STATE OF NORTH CAROLINA
TOBACCO PRODUCT MANUFACTURER
CERTIFICATE OF COMPLIANCE

[Pursuant to N.C. Gen. Stat. §66-291, et. seq.]

2024 NON-PARTICIPATING MANUFACTURER'S APPLICATION/ANNUAL CERTIFICATION FORM

NOTICES

THE SALES YEAR FOR WHICH YOU ARE CERTIFYING COMPLIANCE IS 2023.

FILING DEADLINE: Certification Forms must be postmarked no later than April 30, 2024 to avoid removal from the North Carolina Tobacco Directory.

Please Type or Print. The Attorney General's Office will not process incomplete or illegible Certification Forms. An application will be deemed incomplete if the applicant(s) is/are under a NC Revenue Suspension, the applicant(s) certificate of authority to transact business is revoked, or the applicant(s) fail(s) to obtain a certificate of authority from the NC Secretary of State when required by law.

This Certification Form must be supplemented to reflect any change in information at any time during the year. Any change of information *must* be submitted ***30 days*** prior to change. The failure to notify the Attorney General's Office of any changes to this information 30 days prior to any change, including changes in address, may result in removal from the North Carolina Tobacco Directory.

The denial of a certification, removal of the Applicant or its brands from any other state's tobacco directory, or failure to notify the North Carolina Attorney General's Office of same, may, in the Attorney General's sole discretion, result in denial of this certification or immediate removal from the North Carolina Tobacco Directory.

ESCROW DEPOSIT DUE DATES: April 15, 2024 is the escrow deposit due date for Nonparticipating Manufacturers (NPMs) subject to Annual Escrow Deposits. April 30, 2024 is the First Quarter Due date for NPMs subject to Quarterly Escrow Deposits.

Please refer any questions to the Office of the Attorney General Tobacco Unit at (919) 716-6900.

IMPORTANT

New Information for 2024

Email this completed Certificate of Compliance and attachments to:

tobaccocertification@ncdoj.gov

Where applicable, please submit each requested document as a separate attachment and label it according to the corresponding section within this application.

Type of Certification (check one):

☐ Initial Certification – Applicant is not currently listed on the North Carolina Tobacco Directory

☐ Annual Certification – Due April 30, 2024

☐ Supplemental Certification – Change of information provided to the Attorney General or request to add (or delete) brands to the North Carolina Tobacco Directory

SECTION A:

TOBACCO PRODUCT MANUFACTURER CERTIFICATION APPLICATION

INSTRUCTIONS: NORTH CAROLINA REQUIRES THE ENTITY OR ENTITIES THAT CONTROL OR OWN THE MANUFACTURING PROCESS AND THAT CONTROL THE BRAND MARK, AS WELL AS THE IMPORTER, TO APPLY AND BE RESPONSIBLE FOR THE BRAND(S) APPROVED FOR SALE AND FOR THE RELATED ESCROW DEPOSITS. THIS FORM CONTAINS SECTIONS A, B, AND C. YOU MUST COMPLETE EVERY SECTION FOR EACH ENTITY REQUESTING TO CERTIFY A BRAND. SECTION A MUST BE COMPLETED BY THE TOBACCO PRODUCT MANUFACTURER. ***PLEASE SEE SECTIONS B AND C FOR FURTHER INSTRUCTIONS FOR COMPLETING THE FORM AS TO AN IMPORTER OR TRADEMARK OWNER.***

Part 1: Applicant Identification Information

Tobacco Product Manufacturer (TPM)		
1. Provide the Following Identification Information: Company Name:		
Mailing Address:		
Street Address (if different from mailing address):		
Name of person completing the application:		
Name of contact person (if different from above):		
Telephone Number:	Fax No:	Email Address:

2. As of the date of this application, the company identified above is (check all applicable boxes):

☐ Fabricator of Tobacco Product: 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.

> If you checked the above box: (a) attach photographs of your manufacturing facility including interior and exterior views and indicate on the photographs where the equipment and facilities for manufacturing (i.e. fabricating) the cigarettes, if any, are located; (b) provide the physical address for the manufacturing facility; and (c) provide proof of ownership, possession and control of the manufacturing facilities and equipment identified herein.
>
> Copy of Requested Documents Attached? ☐ **Yes** ☐ **No**

☐ First Importer for Resale in the United States

> If you checked the above box: (a) attach documentation identifying each cigarette manufacturer (i.e. fabricator), its plant address, mailing address, contact person, phone, and fax numbers and the relationship to the Applicant; and (b) attach a copy of every agreement or contract between the Applicant and fabricator. Attach additional sheets as necessary to provide a complete response.
>
> Copy of Requested Documents and Information Attached? ☐ **Yes** ☐ **No**

☐ Trademark Owner of Brand Mark for brands listed in this certification. Note: If the Trademark Owner is an entity different from the TPM and has signed a Multi-Entity Escrow Agreement, then the Trademark Owner must complete "SECTION C: TRADEMARK OWNER" of this Certification Application.

☐ Other (Explain the relationship and attach additional documentation as necessary to provide a complete response.)

