

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/Zip) 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 _____
(Amount of Bond) dollars, 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 _____, 201__.

(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 word "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: _____