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STATE OF SOUTH CAROLINA TOBACCO PRODUCT MANUFACTURER CERTIFICATE OF COMPLIANCE

[Pursuant to S.C. Code Ann. §§11-47-10 to -30, and §§11-48-10 to -110]

2012 NON-PARTICIPATING MANUFACTURER CERTIFICATION FORM

IMPORTANT NOTICES

FILING DEADLINE is April 30, 2012. Certification Forms must be postmarked no later than **April 30, 2012** to avoid removal from the South Carolina Tobacco Directory.

Please Type or Print. The Attorney General's Office will not process incomplete or illegible Certification Forms.

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 South Carolina Tobacco Directory.

Please refer any questions to the Office of the Attorney General Tobacco Unit at (803) 734-3704.

Mail this completed Certificate of Compliance and attachments to:

South Carolina Office
of the Attorney
General
Tobacco Unit
P.O. Box 11549
Columbia, SC 29211

PART 1: TOBACCO PRODUCT MANUFACTURER IDENTIFICATION

A. This Certification Form is (check one below):

- Initial Certification** – Applicant is not currently listed on the South Carolina Tobacco Directory
- Annual Certification** - Due April 30, 2012
- Supplemental Certification** – Change of information provided to the Attorney General or request to add additional brands to the South Carolina Tobacco Directory

B. COMPANY INFORMATION*:

Company Name:	
Mailing Address:	
City/State/Zip/Country:	
Telephone Number:	Fax Number:
E-Mail Address:	Website:
Name/Title of Person Completing Form:	
Name of Contact Person (if different from above):	
Company President:	E-Mail Address:
Company Vice President:	E-Mail Address:
Company Secretary:	E-Mail Address:
Company Treasurer:	E-Mail Address:
Address of Manufacturing Plant(s):	
Name of Factory Manager(s):	
Phone Number of Factory Manager:	Fax Number of Factory Manager:
If located in U.S.: Manufacturer's Federal Taxpayer ID number:	
If located in U.S.: TTB Tobacco Manufacturer Permit Number:	Expires:
If located outside the U.S., applicable government Permit Number:	Expires:

C. ATTORNEY:

Attorney's Name:	
Firm Name:	
Firm Mailing Address:	
Telephone Number:	Fax Number:
E-Mail Address:	Website:


* The failure to notify the Attorney General's Office of any changes to this information 30 days prior to the change, including changes in address, may result in the immediate removal from the South Carolina Tobacco Directory at any time during the year in the sole and absolute discretion of the South Carolina Attorney General.

PART 2: BRAND, DISTRIBUTION, AND OTHER INFORMATION

A. TOBACCO PRODUCT MANUFACTURER


1. Applicant is the manufacturer (i.e. fabricator) of the brands listed in this Certification, which are intended to be sold in the United States, including cigarettes intended to be sold in the United States through an importer.

Yes No

 *If the answer is “Yes,” please attach a photograph or diagram of your manufacturing facility and indicate on the photograph or diagram where the equipment and facilities for manufacturing (i.e. fabricating) the cigarettes, if any, are located.*

2. Applicant is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States.

Yes No

 *If the answer is “Yes,” identify each cigarette manufacturer (i.e., fabricator), its plant street address, mailing address, contact person, telephone and facsimile phone numbers, and the relationship to Applicant. Identify the location of the transfer of ownership of cigarettes and a copy of every agreement or contract between Applicant and fabricator. Attach additional sheet(s), as necessary, to provide a complete response.*

3. Applicant is a successor of an entity described in questions 1 or 2 above (i.e., manufacturer or first importer). Please identify the predecessor(s).

Yes No

4. If Applicant answered “No” to questions 1, 2, and 3 above, explain the basis for Applicant’s claim that it is a Tobacco Product Manufacturer (TPM) as defined under South Carolina Code Ann. §§11-47-10 to -30, and §§11-48-10 to -110. Please submit all documentation to support Applicant’s contention. Attach additional sheet(s), as necessary, to provide a complete response.

5. Licenses / Permits

U.S. Treasury, Tobacco Tax bureau (TTB) Permit Number was obtained as a manufacturer and/or as an importer.