3. Is the Applicant the successor of a manufacturer or first importer? ☐ **Yes** ☐ **No**

If "yes," identify the predecessor(s) and attach additional sheets as necessary to provide a complete response.

Additional sheets attached? ☐ **Yes** ☐ **No**

4. License and Permit Information (check all applicable boxes **and** provide corresponding information):

☐ ATF (TTB) Tobacco Permit TTB Permit Number: Expiration Date:	☐ All Distributors/Wholesalers must be in compliance with NC DOR licensing requirements. Questions: call NC DOR 919-707-7500	☐ If located in the U.S., Manufacturer's Federal Taxpayer ID Number:

5. Copy of Applicable Permit(s) or License(s) Attached? ☐ **Yes** ☐ **No**

6. Does an entity, other than the TPM, import the Brand(s) listed in this certification? ☐ **Yes** ☐ **No**

7. If "yes," provide copies of all contracts with the Importer(s) of the Brand(s). ☐ **Response Provided** ☐ **Does Not Apply**

8. Are you represented by an Attorney? ☐ **Yes** ☐ **No**

9. If Yes, then provide the Attorney's Name, Firm Name, and Mailing Address:

Attorney's Telephone Number:	Attorney's Fax No.:	Attorney's Email Address:

Part 2: Registered Agent Information

N.C. Gen. Stat. § 66-294(b)(1) requires an NPM to 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 NPM must file a certified copy of each instrument appointing a process service agent with the Secretary of State and the Office of the Attorney General.

1. TPM Registered Agent Information:

Name of Registered Agent and Mailing Address:	Name of Contact:
	Telephone:
	Fax:
	Email:

2. Has the Applicant attached an original letter from the Registered Agent accepting Appointment as Registered Agent **on the company's letterhead and dated for the current year**? *The Registered Agent must provide 30 Day notice prior to resignation.*

☐ **Yes** ☐ **No**

3. Has the Applicant filed an instrument appointing a process service agent with the N.C. Secretary of State's Office and attached a copy of that filing to this application?

☐ **Yes** ☐ **No**

4. Is the process service agent identified in the letter for above item 2 the same process service agent as the one in the instrument on file with the N.C. Secretary of State's Office? If not, the applicant must update the filing with the N.C. Secretary of State's Office.

☐ **Yes** ☐ **No**

Part 3 TPM's Organizational Information and Documents

Identify your business structure by checking the applicable box:

☐ Individual or Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Limited Liability Company

☐ Association

☐ Other (describe/explain):

Check One: Response Provided	Does Not Apply	Attach the following documents or information:
☐	☐	1. **Documents Filed with a Government Agency:** Copy of document(s) regarding the formation of your business entity, including documentation showing the identity of the State or Country where the business entity was formed.
☐	☐	2. **Partnership or Association:** Current copy of the Certificate of Partnership or the certificate required to be filed by any state, county, or municipality.
☐	☐	3. **Corporation:** (1) Current copy of the Certificate of Incorporation or other charter; and (2) Extracts of documents listing the officers authorized to sign for the company.
☐	☐	4. **Limited Liability Company or other entity:** Current copy of the business document(s) filed with a state, county, or municipality when such filing is required. Include a copy of any document indicating persons authorized to sign for the entity.
☐	☐	5. **Company Officers/Owners:** Provide a list of all company officers and company owners (all persons with an equity interest of 10% or more in the company). Include name, address, phone number, and email address.
☐	☐	6. **Organizational Chart:** List the name and role of all companies involved in the manufacturing process of the Brands in this certification and the relationship between the companies (e.g., parent/subsidiary, affiliate/sister.) **For Affiliates:** Provide a list of all company affiliates pursuant to N.C. Gen. Stat. §66-290(9) that also manufacture, import, distribute, or sell cigarettes or RYO. Include the name, address, and contact information for each affiliate.
☐	☐	7. **Agreements with Participating Manufacturers:** Identify any agreement between Applicant and any Participating Manufacturer (PM) or PM Affiliate that relates to the making, importing, distribution, transportation, or sale of each brand family.
☐	☐	8. **Agreements Regarding Compliance with the Qualified Escrow Statute:** Attach any agreement that Applicant has with another entity regarding the production of cigarettes or the funding of the Qualified Escrow Fund.

