**STATE OF ARIZONA**
**TOBACCO PRODUCT MANUFACTURER**
**ARIZONA CIGARETTE DIRECTORY**
**CERTIFICATION PURSUANT TO A.R.S. § 44-7111**

## GENERAL INFORMATION

### Definitions:

1. "Brand Family" means all styles of Cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol", "lights", "kings" and "100s", and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes. [A.R.S. § 44-7111(2)(a)]

2. "Cigarette" has the same meaning prescribed in A.R.S. § 44-7101(2)(d).

3. "Directory" means the Directory described in A.R.S. § 44-7111(3)(b).

4. "Master Settlement Agreement" has the same meaning prescribed in A.R.S. § 44-7101(2)(e).

5. "Nonparticipating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer. [A.R.S. § 44-7111(2)(g)]

6. "Participating Manufacturer" has the same meaning prescribed in Section II(jj) of the Master Settlement Agreement and all amendments thereto. [A.R.S. § 44-7111(2)(h)]

7. "Qualified Escrow Fund" has the same meaning prescribed in A.R.S. § 44-7101(2)(f).

8. "Distributor" has the same meaning prescribed in A.R.S. § 42-3001.

9. "Tobacco Product Manufacturer" has the same meaning prescribed in A.R.S. § 44-7101(2)(i).

10. "Units Sold" has the same meaning prescribed in A.R.S. § 44-7101(2)(k).

### When is this Certification due?

The Certification must be executed and delivered any time a Tobacco Product Manufacturer seeks to be listed in the Directory. [A.R.S. § 44-7111(3)]. Thereafter, a Certification must be executed and delivered not later than April 30th of each year. [A.R.S. § 44-7111(3)(a)]. A Tobacco Product Manufacturer must execute and deliver a supplemental certification to the Attorney General to request any addition to or modification of its brand families. Please note that the supplemental certification requesting the addition or modification does not relieve the brand families from the prohibitions set forth in sections 3(c) and 6(d) until after the request is approved by the Attorney General and the addition or modification to the brand families is reflected on the Directory itself. [A.R.S. § 44-7111(3)(a)(1)-(2)]. Also, all waivers of sovereign immunity forms, importer declarations, and bond certifications MUST be submitted as an attachment to an initial, annual, or supplemental certification as required under A.R.S. § 44-7111. [A.R.S §§ 44-711 3(e), (h)]. Finally, as to all certifications required under A.R.S. § 44-7111, if the certification is rejected by the Attorney General due to incompleteness or incorrectness, the Tobacco Product Manufacturer may not submit supplemental documentation to try to cure the defect. Instead, the Tobacco Product Manufacturer must execute and deliver an entirely new certification to the Attorney General. [A.R.S. § 44-7111(3)(a)].

**The Certification must be delivered to:**

The Office of the Attorney General
Tobacco Enforcement Unit
1275 W. Washington
Phoenix, AZ 85007-2926

**Records Retention Requirement:**

Tobacco Product Manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the Certification for a period of five (5) years, unless otherwise required by law to maintain them for a greater period of time. [A.R.S. § 44-7111(3)(a)(5)]

**Compliance With Other Statutes:**

The fact that a Tobacco Product Manufacturer or Brand Family is listed in the Directory merely means that the Tobacco Product Manufacturer and Brand Family have been approved pursuant to A.R.S. § 44-7111(3) and does not mean that they are compliant with other State laws applicable to the sale and/or distribution of Cigarettes, such as A.R.S. § 42-3210. Importantly, a nonparticipating manufacturer's failure to comply with any applicable state or federal law, including, but not limited to, A.R.S. §§ 44-7101 and 44-7111, is grounds for removal from the Directory. [A.R.S. § 44-7111(3)(b)(i)].

**SPECIFIC INSTRUCTIONS**

Part 1: Identification of the Purpose of the Certification: Identify whether the Certification being submitted is an Initial, Annual, or Supplemental Certification. In regard to Initial and Annual Certifications, the entire form must be completed.