Manufacturer Importer



Attach a copy of Applicant's current permit as a manufacturer or importer pursuant to 26 U.S.C. Chapter 52, and regulations issued thereunder.

B. BRAND FAMILY IDENTIFICATION

1. The non-participating manufacturer identified in Part 1 has the following brand families, each of which the tobacco product manufacturer affirms are to be deemed its cigarettes for purposes of S.C. Code Ann. §§11-47-10, *et seq.* Please note the following instructions:
 - a. Please list all brand families sold in the preceding calendar year.
 - b. Indicate by an asterisk (*) any brand no longer being sold in South Carolina as of the date of this certification.
 - c. Please be advised that 0.09 oz. of RYO constitutes one unit.
 - d. Please attach additional sheet(s), as necessary, to provide a complete response.
 - e. Provide an electronic sample of the packaging of ***each*** brand family.

Brand Family Name	Cigarettes or Roll-Your-Own	Units Sold in S.C. in 2011
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	
	<input type="checkbox"/> Cigarette <input type="checkbox"/> RYO	

C. **REQUIRED DOCUMENTATION IN SUPPORT OF CERTIFICATION FORM**

1. For the above brand families (cigarettes only) provide a copy of the **current** Federal Trade Commission (FTC) approval letter for health-warning rotation plan. Please provide a new approval letter within 30 days after expiration of the current FTC approval letter. Additional information may be obtained by contacting the following:

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
General Information Locator: 202-326-2222
<http://www.ftc.gov>

2. Provide a copy of the **current** Centers for Disease Control (CDC) ingredient-listing (cigarettes only) compliance letter(s) pertaining to the above brands of cigarettes and a statement from the manufacturer as to which ingredients for a particular brand were submitted for each approval letter. A Please provide a new approval letter within 30 days after expiration of the current CDC approval letter. Additional information may be obtained by contacting the following:

Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30333
Telephone: 1-800-311-3435
<http://www.cdc.gov/netinfo.htm>

3. For the above brand families, provide a copy of the current Fire Standards Compliant (FSC) Cigarettes compliance letter(s) for each cigarette brand. Additional information may be obtained by contacting the following:

SC FSC PROGRAM
Office of State Fire Marshal
141 Monticello Trail
Columbia, SC 29203
Telephone: 803-896-9800
<http://www.llr.state.sc.us/firemarshal.asp>

4. Provide copies of documentation showing that the applicant is in full compliance with the Prevent All Cigarette Trafficking (PACT) Act (15 U.S.C. § 375, *et seq.* (2010)). This documentation **MUST** include a copy of the Prevent All Cigarette Trafficking (PACT) Act Registration Form (ATF 5070), and South Carolina equivalent. Please provide proof that applicant has registered with the ATF, South Carolina Office of the Attorney General, and South Carolina Department of Revenue. Additional information can be obtained at:

Bureau of Alcohol, Tobacco, Firearms and Explosives
Alcohol and Tobacco Diversion Division
99 New York Avenue, NE
Mailstop 7S-233
Washington, DC 20226 USA
Or via e-mail to:
PACTActregistrationinbox@atf.gov
See: <http://www.atf.gov/alcohol-tobacco/>

5. **Proof of Trademark Ownership and compliance with Federal Trademark Laws:**
 Adequate assurance that Applicant owns or has the right to use the Brand referenced above and is in compliance with all intellectual property law. Please provide a certified copy of the trademark.

In addition to a certified copy of the trademark documentation, please provide the following information:

Brand Name	Trademark Owner/Contact Person	Physical Address & Phone Number	Fabricator

D. AFFILIATES

Pursuant to S.C. Code Ann. § 11-47-20(b), an Affiliate “means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms ‘owns’, ‘is owned’, and ‘ownership’ mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term ‘person’ means an individual, partnership, committee, association, corporation, or any other organizations or group of persons.”

Please identify any Affiliate that also manufactures, imports, distributes, or sells the applicants brand of cigarettes (including roll-your-own tobacco) in South Carolina. List the type of business by writing “m” for manufacturer, “i” for importer, “d” for distributor, and “w” for wholesaler.) Attach additional documentation, as necessary, to provide a complete response.