☐ ☐	9. **If you operate as Corporation or a Limited Liability Company:** Attach a copy of the Certificate of Authority granted to you by the North Carolina Secretary of State. *See* N.C. Gen. Stat. §55-15-01 ("A foreign corporation may not transact business in this State until it obtains a certificate of authority from the Secretary of State."); N.C. Gen. Stat. §57D-7-01.
☐ ☐	10. **If you answered "does not apply" to question 9 above:** Attach an explanation as to why the Certificate of Authority requirement does not apply to your company.
☐ ☐	11. **Has your company's North Carolina Certificate of Authority been revoked? If so,** attach an explanation and supporting documentation of your actions to regain compliance, including the date upon which you expect resolution of the issue. Note: A company that fails to file its annual reports with the N.C. Secretary of State's Office risks non-compliance with the registered agent requirements for an NPM. *See* Part 2 Above. Annual Reports filed with the Secretary of State include a designation of a service of process agent. Failure to file annual reports may lead to revocation of a certificate of authority.
☐ ☐	12. **If your company has been placed on Revenue Suspension by the N.C. Secretary of State's Office:** Attach an explanation and supporting documentation of your actions taken to resolve your revenue suspension, including the date upon which you expect resolution of the issue. Note: If you are in revenue suspension, you may also be at risk for having your certificate of authority revoked. See item 11 above.
☐ ☐	13. **Authority to Sign:** If the applicant is an entity other than an individual/sole proprietor, including without limitation all partnerships and/or corporations: Provide documentation showing that the person who signs this certification application has the authority to sign and make binding commitments on behalf of the Applicant. Examples include partnership agreements, corporate resolutions, and articles of incorporation showing the name(s) of person(s) authorized to sign on behalf of the Applicant. *North Carolina requires that the applicant, rather than the applicant's outside legal counsel, sign the application. See Part 9.*

Part 4: TPM's Disclosures Concerning Compliance History and Brand Compliance

☐ **Yes** ☐ **No**	1. Has the non-participating manufacturer or any affiliate thereof illegally failed to satisfy an escrow obligation with respect to any state in the past?
☐ **Yes** ☐ **No**	2. Has any state removed the nonparticipating manufacturer or its brand families or an affiliate or any of the affiliate's brand families from the state's tobacco directory for noncompliance with state escrow laws?
☐ **Yes** ☐ **No**	3. Does any state have pending litigation against, or an unsatisfied judgment against the nonparticipating manufacturer or any affiliate thereof for escrow or penalties related to noncompliance with the state's laws?
☐ **Yes** ☐ **No**	4. Does the nonparticipating manufacturer sell its cigarettes or tobacco products directly to consumers via remote or other non-face-to-face means?
☐ **Yes** ☐ **No**	5. Has a state or federal court, or a state or federal agency, determined that the nonparticipating manufacturer has violated any tobacco tax or tobacco control law or engaged in unfair business practice or unfair competition?
☐ **Yes** ☐ **No**	6. Has the nonparticipating manufacturer failed to submit or complete any required forms, documents, certifications, or notices in a timely manner, or to the satisfaction of the Attorney General?
☐ **Yes** ☐ **No**	7. Has the nonparticipating manufacturer delivered or sold unlisted Brands into North Carolina directly, or indirectly through distributors, wholesalers, affiliate businesses, the internet or any other means?
☐ **Yes** ☐ **No**	8. Has the nonparticipating manufacturer advertised or sold Cigarettes/RYO via the Internet or in catalogs and/or used the mail or other delivery service to deliver Cigarettes/RYO to North Carolina consumers?

☐ **Yes** ☐ **No**	9. Does the nonparticipating manufacturer intend to advertise or sell Cigarettes/RYO via the Internet or in catalogs and/or use the mail or other delivery service to deliver Cigarettes/RYO to North Carolina consumers?
☐ **Yes** ☐ **No**	10. Does the nonparticipating manufacturer sell Cigarettes/RYO onto or through a Stamping Agent or Distributor who sells the Cigarettes/RYO onto an Indian Reservation located in North Carolina?
☐ **Attached** ☐ **Does Not Apply**	11. For each "YES" answer above on questions 1-10, attach documentation explaining the circumstances and, where applicable, how/if the matter was resolved.
☐ **Attached** ☐ **Does Not Apply**	12. Is Applicant or any of the persons or Affiliates listed in the certification entitled to claim Sovereign Immunity based on Tribal Status? If yes, provide information regarding tribal status and affiliation.
☐ **Yes** ☐ **No**	13. Is Applicant in compliance with the Federal Family Smoking Prevention and Tobacco Control Act (Public Law 111-31), including Section 907(a)(1)(A), which bans the sale of all flavored cigarettes? If the answer is "NO," attach documentation explaining the circumstances. ☐ **Attached** ☐ **Does Not Apply**
☐ **Yes** ☐ **No**	14. Does Applicant advertise via an internet website, other social media, catalogs, or other print media?
☐ **Yes** ☐ **No**	15. If yes to preceding question, has applicant provided notice to the FDA pursuant to 21 C.F.R. Part 1140.30?

Part 5: Brand and Distributor Information

☐ **Response provided**	1. **Brand Names:** List all brands Applicant seeks to certify for the current sales year, identify any brands being deleted or added, indicate the number of units sold in the prior year and the number of units sold during the current calendar year from January 1 to the date of the application **by completing Attachment 1** incorporated herein by reference. Note that 0.09 oz. of RYO constitutes one unit.
☐ **Response provided**	2. **Cigarette or RYO:** indicate whether the brand family is a rolled cigarette or roll-your-own (RYO) tobacco.
☐ **Response provided**	3. **Identification of Wholesalers and Distributors to Whom Cigarettes were Sold for Distribution in the State of North Carolina:** List the wholesaler/distributor, address, telephone number and email address **by completing Attachment 2** incorporated herein by reference or by supplying equivalent documentation.
☐ **Response provided**	4. **Current Trademark Holder:** Include the name and address of the current trademark holder for the brand(s) in this application and, if the Applicant is not the trademark owner, provide adequate assurance that the Applicant has the exclusive U.S. right to use the brand(s) and is in compliance with all intellectual property law.
☐ **Response provided**	5. **Certified Copies:** Provide a certified copy of the trademark registration or other documentation showing compliance with intellectual property laws. (*See* N.C. Gen. Stat. §14-401.18)