In the event the Tobacco Product Manufacturer is submitting a Supplemental Certification, the Certification need only be completed with regard to the reason for the Supplemental Certification (as well as Parts 1, 2 & 8), such as, but not limited to, a change in Resident Agent, an amendment to the Escrow Agreement, a modification to the nonparticipating manufacturer's bond, or a request to list an additional Brand Family(ies). For example, if the Tobacco Product Manufacturer is requesting only the removal of a Brand Family(ies), it need complete only Parts 1, 2, 7 & 8 of this Certification.

Part 2: Tobacco Product Manufacturer Identification: Identify the Tobacco Product Manufacturer's name, physical address, mailing address, telephone and fax numbers, Email address, and name/title of the person completing the Certification. Next, certify whether the Tobacco Product Manufacturer, as of the date of the Certification, is a: (i) Participating Manufacturer; or (ii) Nonparticipating Manufacturer in full compliance with A.R.S. § 44-7101(3)(b).

Part 3: Brand Family Identification: Only the Brand Families listed in the Certification may be included in the Directory.

A. Participating Manufacturers

A Participating Manufacturer shall list its Brand Families. [A.R.S. § 44-7111(3)(a)(1)] A Participating Manufacturer may not include a Brand Family in its Certification unless it affirms that the Brand Family is to be deemed its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement. [A.R.S. § 44-7111(3)(a)(4)].

The Participating Manufacturer shall update its list of Brand Families thirty (30) calendar days prior to any addition to or modification of its Brand Families by executing and delivering a Supplemental Certification to the Attorney General. [A.R.S. § 44-7111(3)(a)(1)].

B. Nonparticipating Manufacturers

A Nonparticipating Manufacturer shall: (i) include a list of all its Brand Families it requests be listed in the Directory and the corresponding Units Sold during the preceding and current calendar years; (ii) include any Brand Family sold in the State during the *preceding calendar year*, that is no longer being sold in the State as of the date of such Certification, indicating such Brand Family by an asterisk (these Brand Families will not be listed in the Directory) along with the corresponding Units Sold during the preceding and current calendar years; (iii) include a list of all its other Brand Families that have been sold in the State at any time during the *current calendar year* that are no longer being sold in the State as of the date of such Certification, indicating such Brand Families with two asterisks (these Brand Families will not be listed in the Directory unless specifically requested) along with the corresponding Units Sold during the preceding and current calendar years; (iv) identify by name and address, any other manufacturer of the Brand Families in the preceding or current calendar year; and (v) identify whether each brand listed in the 3.B chart is a cigarette or roll-your-own tobacco. [A.R.S. § 44-7111(3)(a)(2)] A Nonparticipating Manufacturer may not include a Brand Family in its Certification unless it affirms that the Brand Family is to be deemed its Cigarettes for purposes of A.R.S. § 44-7101(3)(b). [A.R.S. § 44-7111(3)(a)(4)]

The Nonparticipating Manufacturer shall, for each the current and preceding calendar year, provide a list of all the residential and nonresidential Arizona licensed distributors who 1) the Applicant sold cigarettes to or 2) the Applicant believes or has reason to believe purchased or received any of the Applicant's cigarettes from another source. [A.R.S. § 44-7111(3)(a)(2)].

The Nonparticipating Manufacturer shall deliver a supplemental certification to the Attorney General to request any addition to or modification of its Brand Families, and the prohibitions set forth in A.R.S. §§ 44-7111(3)(c) and 6(d) remain in effect until the brand is listed in the Directory. [A.R.S. § 44-7111(3)(a)(2)].

C. All Tobacco Product Manufactures

A Tobacco Product Manufacturer that is not currently listed in the Directory must submit an initial certification subject to the same requirements and review process set forth in A.R.S. § 44-7111 for annual certifications. The Tobacco Product Manufacturers brand families remain subject to the prohibitions set forth in sections 3(c) and 6(d) until the request is formally approved by the Attorney General and the modification is reflected on the Directory itself. [A.R.S. § 44-7111(3)(a)(6)].

