____ dollars,
(Amount of Bond) lawful money of the United States, for payment of which, well
 and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally,
 firmly by these presents.

The condition of this obligation is such that whereas the above-bound PRINCIPAL has applied to engage in the
 business of selling cigarettes or roll your own tobacco in the State of North Carolina as provided by law.

NOW THEREFORE, the conditions of this Bond are as follows:

1. If the said PRINCIPAL as a Nonparticipating Manufacturer, or if applicable, an entity with joint and several liability, shall properly perform all of its duties and discharge all of its liabilities under the provision of North Carolina Gen. Stat. Art. 37 § 66-290 et seq., as amended, and shall comply with all of the provisions of the said law and with such procedures as may be promulgated by the Departments of Justice and Revenue, then this obligation shall be void; otherwise to remain in full force and effect.
2. The term of this Bond begins on the _____ day of _____, _____ and shall continue in force until
(Month) (Year) made void in the matter set forth in paragraph No. 1 immediately above, or cancelled in the manner set forth in paragraph No. 3 immediately below.
3. The obligation of the SURETY may be cancelled upon sixty (60) days' written notice by registered mail given by the above-named SURETY to the State of North Carolina through its agent, the Tobacco Section of the Department of Justice, at the address below; but such cancellation shall be prospective in operation only from the effective date thereof, and shall not operate to release any liability which shall accrue or attach before the effective date of such cancellation, whether such liability shall be ascertained or discovered before or after the effective date of such cancellation.

The NPM and the SURETY, identified herein, waive any right or privilege that the State of North Carolina must first start an action or otherwise exhaust remedies against either the NPM, the entity with joint and several liability (if any) or the SURETY before pursuing claims against the bond. If the NPM or the SURETY breaches any condition of this bond, the State of North Carolina, may in its sole discretion pursue remedies against any or all of the following: the NPM, entity with joint and several liability (if any) and-or the SURETY. SURETY and NPM agree that North Carolina courts have personal jurisdiction over the SURETY and NPM for claims under this bond, and that venue in North Carolina is proper.

Signed, sealed, and delivered this ___ day of _____, _____.

(Month) (Year)

INDIVIDUAL PRINCIPAL: _____
(Signature)

(Printed Name)

PARTNERSHIP PRINCIPAL: _____
(Printed Name of Partnership)

BY: _____
(Signature) (Title)

(Printed Name of Signer)

CORPORATION/LLC PRINCIPAL: _____
(Printed Name of Corporation/LLC)

BY: _____
(Signature) (Title)

(Printed Name of Signer)

SURETY: _____
(Printed Name of Surety Company)

BY: _____ as Attorney in Fact for SURETY
(Signature)

(Printed Name)

COUNTERSIGNED: _____
(N.C. REGISTERED AGENT OF SURETY)

NOTARY:

Sworn to and subscribed before me on this day ___ of _____, 2015.

(Seal)

Notary Public

My commission expires: _____

Please Mail the Original Completed Form to:

**North Carolina Department of Justice
Attention: Tobacco Section
P.O. Box 629
Raleigh, NC 27602**

INSTRUCTIONS

I. INDIVIDUAL

1. Beside the work "INDIVIDUAL PRINCIPAL," the individual must sign his/her name.
2. Beneath the signature print the individual's name.
3. If the principal is an individual using a trade name, the individual must print the trade name in parentheses beside the individual's printed name.

II. PARTNERSHIP

1. If the principal is a partnership, the partnership name must be placed on the line immediately beside the word "PARTNERSHIP PRINCIPAL."
2. Immediately thereunder and opposite the word "BY," one of the general partners must sign his/her name and give his/her title.
3. Beneath the signature, print signature partner's name.

III. CORPORATION

1. The corporate name must be placed on the line immediately beside the word "CORPORATION/LLC PRINCIPAL."
2. Immediately thereunder and opposite the word "BY," one of the corporate officers must sign his/her name and give his/her title.
3. Beneath the signature, print the signing officer's name.
4. Beneath the word "ATTEST," the Secretary or Assistant Secretary must sign his/her name and indicate his/her title. Beneath the signature, print the signing officer's name. In the absence of a Secretary, a letter is required from another officer not appearing on the bond verifying that the appropriate person has signed the bond to bind the company.
5. The corporate seal must be affixed above the Secretary or Assistant Secretary's signature and must be legible. A letter is required on letterhead, if the entity does not have a company seal.

IV. LIMITED LIABILITY COMPANY (LLC)

1. The name of the LLC must be placed on the line immediately beside the word "CORPORATION/LLC PRINCIPAL."
2. Beside the word "BY," the name of a manager of the LLC must be signed. The word "Manager" must be written above the word "TITLE."
3. Beneath the signature print the signing manager's name.
4. If the LLC has a seal, it must be affixed and must be legible. A letter is required on letterhead, if the entity does not have a company seal.

V. SURETY

1. A verified copy of the authority of the person executing on behalf of the corporate surety must accompany this bond.
2. The attorney-in-fact must sign and print his/her name.
3. The corporate seal of the surety must be affixed beside the signature and must be legible.
4. The bond number must be entered on the line provided on the face of the bond.
5. This bond must be countersigned by a North Carolina registered agent if the surety is a foreign corporation.

(IRREVOCABLE LETTER OF CREDIT TEMPLATE)
(Reproduce on Letterhead of Issuing Bank)

[Date]

North Carolina Department of Justice
ATTN: Tobacco Section
P.O. Box 629
Raleigh, North Carolina 27603

Re: Irrevocable Letter of Credit No.: _____

Beneficiary: State of North Carolina

Principal: [Name of Principal]
[Address of Principal]
[Other Information Concerning the Nonparticipating Manufacturer, Optional]

Coverage Period: Effective Date _____

Expiration Date _____
(No sooner than 365 days after the "Effective Date")

Also, Subject to Any Extended Expiration Date(s)

Liability Release Date: _____
(Calculate by using three years after the expiration date.)