Brand Family Name	Affiliate Name	Type of Business	Affiliate Address

E. **ADDITIONAL REQUIRED INFORMATION**

Please certify the following:

1. Applicant sold cigarettes (including RYO) in South Carolina in the preceding calendar year: Yes No
2. Applicant is in full compliance with the Prevent All Cigarette Trafficking (PACT) Act (15 U.S.C. § 375, *et seq.* (2010)). Yes No
3. Applicant advertises or sells cigarettes via the internet or in catalogs and uses the mail or other delivery service to deliver cigarettes to South Carolina consumers: Yes No
4. Applicant or one of its Brand Families listed in the Certification was previously denied listing on the Tobacco Directory in South Carolina or any other state, or was removed from the Tobacco Directory in South Carolina or any other state[†]: Yes No
5. Applicant is enjoined or banned from selling any cigarettes by court order, state or federal agency ruling or determination: Yes No
6. A Brand Family currently or formerly sold by Applicant or Brand Family that applicant intends to sell is enjoined from sale by a state court, state agency, or a federal court: Yes No
7. A state or federal court has entered a judgment finding that Applicant engaged in an unfair business practice or unfair competition relating to the sale of tobacco products: Yes No
8. Applicant is selling only Fire Standards Compliant (FSC) cigarettes into South Carolina. Yes No
9. Applicant is 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. Yes No

[†] **Please be advised that the denial of a certification, removal of the Applicant or its brands from any other state's tobacco directory, or equivalent compliance status, or the entry of judgment for failure to pay escrow when due in any state or territory, whether by default or otherwise in any court, may, in the Attorney General's sole and absolute discretion, result in denial of this certification or immediate removal from the South Carolina Tobacco Directory at any time during the year. The failure to notify the South Carolina Attorney General's Office of a denial of a certification in any other state, the removal of the Applicant or its brands from any other state's tobacco directory, or equivalent compliance status, or the entry of judgment for failure to pay escrow when due in any state or territory, whether by default or otherwise in any court, constitutes an additional ground for removal and may result in removal from the South Carolina Tobacco Directory at any time during the year in the South Carolina Attorney General's sole and absolute discretion.**

F. MARKETING AND DISTRIBUTION INFORMATION

- List all brands made by Applicant since 1999. Attach additional sheet(s), as necessary, to provide a complete response.

BRAND FAMILY NAME	DATE(S) MADE

- Have any of the brand families listed above been manufactured by a different Manufacturer at any time?

Yes No

If yes, please identify by name and address any other Manufacturer of the listed Brand families in any preceding or current calendar year. Attach additional sheet(s), as necessary, to provide complete response.

Manufacturer Name	Address	Brand / Brand Family Name	Year

- Distributors and Wholesalers

For each brand that Applicant intends to sell, list the name and address of every South Carolina distributor or wholesaler who will handle the product (i.e. cigarettes and RYO tobacco). Please notify our Office within 30 days of any changes to the Applicant’s distributor or wholesaler information.

Please indicate by asterisk (*), which entity is responsible for paying state excise taxes on the product.

Distributor’s Name	Name of Contact Person	Address	Phone Number	Units Sold	Date of Shipment(s)

PART 3: REGISTERED AGENT FOR THE NON-PARTICIPATING MANUFACTURER

A. REGISTERED AGENT

1. Please indicate one of the following:

- The non-participating manufacturer identified in Part 1 is registered to do business in South Carolina.
- The non-participating manufacturer identified in Part 1 has appointed and continues to engage the following Registered Agent located in South Carolina.

2. Please provide the following information:

Name of Registered Agent:	
Company Name:	
Full Address of Registered Agent:	
Telephone Number:	Fax Number:
Email Address:	

3. Applicant **MUST** attach a current year letter from the Registered Agent listed above accepting appointment as Registered Agent on the company’s letterhead. The Registered Agent must provide a 30 day notice prior to resignation.