Part 4: Nonparticipating Manufacturer Certification

A. Resident Agent for Service of Process

Certify whether the Nonparticipating Manufacturer is: (i) domiciled in the State of Arizona; (ii) a non-resident or foreign Nonparticipating Manufacturer that has registered to do business in Arizona as a foreign corporation or business entity; or (iii) a Nonparticipating Manufacturer that has appointed a resident agent for service of process pursuant to A.R.S. § 44-7111(4) on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of A.R.S. §§ 44-7101 & 44-7111, may be served in any manner authorized by law. [A.R.S. § 44-7111(4)(a)]

If the Nonparticipating Manufacturer has appointed a resident agent for service of process, please supply the information requested and attach as an Exhibit proof of the appointment and availability of the resident agent. The proof of appointment and availability of the resident agent shall be executed in the same year as the form of certification being submitted. The proof of appointment and availability shall either: (i) provide proof of general acceptance and availability; or (ii) if a term of appointment has been imposed, provide proof

that said term extends through June of the following year. The proof of appointment and availability of the resident agent must specifically state that the resident agent has been authorized by the Tobacco Product Manufacturer identified in Part 2 to accept service of process in actions brought against it concerning or arising out of the application and enforcement of A.R.S. §§ 44-7101 and 44-7111.

*Note*: The Nonparticipating Manufacturer shall provide notice to the Attorney General thirty (30) days prior to the termination of the authority of a resident agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new resident agent not less than five (5) calendar days prior to the termination of an existing agency appointment. [A.R.S. § 44-7111(4)(b)] In the event a resident agent terminates an agency appointment, the Nonparticipating Manufacturer shall notify the Attorney General of the termination within five (5) calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new resident agent. [A.R.S. § 44-7111(4)(b)]

B. Qualified Escrow Fund - Financial Institution

Identify: (i) the name, mailing address, and telephone number of the financial institution where the Nonparticipating Manufacturer has established a Qualified Escrow Fund pursuant to A.R.S. § 44-7101(3)(b); (ii) the account number of such Qualified Escrow Fund and any sub-account number for the State [A.R.S. § 44-7111(3)(a)(3)(D)]; and (iii) the name of a representative of the financial institution who is knowledgeable about the Qualified Escrow Fund. Also, state whether the Escrow Agreement has been approved by the Attorney General.

Either: (i) attach as an Exhibit a copy of the Nonparticipating Manufacturer's Escrow Agreement; or (ii) state that the Escrow Agreement in the form attached to the most recent form of certification submitted pursuant to A.R.S. § 44-7111 and deemed complete and acceptable by the Attorney General is still in full force and effect without amendment or modification.

C. Escrow Deposit/Withdrawal History for Arizona

Attach as an Exhibit copies of records of the financial institution establishing: (i) the amount the Nonparticipating Manufacturer deposited in the Qualified Escrow Fund for Units Sold in Arizona during the preceding calendar year as well as the date and amount of each deposit; (ii) the amount of, and date of, any withdrawal or transfer of funds the Nonparticipating Manufacturer made at any time from the Qualified Escrow Fund into which it ever made escrow payments pursuant to A.R.S. § 44-7101; and (iii) the total amount of funds held in escrow for the benefit of the State of Arizona. *Note*: All withdrawals must comply with A.R.S. § 44-7101(3)(b)(2) and verification of compliance must be provided.

In the alternative to providing the foregoing information, the Applicant may certify that it has not deposited, nor has it been required to deposit during any year, any money into a Qualified Escrow Fund for the benefit of the State of Arizona pursuant to A.R.S. § 44-7101 on account of units sold in Arizona.

Part 5: Nonparticipating Manufacturer Certification - Status as a Tobacco Product Manufacturer: The Applicant must respond completely and accurately to the inquiries in Part 5 concerning the Applicant's status as the Tobacco Product Manufacturer of the Brand Families listed in the Certification. The Applicant must re-print the inquiries followed by the Applicant's responses in an Exhibit, which must be attached to the Certification and incorporated into Part 5 as if set forth fully therein. The information is provided as the Applicant's sworn statement under penalty of perjury. All materials provided in support of the Applicant's responses to the inquiries in Part 5 which are written in a language other than English must be translated into English in order to be considered.