Also, Subject to Any Extended Liability Release Date(s)

Credit Amount: _____

At the request of and for the account of _____ ("Principal"), we hereby issue this Irrevocable Letter of Credit No. _____ ("Letter of Credit") in favor of the State of North Carolina.

The amount of this Letter of Credit _____ is U.S. Dollars (\$ _____) (the "Credit Amount"). You shall be entitled to draw, pursuant to this Letter of Credit, amounts not exceeding, in the aggregate, the Credit Amount.

This Letter of Credit is issued with the purpose of protecting the Beneficiary against any noncompliance of the Nonparticipating manufacturer or where applicable joint and severally liable importer, with the requirements of Article 37 § 66-290 et seq. of the North Carolina General Statutes, as these statutes may be from time to time amended, Modified, recodified, or otherwise, rewritten.

This Letter of Credit covers acts, omissions, and liabilities of the Principal under the above-listed North Carolina General Statutes for a term which begins with _____ (“Effective Date”) and ends with _____ (“Expiration Date”), the total term of which is the period covered by this Letter of Credit (the “Coverage Period”). We are obligated for all acts, omissions, and liabilities owed by the Principal to the Beneficiary during the Coverage Period.

It is a condition of this Letter of Credit that the Expiration Date shall be automatically extended without amendments, for successive one-year periods from the Expiration Date, unless at least 90 days prior to the then applicable Expiration Date, unless at least 90 days prior to the then applicable Expiration Date, the Beneficiary received notification in writing from us, which notification shall be sent by registered mail or overnight courier, that we elect not to renew this Letter of Credit for an additional period. An automatic extension of this Letter of Credit shall result in a new Expiration Date which shall be known as the Extended Expiration Date. The most recent Expiration Date or Extended Expiration Date shall be the date through which this Letter of Credit is authorized. A decision not to renew this Letter of Credit shall not relieve, release, or discharge us from any obligations under this Letter of Credit.

It is a condition of this Letter of Credit that we shall not be released from any obligations or liabilities under this Letter of Credit until three years after the Expiration Date or Extended Expiration Date, whichever date is later, or within 90 days after a proposed assessment based on a final audit of the Principal’s records has been issued by the Beneficiary, whichever occurs first (“Liability Release Date”). If the Liability Release Date is not a date on which we are open for business, then the Liability Release Date shall be the next day on which we are open for business.

We hereby agree with the Beneficiary that we shall honor, at sight, a presentation made by you to us of the following documents:

1. Original Letter of Credit (including any amendments); and
2. A demand using the form attached hereto and denoted as “Exhibit A” or document which provided the same information as “Exhibit A.”

Such documents must be delivered to us in person, by overnight courier, or by facsimile no later than 5:00 p.m. on the Liability Release Date of this Letter of Credit. Presentation is to be made to:

[Name of Issuing Bank]
[Address of Bank]
[Any Other Information, Optional]

In lieu of presenting the physical documents required for presentation under the terms of this Letter of Credit, the Beneficiary may choose to make a presentation under this Letter of Credit entirely by facsimile transmission. Such transmission shall be made on a business day by simultaneously providing telephone advice to the Bank’s office and transmitting the documents by facsimile to the following numbers:

Telephone Number: _____

Fax Number: _____

[Any Additional Instructions, Optional]

On the day of such presentment by facsimile transmission, the Beneficiary shall immediately send to us the originals of the faxed documents by overnight mail or courier service to the bank's office address as above specified. However, we will determine to honor any such facsimile presentation purely on the basis of our examination of such facsimile presentation, and will not examine the originals.

If a draft presented at or prior to 11:00 a.m. on a day on which we are open for business, payment of the amount drawn shall be made by 4:00 p.m. on the same day. If a draft is presented after 11:00 a.m. on a day on which we are open for business, payment of the amount drawn shall be made by 11:00 a.m. on the next day on which we are open for business. All payments by us will be in immediately available funds. Payment may be made by wire transfer of immediately available funds to the account specified by you, or by deposit in a designated account you maintain with us.

We shall accept demand by you with the terms of this Letter of Credit on its face, and we shall have no duty, responsibility, or liability to the Principal with respect to the underlying validity of said demand.

It is a condition of this Letter of Credit that this document is an irrevocable letter of credit that cannot be modified or revoked without the written consent of the Beneficiary.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce, Publication No. 600 (The "UCP").

This Letter of Credit shall be governed by the laws of the State of North Carolina.

Sincerely,

[Name of Issuing Bank]

By: _____

Name: _____

Title: _____

INSTRUCTIONS: PLEASE REPRODUCE AND COMPLETE THE ABOVE TEMPLATE ON YOUR LETTERHEAD, INCLUDING EXHIBIT A WHICH FOLLOWS. Please fax or email a DRAFT of the completed Irrevocable Letter of Credit for the Department's review and approval prior to issuing an original document. The draft should be faxed to the Tobacco Section at 919-716-6763 or email to bbaul@ncdoj.gov. If you have any questions, please contact the Tobacco Section at 919-716-6900.

Exhibit A

(North Carolina Department of Justice Letterhead)

[Date]

[Name and Address of Issuing Bank]

Re: _____ [Name of Issuing Bank] Irrevocable Letter of
Credit No. _____.

The undersigned Beneficiary demands payment of U.S. \$ _____
under Letter of Credit No. _____, dated, _____.

[Instructions for payment – check, bank account number, etc.]

North Carolina Department of Justice

By: _____

Name: _____

Title: _____