PART 4: QUALIFIED ESCROW ACCOUNT FOR THE NON-PARTICIPATING MANUFACTURER

A. QUALIFIED ESCROW ACCOUNT INFORMATION

1. Please indicate one of the following:

- The applicant has established and continues to maintain a qualified escrow fund under S.C. Code Ann. §11-47-30(b)(1).
- The applicant has not established a qualified escrow account.

2. Please provide the following information:

Name of Financial Institution:	
Contact Name / Title:	
Full Address of Financial Institution:	
Telephone Number:	Fax Number:
Email Address:	
Escrow Account Number:	South Carolina Sub Account Number:

3. **Applicant MUST attach a copy of the current Escrow Account Agreement. Any amendments or attachment to such agreements MUST be provided.**

B. QUALIFIED ESCROW ACCOUNT HISTORY

1. Please provide the escrow deposit and withdrawal history for the Qualified Escrow Account established for units sold in South Carolina. Please be advised that withdrawals must comply with S.C. Code Ann. § 11-47-30.

Event Date	Deposit	Withdrawal	Balance

PART 5: ESCROW DEPOSIT FOR 2011 SALES YEAR

A. FUNDS DEPOSITED INTO A QUALIFIED ESCROW ACCOUNT FOR 2011 SALES YEAR

1. Pursuant to S.C. Code Ann. § 11-47-30(b)(1), 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, 2012, for their 2011 sales, the proper per/stick rate, adjusted by inflation, is \$0.0282581.**

2. Please indicate one of the following:

The applicant has deposited funds into a qualified escrow account for units sold in South Carolina during calendar year 2011.

The applicant did not have sales in South Carolina during calendar year 2011.

3. Please provide the following information:

1. Show on Line A, the total units sold by non-participating manufacturer in South Carolina during calendar year 2011.	A. _____ (Units Sold)
2. On Line B, the applicable rate per unit sold in 2011 is the base rate per unit sold, \$.0188482, plus the inflation adjustment of \$0.0282581 per unit.	B. _____ (\$0.0282581)
3. Multiply Line A and B to determine the escrow deposit for 2011 sales in South Carolina.	C. _____ (multiply A x B)

**DEPOSIT TO SOUTH CAROLINA SEGREGATED SUB-ACCOUNT MUST BE MADE BY:
APRIL 15, 2012**

B. PROOF OF DEPOSIT

1. **The Financial Institution noted in Part 5 of this certification is required to provide directly to the Tobacco Unit of the South Carolina Attorney General’s Office the following:**

- I. Proof of amount and date of deposit to South Carolina’s segregated sub-account for 2011 sales.
- II. Current account ledger of the tobacco product manufacturer’s segregated sub-account for South Carolina.

2. **NOTE:** These items are part of the Certification and are due by **April 30, 2012**.

PART 6: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER

Non-Participating Manufacturer. Under penalty of falsification, I state that the tobacco product manufacturer named in Part 1A, as of the date of the certification, is a non-participating manufacturer in full compliance with all applicable sections of Title 11, Chapter 47 of the South Carolina Code.

I understand 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.

I understand that the Attorney General may require additional information and/or documentation to determine if applicant qualifies for listing on the South Carolina Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

I affirm that the Certifying Tobacco Product Manufacturer consents to being sued in South Carolina Court of Common Pleas for the purposes of the State of South Carolina enforcing any provisions of S.C. Code § 11-47-10, *et seq.* or S.C. Code § 11-48-10, *et seq.*

I understand that it is the responsibility of all Tobacco Product Manufacturers to track and report sales of cigarette and RYO brands sold in South Carolina no later than twenty days after the end of each calendar quarter, and more frequently if so directed by the Attorney General.

By signing this affidavit on behalf of the applicant company, I understand that the company is required to comply with all state and federal laws concerning the sale of tobacco products.

Name of Company Officer (print or type name) Title

Signature of Company Officer Date

Subscribed and Sworn this date: _____

Notary Public for the State of: _____

Notary Commission Expires: _____

(Seal)

Mail this completed Certificate of Compliance and attachments to:

**South Carolina Attorney General's Office
Tobacco Unit
P.O. Box 11549
Columbia, SC 29211**