Part 6: Participating and Non-Participating Manufacturers – PACT Act, Fire-Safe and Flavored Cigarettes Compliance: Part 6 applies to both participating and non-participating manufacturers. With regard to the Applicant's non-direct cigarette sales activity, mark which paragraph applies, or provide a statement why none apply, labeled as an Exhibit. State whether the Applicant is registered with the United States Attorney

General and DOR as required under the PACT Act. Provide as an Exhibit the proof that the Tobacco Manufacturer's Brand Families certified in Part 3.A or 3.B are in compliance with Arizona's Reduced Cigarette Ignition Propensity Statute. Also, identify whether the Tobacco Manufacturer's Brand Families certified in Part 3.A are in compliance with flavored cigarette restrictions contained in 21 U.S.C.A. § 387(g). Acknowledge that certain laws apply to sales of cigarettes in Arizona.

Part 7: Removal of Brand Families: Part 7 need only be completed if the Tobacco Product Manufacturer is already listed in the Directory and is requesting the removal of one or more of its Brand Families listed in the Directory. Please list the Brand Family(ies) that the Tobacco Product Manufacturer is requesting be removed from the Directory. Also, if the Tobacco Product Manufacturer is requesting only the removal of a Brand Family(ies), please complete only Parts 1, 2, 7 & 8 of this Certification.

Part 8: Execution by Authorized Designees: The Designee executing the Certification must be an employee of the Tobacco Product Manufacturer identified in Part 2, and authorized to execute the Certification on the manufacturer's behalf. The Designee's name and title must be printed, and the Certification executed, in the presence of an authorized notary. All signatures and the notary seal must be original. Photocopies or facsimile transmissions of Part 8 are unacceptable, and will result in the certification being deemed incomplete.

**STATE OF ARIZONA**
**TOBACCO PRODUCT MANUFACTURER**
**CERTIFICATION PURSUANT TO A.R.S. § 44-7111**

**NOTICE:** **This Certification must be filled out completely and accurately. All documentation submitted in support of this Certification must be clearly referenced, conspicuously labeled, and attached. Failure to respond to each inquiry, or to properly reference, label and attach supporting documentation may result in the Certification being deemed incomplete.**

**Part 1: Identification of the Purpose of the Certification**

Indicate the purpose for which the Certification is being submitted (check one):

_____ Initial Certification (i.e., for Tobacco Product Manufacturers not listed in the Directory. The entire form must be completed.)

_____ Annual Certification (i.e., for Tobacco Product Manufacturers listed in the Directory and due annually by April 30th. The entire form must be completed.)

_____ Supplemental Certification (The Certification need only be completed with regard to the reason for the Supplemental Certification (as well as Parts 1, 2 & 8). For example, if the Tobacco Product Manufacturer is requesting only the removal of a Brand Family(ies), it need complete only Parts 1, 2, 7 & 8 of this Certification.)

**Part 2: Tobacco Product Manufacturer Identification**

Tobacco Product Manufacturer: _____
Physical Address (no post office box):_____
Mailing Address: _____
Phone: _____ Fax: _____
Email: _____ Website Address: _____
Name/Title of Person Completing Certification: _____

The Tobacco Product Manufacturer identified above is, as of the date of this Certification (check one):

_____ A Participating Manufacturer under the Master Settlement Agreement.

_____ A Nonparticipating Manufacturer in full compliance with A.R.S. § 44-7101(3)(b).

**Part 3: Brand Family Identification**

**A. Participating Manufacturers (check one):**

_____ The Participating Manufacturer identified in Part 2 has listed its Brand Families in the following table, each of which the Participating Manufacturer hereby affirms are to be deemed its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement.

_____ As an alternative to filling out the table on the following page, the Participating Manufacturer hereby attaches as **Exhibit** _____ (insert exhibit number) a list of its Brand Families, each of which the Participating Manufacturer hereby affirms are to be deemed its Cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement. (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 3.A as if set forth fully herein.)

| Brand Families | | | |
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**B. Nonparticipating Manufacturers (check one):**

_____ The Nonparticipating Manufacturer identified in Part 2 has listed its Brand Families in the table below, each of which the Nonparticipating Manufacturer affirms are to be deemed its Cigarettes for purposes of A.R.S. § 44-7101(3)(b).