☐ **Response provided**	6. **Sample Packaging**: Provide an electronic sample of the packaging (pack and carton) for each member of the Brand of cigarettes listed in your application. (*See* N.C. Gen. Stat. §14-401.18)
☐ **Response provided**	7. **UPC Codes:** Please provide a current listing of all UPC codes of cigarettes and RYO products that are manufactured by your company

Part 6: Additional Documentation for Cigarette Brands

Check One: Response Provided	Does Not Apply	Attach the following documents or information:
☐	☐	1. **PACT Act:** Provide a copy of the PACT Act Registration filed with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the North Carolina Department of Revenue. Provide the manufacturer's registration and the importer's registration, as applicable.
☐	☐	2. **Federal Trade Commission ("FTC"):** Attach the FTC's written approval of the Applicant's ***current*** Cigarette Health Warning Rotation Plan for each brand which Applicant seeks to certify in this application. *Cigarettes Only.*
☐	☐	3. **Centers for Disease Control ("CDC"):** For each brand family, list the name and address of the entity that 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. Attach a ***current*** copy of the Certificates of Compliance received from the U.S. Secretary of Health and Human Services for Applicant's annual ingredient report and submission cover letter listing brands which Applicant seeks to certify in this application. *Cigarettes Only.*
☐	☐	4. **Fire Standard Compliance ("FSC"):** For each brand family, please attach a letter from the North Carolina Fire Marshal's Office indicating that the brands for which the Applicant seeks certification are FSC Compliant. *Cigarettes Only.*
☐	☐	5. **Resolve Discrepancies: IMPORTANT:** Review your FTC approval letter, the CDC letter, and the FSC list and if there is not a direct name match between the brand families or styles listed in these documents, then explain the discrepancy and how the discrepancy will be or has been resolved. Examples of discrepancies: a brand style in the FTC letter is not listed in the FSC list or there are name variations between styles in the FTC letter and the FSC list.

Part 7: Joint and Several Liability/Bonding

A. Joint and Several Liability by Importers (if applicable):

Acceptance of Joint and Several Liability by Importers: In the case of Non-Participating Manufacturers located outside of the United States, Section B of this form must be completed by the Importer and a **properly executed copy of the Affidavit of Importer must be included with this Certification.**

B. Bonding Requirement (if applicable):

Bonding: Does the Non-Participating Manufacturer submitting this certification have a bond in place to cover escrow liability for sales made in North Carolina during the preceding calendar year?

☐ **Yes** ☐ **No**

If "YES," then attach copy of bond documentation: ☐ **Copy Attached** ☐ **Not Applicable**

*NOTE: If this is an initial application or if you are required by the Attorney General's Office to post a bond, include with this application an executed Tobacco Escrow Bond on the relevant form provided on the tobacco application website. In accordance with N.C. Gen. Stat. §66-294(b)(7), the bond shall be posted by a United States-located corporate surety in an amount equal to fifty thousand ($50,000) dollars or the greatest amount of escrow the manufacturer in either its current or predecessor form was required to deposit as a result of its highest calendar year's sales in North Carolina or greatest quarterly escrow deposit depending on the manufacturer's required escrow deposit frequency. The bond shall be written in favor of the State of North Carolina and shall be conditioned on the performance by the nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the manufacturer's performance in accordance with N.C. Gen. Stat. §66-294.2.

Part 8: Qualified Escrow Account

A. Escrow Account Information and Certifications:

Name of Financial Institution:	Phone:
Contact Agent Name:	Fax:
Mailing Address:	Contact Email:
Escrow Acct No.:	North Carolina Sub Acct No.:

The Applicant certifies that it has:

Check One: Yes	No	
☐	☐	1. Established and continues to maintain a Qualified Escrow Fund as defined under N.C. Gen. Stat. §66-290(6).
☐	☐	2. Executed a Qualified Escrow Agreement that governs the Qualified Escrow Fund for the State of North Carolina. *A copy of the Qualified Escrow Agreement, including any amendment(s), is attached.*
☐	☐	3. Ensured that the escrow funds held in the Qualified Escrow Fund on behalf of North Carolina are in a segregated account, separate and apart from escrow funds held on behalf of any other beneficiary.
☐	☐	4. Ensured that the Qualified Escrow Fund is not encumbered by a security interest granted to a third party.
☐	☐	5. Attached information documenting all deposits and withdrawals from the Qualified Escrow Fund during the last year and attached proof of the current escrow account balance from the Escrow Agent.
☐	☐	6. Attached an annual bank statement for the Qualified Escrow Fund for 2023 including all transactions related to the Qualified Escrow Fund.

