

**2018 NORTH CAROLINA
NON-PARTICIPATING MANUFACTURER'S
APPLICATION / ANNUAL CERTIFICATION**

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

Date: _____

<u>NOTICES</u>	
<p>Sales Year for which you are certifying compliance: 2017</p> <p>FILING DEADLINE is April 30, 2018. Certification forms must be postmarked no later than <u>April 30, 2018</u> to avoid removal from the North Carolina Approved Tobacco Directory.</p> <p>Please Type or Print. The Attorney General's Office will not process incomplete or illegible Certification Application forms.</p> <p>This Certification Application form must be supplemented to reflect any change in information at any time during the year. Any change of information must be submitted within thirty (30) days prior to the change. Failure to notify the Attorney General's Office of any changes to this information with thirty (30) days, including changes in address, may result in removal from the North Carolina Attorney General's Office.</p> <p>The denial of a certification, removal of the Applicant(s) or its brand(s) from any other state's approved tobacco directory, or failure to notify the North Carolina Attorney General's Office of the same, may, in the Attorney General's sole discretion, result in denial of this certification or immediate removal from the North Carolina Approved Tobacco Directory.</p> <p>NOTE: April 15, 2018 is the Escrow Deposit due date for Nonparticipating Manufacturers (NPMs) subject to Annual Escrow Deposits. April 30, 2018 is the First Quarter 2018 Escrow Deposit due date for NPMs subject to Quarterly Escrow Deposits.</p>	<p>Mail the completed Certification Application and attachments to:</p> <p>North Carolina Office of the Attorney General Special Litigation Section – Tobacco Unit 114 W. Edenton Street P.O. Box 629 Raleigh, NC 27602</p> <p>Please refer any questions to the Office of the Attorney General Tobacco Unit at (919) 716-6900.</p>
Type of Certification (check one):	
<p><input type="checkbox"/> Initial Certification — Tobacco Product Manufacturer/Applicant is not currently listed on the North Carolina Approved Tobacco Directory.</p> <p><input type="checkbox"/> Annual Certification — NPMs must file by April 30, 2018 for all brands sold in North Carolina.</p> <p><input type="checkbox"/> Supplemental Certification — Change of information provided to the Attorney General, or to request addition or deletion of brands to the North Carolina Tobacco Directory.</p>	

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 requesting to certify a Brand.**

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

ATF (TTB) Tobacco Permit Number: _____
N.C. Distributor's License Number: _____
Federal Taxpayer ID 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: _____

Registered Agent / Approved Agent for Service of Process

Agent's Name: _____
Company: _____
Address: _____
City/State/Zip code: _____

Telephone No: _____ Fax: _____
Email: _____

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.

****Importer Complete Section Below.**

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

Registered Agent / Approved Agent for Service of Process

Agent's Name: _____
Company: _____
Address: _____
City/State/Zip code: _____
Telephone No: _____ Fax: _____
Email: _____

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.

*****Trademark Owner Complete Section Below. (If different from TPM or Importer)**

C. Company Name: _____
Street Address: _____ P.O. Box _____
City _____ State _____ Zip Code _____
Telephone Number _____ Fax Number: _____
Company Contact 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)

- | |
|---|
| <input type="checkbox"/> Trademark Owner of Brand Mark |
| <input type="checkbox"/> Fabricator of Tobacco Product |
| <input type="checkbox"/> First Importer for resale in the United States |
| <input type="checkbox"/> 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: _____

Registered Agent / Approved Agent for Service of Process

Agent's Name: _____
Company: _____
Address: _____
City/State/Zip code: _____
Telephone No: _____ Fax: _____
Email: _____

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.

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 requesting to certify a Brand.**

A. Service of Process Information: **TPM**

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 dated letter from the registered agent accepting this appointment.

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

*****A. (2) Service of Process Information: Trademark Owner for Multiple Entity Escrow Agreement Only. (If different from TPM or Importer)**

B. Authority to Sign: **TPM**

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 for Multiple Entity Escrow Only. See information under B. directly above.**

*****B. (2) Authority to Sign: Trademark Owner for Multiple Entity Escrow Only. (If different from TPM or Importer)**

C. Escrow Agreement: **TPM**

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

A Tobacco Product Manufacturer and Importer and/or Trademark Owner (if applicable) must submit an Escrow Agreement that conforms to North Carolina's Model Escrow Agreement and **any deviation in language will not be accepted**. North Carolina's Single and Multi-Entity Escrow Agreements can be found at www.ncdoj.com. North Carolina will consider approval of a Revised Escrow Agreement currently required by another state.

Provide copy of your current executed Escrow Agreement.

- ****C. (1) Escrow Agreement: Importer for Multiple Entity Escrow Only.**
- D. Escrow Deposit/Release History:

Complete Attachment 3 incorporated herein by reference or attach a statement of current escrow. For all deposits and releases attach copies of your receipt or other proof of transaction history from your financial institution.
- E. 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)
- F. 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)
- G. 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)
- H. Packaging:

Provide an **electronic sample of the packaging on a disc** for each member of the Brand of cigarettes as listed on your application. (N.C. Gen. Stat. § 14-401.18)
- I. ATF (TTB) Permit:

A copy of your current ATF (TTB) cigarette manufacturing or importing permit.
(N.C. Gen. Stat. § 14-401.18(b)(5)) (26 U.S.C. §§ 5712 and 5713.)
- J. Authority to Transact Business and Organizational Information: **TPM**
- ****J. (1) Authority to Transact Business and Organizational Information: Importer for Multiple Entity Escrow Only.**
- *****J. (2) Authority to Transact Business and Organizational Information: Trademark Owner for Multiple Entity Escrow Only. (If different from TPM or Importer)**

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).