_____ As an alternative to filling out the table below, the Nonparticipating Manufacturer hereby attaches as **Exhibit** _____ (insert exhibit number) a list of Brand Families, each of which the Nonparticipating Manufacturer affirms are to be deemed its Cigarettes for purposes of A.R.S. § 44-7101(3)(b), and the other information required in the table below. (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 3.B as if set forth fully herein.)

| **Brand Family**[1] | **Units Sold in the Preceding Calendar Year** | **Units Sold Thus Far in the Current Calendar Year** | **Name and address of other manufacturers of Brand Family in the preceding or current calendar year** | **Cigarette or Roll-Your-Own** |
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_____ The Nonparticipating Manufacturer identified in Part 2 has listed in the table on the following page, for each the current and preceding calendar year, a list of all the residential and nonresidential Arizona licensed distributors who 1) the Applicant sold cigarettes to or 2) the Applicant has believes or has reason to believe purchased or received any of the Applicant's cigarettes from another source for purposes of A.R.S. § 44-7111(3)(a)(2).

_____ As an alternative to filling out the table below, the Nonparticipating Manufacturer hereby attaches as **Exhibit** _____ (insert exhibit number) a list, for each the current and preceding calendar year, of all the residential and nonresidential Arizona licensed distributors who 1) the Applicant sold cigarettes to or 2) the Applicant has believes or has reason to believe purchased or received any of the Applicant's cigarettes from another source for purposes of A.R.S. § 44-7111(3)(a)(2), and the other information required in the table below. (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 3.B as if set forth fully herein.)

[1] Indicate with an asterisk (*) any Brand Family sold in the State of Arizona during the *preceding calendar year* that is no longer being sold in the State of Arizona as of the date of this Certification. (*Note*: These Brand Families will not be listed in the Directory.) Indicate with two asterisks (**) all other Brand Families that have been sold in the State at any time during the *current calendar year* that are no longer being sold in the State as of the date of this Certification. (*Note*: These Brand Families will not be listed in the Directory unless listing is specifically requested.)

| Current Calendar Year | Preceding Calendar Year |
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**Part 4: Nonparticipating Manufacturer Certification**

**A. Resident Agent for Service of Process (check one):**

_____ The Nonparticipating Manufacturer identified in Part 2 is domiciled in the State of Arizona.

_____ The Nonparticipating Manufacturer identified in Part 2 is a non-resident or foreign Nonparticipating Manufacturer that has registered to do business in the State of Arizona as a foreign corporation or business entity.

_____ The Nonparticipating Manufacturer identified in Part 2 has appointed, and continues to engage, the following resident agent for service of process on which all process, and any action or proceeding against it concerning or arising out of the enforcement of A.R.S. §§ 44-7101 & 44-7111, may be served in any manner authorized by law:

Agent Name: _____
Company: _____
Arizona Mailing Address: _____
Arizona Phone: _____ Arizona Fax: _____
Arizona Email: _____

Proof of appointment and availability of the resident agent must be provided. Proof of appointment and availability of the resident agent shall either: (i) provide proof of general acceptance and availability; or (ii) if a term of appointment has been imposed, provide proof that said term extends through June of the following year. Proof of appointment and availability of the resident agent must specifically state that the resident agent has been authorized by the Tobacco Product Manufacturer identified in Part 2 to accept service of process in actions brought against it concerning or arising out of the application and enforcement of A.R.S. §§ 44-7101 and 44-7111. Proof of appointment and availability of the resident agent is attached hereto as **Exhibit** _____ (insert exhibit number). (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 4.A as if set forth fully herein.)

**B. Qualified Escrow Fund**

1. Financial Institution

Name of Institution: _____
Mailing Address: _____
Representative Name: _____ Phone: _____
Qualified Escrow Fund Account No: _____ Arizona Sub-account No: _____

2. If the above-referenced financial institution is not the original Escrow Agent for the Qualified Escrow Fund created and maintained for the benefit of Arizona, please provide (i) the names and contact information for all previous Escrow Agents; and (ii) the date of removal of each. Information regarding any former Escrow Agents is attached hereto as **Exhibit** _____ (insert exhibit number). (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 4.B as if set forth fully herein.)