B. Funds Deposited Into Qualified Escrow Account (check one):

Pursuant to N.C. Gen. Stat. §66-291(a)(2), an approved tobacco product manufacturer shall place into a qualified escrow fund by April 15 of the year following the year in question a certain amount adjusted for inflation. For non-participating manufacturers making escrow deposits on April 15, 2024 for their 2023 sales, the proper per/stick rate, adjusted by inflation, is **$0.0432723** (this number may be revised during the year)**.**

Escrow Rates and Deposit Amounts. For Sales Year: *(Use the per-cigarette escrow rate below to figure the total deposit amount, including inflation adjustment, in a single calculation):*

2023 sales: The rate per cigarette is.....$0.0432723.

Deposit Total for 2023 Cigarette Sales: (Units Sold x $0.0432723 rate per cigarette)

Units sold _____x $0.0432723 = $_____2023 Total Amount Owed.

2023 Total Deposited: $..... 2023 Credit Balance: $_____.

Note: If Manufacturer is also depositing escrow based on RYO tobacco sales, add the total cigarette escrow deposit from above to the RYO tobacco escrow deposit total as indicated on Compliance Certification for RYO tobacco sales, and make ***one combined deposit***, for cigarettes and RYO tobacco, to the escrow account.

☐	1. The Applicant has deposited funds into a qualified escrow account for units sold in North Carolina during calendar year 2023.
☐	2. The Applicant had zero sales in North Carolina during calendar year 2023.

C. Proof of Deposit:

☐	If Applicant has deposited funds, attach bank verification of the amount and the date(s) of deposit to North Carolina's segregated sub-account for 2023.

Part 9: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER

Under penalty of falsification, I, _____(name), hereby certify that I have knowledge of the information contained herein and in the accompanying 2024 Certification of _____ _____(Insert Name of Tobacco Product Manufacturer).

I certify that I am the _____(Office or Position or Title) of the Tobacco Product Manufacturer.

I certify that I have the authority to bind the Tobacco Product Manufacturer ("TPM") in matters related to the information contained in the 2024 Certification of Tobacco Product Manufacturer, including information related to the number of units sold in North Carolina in calendar year 2023.

Under penalty of perjury, I certify that the **Tobacco Product Manufacturer (TPM)** named in Section A, Part 1, 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 Statutes and any regulation promulgated thereto; and

I certify that I understand that under the North Carolina Tobacco Reserve Fund and Escrow Act, N.C. Gen. Stat. §66-290 *et seq.*, each cigarette or stick is a "unit sold." N.C. Gen. Stat. §66-291 (10).

I certify that there were _____units sold by Tobacco Product Manufacturer in North Carolina in 2023 and that the TPM's deposit total for 2023 cigarette sales is $_____. There is credit balance of $_____for 2023 cigarette sales.

I represent on behalf of the TPM the following:

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

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

3. TPM 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 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 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 Supplemental Certification and **will not sell or deliver, directly or indirectly, a Brand into North Carolina until applicant receives written notification of approval.**

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

7. Neither the TPM, 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.

8. TPM 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. TPM 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

10. TPM submits, attached to this Application/Certification, an Escrow Agreement in the form required by North Carolina and subject to approval by the North Carolina Attorney General's Office.

11. TPM 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_____ through _____.

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

15. TPM 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 acknowledges that failure to do so may result in de-listing or other legal action.

16. TPM assumes responsibility for all representations and all escrow deposit obligations for the Brands listed in this Application/Certification until TPM receives written notification that TPM 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 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 and the application of North Carolina law.

THIS AFFIDAVIT MUST BE SIGNED AND DATED BEFORE A NOTARY

I HEREBY CERTIFIY:

_____
Signature of Affiant
Officer for Tobacco Product Manufacturer

Dated: _____, 20___

State of _____

County of _____

Sworn to and subscribed before me on this ____ day of _____, 20___.

_____
Notary Public

_____
(Print Name)

(SEAL)

My Commission Expires:_____

ATTACHMENT 1 to Section A, Part 5, Question 1

TPM Name: _____

BRAND IDENTIFICATION:

A/R	D	BRAND NAME	TRADEMARK OWNER	FABRICATOR	2023 UNITS SOLD (thru 12/31/2023)	2023 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 to Section A, Part 5, Question 3

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.

SECTION B:

TOBACCO IMPORTER ANNUAL APPLICATION AND ACCEPTANCE OF JOINT-AND-SEVERAL LIABILITY 2024

INSTRUCTIONS: COMPLETE THIS "SECTION B" FORM IF THE IMPORTER IS AN ENTITY DIFFERENT THAN THE TPM AND IS ON THE MULTI-ENTITY ESCROW AGREEMENT AND/OR IF THE IMPORTER IS REQUIRED TO UNDERTAKE JOINT AND SEVERAL LIABILITY FOR THE PERFORMANCE OF A TPM LOCATED OUTSIDE THE UNITED STATES.