- K. History: **TPM**
- **K. (1) History: **Importer for Multiple Entity Escrow Only.**
- ***K. (2) History: **Trademark Owner for Multiple Entity Escrow Only.**
(If different from TPM or Importer)

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.

- 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: **TPM**
Provide copy of a Certificate of Authority granted by the North Carolina Secretary of State.
- **M. (1) Certificate of Authority: **Importer for Multiple Entity Escrow Only.**
- ***M. (2) Certificate of Authority: **Trademark Owner for Multiple Entity Escrow Only.**
(If different from TPM or Importer)
- N. Bond Form/Irrevocable Letter of Credit: **TPM**

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 DISTRIBUTOR INFORMATION

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

B. BRAND COMPLIANCE QUESTIONS FOR TPM

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

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

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

C. 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.

PART 4: ESCROW INFORMATION

A. ESCROW INFORMATION for 2017 Sales:

2017 Units Sold: _____ x \$0.0337416 = _____
(insert total from Attachment 1) (adjusted for inflation) (Escrow Payment)

NOTE: The base escrow amount for 2017 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 2017 sales is 79.01766%. Thus, the amount of escrow which must be deposited for 2017 sales in North Carolina, including the base amount adjusted for inflation is \$.0337416 (as shown in formula) per each cigarette or per each 0.09 ounces of RYO.

B. Qualified Escrow Fund - Financial Information

Name of Financial Institution: _____
Contact Agent Name: _____ Telephone No: _____
Mailing Address: _____
Escrow Acct. No.: _____ N.C. Sub-acct. No.: _____

C. TPM Escrow Notice Contact

Individual(s) Who Should Receive Escrow Notices: _____
Title _____
Mailing Address _____ P.O. Box _____
City _____ State _____ Zip Code _____
Telephone Number: _____
Email Address: _____

C. (1) Importer Escrow Notice Contact

Individual(s) Who Should Receive Escrow Notices: _____
Title _____
Mailing Address _____ P.O. Box _____
City _____ State _____ Zip Code _____
Telephone Number: _____
Email Address: _____

D. Compliance Questions for TPM

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, including a list of date(s) and amount(s) of payment made to resolve penalty demands.

D. (1) Compliance Questions for Importer

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, including a list of date(s) and amount(s) of payment made to resolve penalty demands.
-
-

PART 5: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER AND IMPORTER

Under penalty of perjury, I certify that the **Tobacco Product Manufacturer (TPM)** named in Part 1: A, as of the date of the certification, is a non-participating manufacturer in full compliance with all applicable sections of Title 37, Chapter 66 of the North Carolina General Statute, and any regulation promulgated thereto; and

Under penalty of perjury, I certify that the **Importer** named in Part 1: B, as of the date of the certification, is in full compliance with all applicable sections of Title 37, Chapter 66 of the North Carolina General Statute, and any regulation promulgated thereto; and

I represent on behalf of the TPM/Importer the following:

1. TPM/Importer understands that this certification must be signed by a qualified company officer authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.
2. TPM/Importer completed this Certification, answered all questions and prepared all Attachments and Documents completely, accurately and truthfully.
3. TPM/Importer appointed and will continuously maintain a process service agent within the State of North Carolina.
4. TPM/Importer 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.
5. TPM/Importer 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.
6. TPM/Importer 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.

7. TPM/Importer has made all escrow payments required under N. C. Gen. Stat. § 66-291.
8. Neither the TPM/Importer, 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.
9. TPM/Importer 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.
10. TPM/Importer 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
11. TPM/Importer 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.
12. TPM/Importer 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.
13. TPM/Importer 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).
14. 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>

15. TPM/Importer will promptly update this Application/Certification in writing if any changes or modifications occur to the information provided herein.
16. TPM/Importer 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/Importer acknowledges that failure to do so may result in de-listing or other legal action.
17. TPM/Importer assumes responsibility for all representations and all escrow deposit obligations for the Brands listed in this Application/Certification until TPM/Importer receives written notification that TPM/Importer is released by the North Carolina Office of the Attorney General from responsibility for the Brand(s) listed in the Application/Certification.
18. The TPM/Importer 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.

THIS CERTIFICATION MUST BE SIGNED AND DATED BEFORE A NOTARY

Authorized Representative for **TPM**: _____

Title: _____

Signature of Representative:

_____ Date: _____

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

(SEAL)

Notary Public

(Printed Name)

My Commission Expires: _____

Authorized Representative for **Importer**:

Title: _____

Signature of Representative:

_____ Date: _____

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

(SEAL)

Notary Public

(Printed Name)

My Commission Expires: _____

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 _____, _____.

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: _____