3. Are the funds that are deposited in the above-referenced Qualified Escrow Fund for the benefit of Arizona deposited in a separate segregated sub-account, separate and apart from any funds deposited for the benefit of any other beneficiary? _____ Yes _____ No

   If Applicant answered NO, then Applicant must provide an explanation as to the manner in which the funds are held in escrow. This explanation is attached hereto as **Exhibit** _____ (insert exhibit number). (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 4.B as if set forth fully herein.)

4. Please choose one of the following options (check one):

_____ An executed copy of the Nonparticipating Manufacturer's Escrow Agreement is attached hereto as **Exhibit** _____ (insert exhibit number). (*Note*: The attached Exhibit must be *conspicuously* labeled as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 4.B as if set forth fully herein.)

_____ In the Alternative, the Tobacco Product Manufacturer identified in Part 2 hereby swears its Escrow Agreement in the form attached to the Certification signed _____ (enter date Certification was signed by month/day/year) and submitted pursuant to A.R.S. § 44-7111, which was deemed complete and accepted by the Attorney General, is still in full force and effect without amendment or modification. (When choosing this option, the Tobacco Product Manufacturer need not attach as an Exhibit a copy of its Escrow Agreement.)

**C. Escrow Deposit/Withdrawal History for Arizona**

Please choose one of the following options (check one):

_____ The Applicant hereby attaches as **Exhibit** _____ (insert exhibit number) copies of records of the financial institution establishing: (i) the amount the Nonparticipating Manufacturer deposited in the fund for Units Sold in Arizona during the preceding calendar year as well as the date and amount of each deposit; (ii) the amount and date of any withdrawal or transfer of funds the Nonparticipating Manufacturer made at any time from the fund into which it ever made escrow deposits pursuant to A.R.S. § 44-7101; and (iii) the total amount of funds held in escrow for the benefit of the State of Arizona. (*Note*: the attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 4.C as if set forth fully herein.)

_____ The Applicant hereby certifies that it has not deposited, nor has it been required to deposit during any year, any money into a Qualified Escrow Fund for the benefit of the State of Arizona pursuant to A.R.S. § 44-7101 on account of units sold in Arizona.

*Note*: All withdrawals must comply with A.R.S. § 44-7101(3)(b)(2) and verification of compliance must be provided.

**Part 5: Nonparticipating Manufacturer Certification - Status as a Tobacco Product Manufacturer**

To respond to the following inquiries in Part 5, please re-print the inquiries followed by the Applicant's responses in an Exhibit, which must be attached hereto as **Exhibit _____** (insert exhibit number). (*Note*: The attached Exhibit must be *conspicuously labeled* as an "Exhibit," using the exhibit number inserted above. The foregoing Exhibit will be deemed incorporated into Part 5 as if set forth fully herein.)

All materials provided in support of the Applicant's responses to Part 5 must be referenced in the Applicant's responses as **Attachment 1, 2, 3, etc...**, and conspicuously labeled as such. Any such documents, if properly referenced and attached, will be deemed incorporated into the Applicant's applicable Part 5 response as if set forth fully therein. *All supporting materials that are written in a language other than English must be translated into English in order to be considered.* In the event the Applicant is unable or unwilling to respond to a particular inquiry in Part 5, the Applicant is to state this and provide the Applicant's reasoning therefor. In the event the Applicant simply does not respond to an inquiry or a sub-part thereof, the Certification will be deemed incomplete.

1. Confirm that the packaging for Brand Families identified in Part 3.B is identical to the samples submitted with a Certification previously submitted pursuant to A.R.S. § 44-7111, which was deemed complete and accepted by the Attorney General, providing the name(s) of the Brand Family(ies) and the signature date (month/day/year) of the Certification to which the packaging was attached. **Please DO NOT attach samples unless the packaging has changed.**

2. Does the Applicant claim to be the Tobacco Product Manufacturer, as that term is defined in A.R.S. § 44-7101(2)(i), based on the fabrication of the Brand Families certified in Part 3.B?