Part 1: Importer Information

Business Name:		Date:	
Address:			
City:	State:	Zip:	Country:
Telephone:	Fax Number:	Email Address:	
Contact Person:			
Physical Address (if different from above):			
Is the Company represented by Counsel: ☐ **Yes** ☐ **No**			
IDENTIFICATION OF COUNSEL			
Counsel's Name:		Firm Name:	
Address:			
City:	State:	Zip:	Country:
Telephone Number:	Fax Number:	Email Address:	
FEDERAL TOBACCO IMPORTER PERMIT NUMBER:			
A copy of the permit issued by the U. S. Department of Treasury, Tobacco Tax Bureau must be included with this form.			
FEDERAL EMPLOYER IDENTIFICATION NUMBER:			
Type of Business Entity (check one): ☐ Sole Proprietorship ☐ General Partnership ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company ☐ Other (specify)			
State/Country where Created, Incorporated or Registered:			
Attach a copy of the current Articles of Incorporation, Certificate of Limited Partnership, Articles of Organization, or comparable applicable document, including any amendments. ☐ **Attached**			

Part 2: Authority to Sign

If the Importer is an entity other than an individual/sole proprietor, including without limitation all partnerships and/or corporations: Provide documentation showing that the person who signs this certification application has the authority to sign and make binding commitments on behalf of the Applicant.

Examples of documentation include partnership agreements, corporate resolutions, and articles of incorporation showing the name(s) of person(s) authorized to sign on behalf of the Importer.

☐ **Attached**

Part 3: Non-Participating Manufacturer for Whom Liability Is Accepted

Business Name:			Contact Person:
Address:			
City:	State:	Zip:	Country:
Telephone Number:	Fax Number:	Email Address:	

Part 4: Brand Families Being Imported For Non-Participating Manufacturer

Part 5: Importer Contract Information

The Importer imports these cigarettes under: (check one)

☐	Written contract commencing_____ and expiring_____.
☐	Oral contract or informal agreement.

If the cigarette brand families are imported under a written contract, a copy of that contract must be included with this form.

☐ **Attached**

Part 6: Escrow Agreement

The Importer has signed on a multi-entity escrow agreement for the benefit of the State of North Carolina:	☐ **Yes** ☐ **No**
If the answer to the above question is "yes," then attach a copy of the multi-escrow agreement to this application unless the document has been provided in the TPM's annual certification application.	☐ **Attached** ☐ **Provided by TPM**

Part 7: Compliance History

☐ **Yes** ☐ **No**	1. Has the importer illegally failed to satisfy an escrow obligation with respect to any state in the past?
☐ **Yes** ☐ **No**	2. Does any state have pending litigation against, or an unsatisfied judgment against the importer for escrow or penalties related to noncompliance with the state's laws?

☐ **Yes** ☐ **No**	3. Has a state or federal court, or a state or federal agency, determined that the importer has violated any tobacco tax or tobacco control law or engaged in unfair business practice or unfair competition?
☐ **Yes** ☐ **No**	4. Has the importer failed to submit or complete any required forms, documents, certifications, or notices in a timely manner or, to the satisfaction of the Attorney General?
☐ **Yes** ☐ **No**	5. Has the importer delivered or sold unlisted Brands into North Carolina directly, or indirectly through distributors, wholesalers, affiliate businesses, the internet, or any other means?
☐ **Yes** ☐ **No**	6. Has the importer advertised or sold Cigarettes/RYO via the Internet or in catalogs and/or used the mail or other delivery service to deliver Cigarettes/RYO to North Carolina consumers?
☐ **Yes** ☐ **No**	7. Does the importer intend to advertise or sell Cigarettes/RYO via the Internet or in catalogs and/or use the mail or other delivery service to deliver Cigarettes/RYO to North Carolina consumers?
☐ **Yes** ☐ **No**	8. Does the importer sell Cigarettes/RYO onto or through a Stamping Agent or Distributor who sells the Cigarettes/RYO onto an Indian Reservation located in North Carolina?
☐ **Attached** ☐ **Does Not Apply**	9. For each "YES" answer above, attach documentation explaining the circumstances and, where applicable, how/if the matter was resolved.

Part 8: Acceptance of Joint and Several Liability

In accordance with N.C. Gen. Stat. §66-294.2, for all sales of brands of cigarettes identified above occurring in the State of North Carolina, the Importer hereby accepts joint-and-several liability with the Non-Participating Manufacturer identified above for deposit of all escrow due, payment of all penalties imposed, and all costs and attorney's fees imposed for escrow liability under N.C. Gen. Stat. §66-291, *et seq*., including all quarterly payments that may be required by §66-294.1, *et seq.*

INITIALS OF IMPORTER:	

Part 9: Consent to Suit

The above-named Importer does hereby consent to being sued in the North Carolina Superior Court for the purpose of the State of North Carolina enforcing any provisions of the North Carolina General Statutes, Article 37, Chapter 66, §66-290 et seq.

INITIALS OF IMPORTER:	

Part 10: Importer Registered Agent Information

1. Name of Registered Agent and Mailing Address:	Name of Contact:
	Telephone:
	Fax:
	Email:

2. Has the Importer attached an original current year letter from the Registered Agent listed above accepting Appointment as Registered Agent on the company's letterhead? *The Registered Agent must provide 30 Day notice prior to resignation.*

☐ **Yes** ☐ **No**

3. Has the Importer filed an instrument appointing a process service agent with the N.C. Secretary of State's Office and attached a copy of that filing to this application?