3. If the Applicant claims to be the fabricator of the Brand Families certified in Part 3.B, please: (i) explain the precise activities performed by the Applicant that constitute the fabrication of the Cigarettes; (ii) provide the complete physical address(es) of the Applicant's manufacturing facility(ies) and the precise activities performed at the manufacturing facility(ies); (iii) provide the name of all other entities involved in the fabrication process and a description of their involvement; (iv) provide proof of ownership, possession, and/or control of each manufacturing facility listed; and (v) provide documentation establishing that this manufacturing facility(ies) is at the site claimed and is licensed to manufacture Cigarettes. If the fabrication process is different for any Brand Families, please explain the precise difference(s) as this inquiry must be answered as to all of the Brand Families certified in Part 3.B.

4. Please identify all other entities that have access to the manufacturing facility(ies) listed in inquiry 3 along with a precise description of the activities conducted by each such entity. Please include the entity's name, mailing address, telephone and fax numbers, and the name of a contact person.

5. If the Applicant is not the fabricator of any of the Brand Families certified in Part 3.B, for each such Brand Family, please: (i) identify the fabricator, including the entity's name, mailing address, physical address, telephone and fax numbers, and the name of a contact person; (ii) describe the precise activities performed by that entity with regard to the fabrication of the Cigarettes in question; (iii) provide the physical address(es) where those activities take place; (iv) describe the precise arrangement between the Applicant and the fabricator pursuant to which the fabricator fabricates the Cigarettes in question; (v) provide a copy of any current or previous agreement between the Applicant and the fabricator concerning the fabrication of the Cigarettes in question; and (vi) provide the physical address of the location where the Applicant claims to gain ownership of the Cigarettes in question. This inquiry must be answered as to all of the Brand Families certified in Part 3.B.

6. If the Applicant is not the fabricator of the Brand Families certified in Part 3.B but nonetheless claims to be the Tobacco Product Manufacturer, then please set forth in detail the Applicant's position regarding why it considers itself the Tobacco Product Manufacturer, as that term is defined in A.R.S. § 44-7101, of the Brand Family(ies) listed in this Certification, including all supporting facts and documentation.

7. Has the Applicant ever manufactured, assisted in the manufacture of, or sold Brand Families other than those certified in Part 3.B? If so, please: (i) list those Brand Families and the date(s) during which the Applicant manufactured, assisted in the manufacture of, or sold the Brand Families; and (ii) describe Applicant's involvement with the Brand Families listed in part (i) to this inquiry.

8. Has any other entity ever manufactured or assisted in the manufacture of any of the Brand Families certified in Part 3.B? If so, please: (i) list each such Brand Family; (ii) provide the name(s) of the entity(ies) that performed or assisted in the manufacture of each Brand Family identified in (i) and explain the extent of their involvement; and (iii) provide the time frame in which the activities set forth in (ii) took place (if the activities set forth in (ii) are ongoing, please so indicate).

9. Please provide: (i) the name, mailing address, telephone and fax numbers, and the name of a contact person for the owner of the United States trademark for each of the Brand Families listed in this Certification, separated by brand family; and (ii) the name, mailing address, telephone and fax numbers, and the name of a contact person for all entities to which any such trademark has ever been assigned, separated by Brand Family.

10. Please provide: (i) all of the Applicant's previous, fictitious, and/or dba names; (ii) a list of all of the Applicant's officers, directors, and owners; and (iii) a list of all the Applicant's affiliates and subsidiaries, designated as such, along with their current business address and fax and telephone numbers, or confirmation that no affiliates and subsidiaries exist.

11. Please provide: (i) the name(s) of the entity(ies) that have paid the Federal Excise Tax ("FET") on the Brand Families certified in Part 3.B; and (ii) a copy of the most recent document submitted to the Federal Government (e.g., U.S. Customs Form 7501) which establishes payment of FET for the Applicant's claimed Brand Families.

12. For Cigarettes Manufactured Within the United States: With regard to each Brand Family certified in Part 3.B, please provide: (i) the current letter(s) of approval received pursuant to 15 USC § 1333 *et seq*. from the applicable governmental entity(ies); and (ii) the name of the entity(ies) that submitted the documentation.