☐ **Yes** ☐ **No**

4. Is the process service agent identified in the letter for above item 2 the same process service agent as the one in the instrument on file with the N.C. Secretary of State's Office? If not, the Importer must update the filing with the N.C. Secretary of State's Office.

☐ **Yes** ☐ **No**

Copy of updated filing attached. ☐ **Yes** ☐ **Not applicable**

Part 11: Bonding

Does the Importer submitting this form have a bond in place to cover escrow liability for sales made in North Carolina during the sales year?	☐ **Yes** ☐ **No**

If the answer to the preceding question is "yes," a copy of the bonded documents must be included with this form.

Part 12: AFFIDAVIT OF IMPORTER

Under penalty of falsification, I, _____(print name), hereby certify that I have knowledge of the information contained in this TOBACCO IMPORTER ANNUAL APPLICATION AND ACCEPTANCE OF JOINT-AND-SEVERAL LIABILITY 2024.

I certify that I am the _____(office or position or title) of the Importer.

Importer understands that this annual application 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 Importer meets the foregoing requirements. Where the "Initial of Importer" appears in this annual application, I have placed my initials in the corresponding space and my initials bind the Importer.

1. Importer completed this Certification, answered all questions and prepared all Attachments and Documents completely, accurately and truthfully.

2. Importer appointed and will continuously maintain a process service agent within the State of North Carolina.

3. 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.

4. 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 Application to the Office of the Attorney General in accordance with N.C. Gen. Stat. §§ 66-291, 66-294, and 66-294.1.

5. Importer will notify the Office of the Attorney General of any proposed changes affecting the list of Brands the Importer 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. Importer and the TPM have made all escrow payments required under N.C. Gen. Stat. § 66-291.

7. Neither the 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.

8. Importer is adequately capitalized and has sufficient assets to comply with all escrow requirements for the Brands listed in this application. Importer understands that a fraudulent statement concerning the financial capability of the Importer designed to induce the State of North Carolina to approve the Importer as compliant and to add/retain the 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. 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 unless provided by the TPM with its annual certification application; or

10. Importer submits, attached to this Application, an Escrow Agreement in the form required by North Carolina and subject to approval by the North Carolina Attorney General's Office.

11. Importer is currently in compliance with all applicable laws. As part of this Application, Importer has attached and incorporated herein complete, true and accurate copies of documents necessary to support this claim. Those attached Documents are labeled as Documents _____through _____.

12. Importer, being jointly and severally liable with the NPM, is the appropriate entity to pay escrow for the Brand(s) contained in this Application 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. Importer will promptly update this Application in writing if any changes or modifications occur to the information provided herein.

15. 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. Importer acknowledges that failure to do so may result in de-listing or other legal action.

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

17. 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 and the application of North Carolina law.

THIS AFFIDAVIT MUST BE SIGNED AND DATED BEFORE A NOTARY

I HEREBY CERTIFIY:

_____
Signature of Affiant
Officer for Importer

Dated: _____, 20_

State of _____ , County of _____

Sworn to and subscribed before me on this ____ day of _____, 20__.

_____
Notary Public

_____
(Print Name)

(SEAL)

My Commission Expires:_____

SECTION C:

Trademark Owner Certification Application

INSTRUCTIONS: COMPLETE "SECTION C" IF THE TRADEMARK OWNER IS AN ENTITY DIFFERENT FROM THE TPM **AND** (1) THE TRADEMARK OWNER IS A PARTY TO THE MULTI-ENTITY ESCROW AGREEMENT; OR (2) FOR AN INITIAL TPM APPLICATION OR FOR A SUPPLEMENTAL APPLICATION, THE TRADEMARK OWNER WILL BE A PARTY TO THE MULTI-ENTITY ESCROW AGREEMENT.

Part 1: Trademark Owner Identification

1. Provide the Following Identification Information		
Company Name:		
Mailing Address:		Street Address (if different from mailing address)
Name of person completing the application:		
Name of contact person (if different from above):		
Telephone Number:	Fax No:	Email Address:
2. Is the Trademark Owner represented by an Attorney? ☐ **Yes** ☐ **No**		
3. If Yes, then provide the Attorney's Name, Firm Name, and Mailing Address:		
Attorney's Telephone Number:	Attorney's Fax No.:	Attorney's Email Address:
4. Does the Trademark Owner have an ATF (TTB) Permit or a NC Distributor License? ☐ **Yes** ☐ **No**		
5. If yes, provide the Permit Number and the Expiration Date for each permit/license:		
6. Copy of Applicable Permit(s)/License Attached? ☐ **Yes** ☐ **No**		

Part 2: Trademark Owner Registered Agent Information:

1. Name of Registered Agent and Mailing Address:	Name of Contact:
	Telephone Number:
	Fax:
	Email:

2. Attach an original current year letter from the Registered Agent listed above accepting Appointment as Registered Agent on the company's letterhead. *The Registered Agent must provide 30 Day notice prior to resignation.*

3. Has the trademark owner filed an instrument appointing a process service agent with the N.C. Secretary of State's Office and attached a copy of that filing to this application?

☐ **Yes** ☐ **No**

3. Is the process service agent identified in the letter for above item 2 the same process service agent as the one on file with the N.C. Secretary of State's Office? If not, please update the filing with the N.C. Secretary of State's Office.

☐ **Yes** ☐ **No**

Part 3: Organizational Information and Documents for Trademark Owner

1. Identify your business structure by checking the applicable box:

☐ Individual or Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Limited Liability Company ☐ Association

☐ Other (describe/explain):

☐ **Attached**	2. Provide the applicable documentation and information requested in Items 1-8 located in "Part 3 Organizational Information and Documents for TPM."
☐ **Attached**	3. Provide responses to Items 9-12 located in "Part 3 Organizational Information and Documents for TPM." Attach additional sheets as necessary for your answer(s).
☐ **Attached**	4. Provide the "Authority to Sign" documentation described in Item 13 located in "Part 3 Organizational Information and Documents for TPM."

Part 4: Compliance History

☐ **Yes** ☐ **No**	1. Has the trademark owner been in Litigation or had any Judgments, Fines, or Penalties involving, relating to, or affiliated with tobacco products; failed to satisfy an escrow obligation, or had any of its brands removed from a state's tobacco directory for its noncompliance with state escrow laws?

☐ **Attached** ☐ **Not Applicable**	2. If "yes," attach documentation explaining in detail the circumstances and include the Brand involved, jurisdiction, parties, and status of the matter.

Part 5: Escrow Agreement History

☐ **Yes** ☐ **No**	1. Is the trademark owner a party to a multi-entity Escrow Agreement approved as to form by the Office of the Attorney General? (If this is an Initial Application or Supplemental Application for a change of information, then mark the response to question 1 as "No"; mark question 2 as "Not Applicable"; and proceed to question 3. IF YES: What is the date of that Agreement? _____.
☐ **Attached** ☐ **Not Applicable**	2. If "yes," attach a copy of the Escrow Agreement **UNLESS** the TPM has submitted a copy signed by you, the trademark owner, with the TPM's annual certification application. If the TPM has submitted the Escrow Agreement, then check the "Not Applicable" box.
☐ **Attached** ☐ **Not Applicable**	3. **IMPORTANT:** For an Initial Application or Supplemental Application, trademark owner must attach the Escrow Agreement as well as all documents, agreements, or contracts (e.g., entered into with the TPM) concerning the trademark owner's obligation to deposit escrow for sales in North Carolina.

PART 6: AFFIDAVIT OF TRADEMARK OWNER

Under penalty of falsification, I, _____(name), hereby certify that I have knowledge of the information contained herein and in the accompanying 2024 Supplemental Trademark Owner Application/Certification of _____(Name of Trademark Owner).

I certify that I am the _____(office or position or title) of the Trademark Owner and that I have the authority to bind the Trademark Owner in matters related to the information contained in the 2024 Supplemental Trademark Owner Application/Certification. I further certify that the **Trademark Owner** named in Part 1 of the 2024 Supplemental Trademark Owner Application/Certification, 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.

I represent on behalf of the Trademark Owner the following:

1. Trademark Owner completed this Certification, answered all questions and prepared all Attachments and Documents completely, accurately and truthfully.

2. Trademark Owner appointed and will continuously maintain a process service agent within the State of North Carolina.

3. Trademark Owner 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. Trademark Owner 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. Trademark Owner 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.gov/About-DOJ/Legal-Services/Legal-Resources/Tobacco-Lists.aspx and **will not sell or deliver, directly or indirectly, a Brand into North Carolina until applicant receives written notification of approval.**

6. Trademark Owner has not defaulted on any escrow payment under the Multi-Entity Escrow Agreement signed for the benefit of the State of North Carolina and all escrow payments required under N.C. Gen. Stat. § 66-291 have been made.

7. Neither the Trademark Owner, 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 Part 4 above.

8. Trademark Owner 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. The Trademark Owner understands that a fraudulent statement concerning the financial capability of the Trademark Owner designed to induce the State of North Carolina to approve the Trademark Owner as a Compliant NPM and add the Trademark Owner 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. Trademark Owner has 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 unless provided by the TPM with its annual certification application; or, if this is an Initial Application or Supplemental Application, Trademark Owner has submitted the escrow agreement in the form required by North Carolina and subject to approval by the North Carolina Attorney General's Office.

10. Trademark Owner is currently in compliance with all applicable laws. The Trademark Owner represents that true and accurate copies of the documents necessary to support this claim are attached and incorporated herein as part of this Application/Certification. Those attached Documents are labelled as Documents _____through _____.

11. Trademark Owner 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).

12. 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.

13. Trademark Owner will promptly update this Application/Certification in writing if any changes or modifications occur to the information provided herein.

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

15. Trademark Owner 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 and the application of North Carolina law.

THIS CERTIFICATION MUST BE SIGNED AND DATED BEFORE A NOTARY

_____ Dated: _____, 20__.

Signature of Affiant
Authorized Representative for Trademark Owner

State of _____ County of _____

Sworn to and subscribed before me on this ____ day of _____, 20__.

_____
Notary Public

_____
(Print Name)

(SEAL) My Commission Expires:_____