13. For Cigarettes Manufactured Outside the United States: With regard to each Brand Family certified in Part 3.B, please provide: (i) the current letters of approval received pursuant to 19 USC § 1681 *et seq*. from the applicable governmental entity(ies); and (ii) the name of the entity(ies) that submitted the documentation.

14. For Cigarettes Manufactured Outside the United States: Please explain whether the country in which the Brand Family(ies) certified in Part 3.B are fabricated requires an entity to be licensed as a Cigarette manufacturer before it may engage in such activities, and if so, provide a citation to the applicable law and attach a copy of the current license.

15. Was Applicant or any person affiliated with Applicant, or any of its brands or brands of a person affiliated with Applicant, ever removed from the state directory of any State? For each such instance, please list: (i) the state which de-listed the Applicant; (ii) whether the denial applied to the Applicant itself or only specific Brand Families, and if it applied only to Brand Families, please list those Brand Families; and (iii) the grounds given by the state for the denial and attach as **Attachment ____** (insert Attachment number).

16. In regard to the Qualified Escrow Fund listed in Part 4.B of this Certification, please: (i) explain whether a security interest, as set forth in A.R.S. § 47-9101 *et seq.*, has been granted in or attached to any of the funds deposited or to be deposited into this Qualified Escrow Fund; (ii) if such a security interest exists, provide a detailed description of the security interest, including the names of the entities involved, along with supporting documentation; and (iii) explain whether any other circumstances exist which in any way limit the State of Arizona's rights pursuant to A.R.S. § 44-7101 or any other state's rights pursuant to its "escrow statute" (i.e., a statute based on the model legislation attached to the Master Settlement Agreement as Exhibit T and similar to Arizona's escrow statute, A.R.S. § 44-7101) with regard to the funds deposited or to be deposited into this Qualified Escrow Fund.

17. Has the Applicant ever failed to timely comply with any other state's "escrow statute" (see inquiry 16 for the meaning of "escrow statute" as used in this inquiry)? If so, please provide the name(s) of the state(s) along with an explanation and attach as **Attachment** _____ (insert Attachment number).

18. Has the Applicant or any person affiliated with Applicant ever failed to make a full and timely escrow deposit due under section 44-7101? If so, please attach an explanation and attach as **Attachment**_____ (insert Attachment number).

19. Has the Applicant ever been sued by a state for an alleged violation of any state's "escrow statute" (see inquiry 16 for the meaning of "escrow statute" as used in this inquiry) or "directory statute" (i.e., a statute that creates a "cigarette directory" and prohibits sales in the applicable state of Brand Families of Cigarettes not listed in that directory). If so, please provide the name(s) of the state(s) along with a description of the allegations and the outcome and attach as **Attachment** _____ (insert Attachment number).

20. Has the Applicant ever been sued for, or convicted of violations of state or federal law stemming from the manufacture, distribution, or sales of cigarettes, other than those described in applicant's answer to question 19? If so, please provide the location of the lawsuit or conviction and an explanation and attach as **Attachment**____ (insert Attachment number).

21. Was the owner or officer of Applicant ever an owner or officer of another tobacco company that, according to a State, did not make the required escrow deposits pursuant to a State's escrow statute? If so, please provide the name of the State.

22. Is Applicant or its affiliate entitled to claim sovereign immunity, located on tribal land, or a federally recognized tribe? If the answer to any of these questions is yes, please explain.

23. If Applicant is owned by a Native American Tribe, complete the NPM Waiver of Sovereign Immunity by Native American Tribe form located at https://www.azag.gov/tobacco/forms and attach it as **Attachment** ____ (insert **Attachment** number).

24. If Applicant is a Government-Owned Tobacco Company, complete the Government-Owned NPM Waiver of Sovereign Immunity form located at https://www.azag.gov/tobacco/forms and attach it as **Attachment** ____ (insert Attachment number).

25. If the Applicant's answer to inquiries 23 and 24 are no, then please complete the NPM Standard Waiver of Sovereign Immunity form located at https://www.azag.gov/tobacco/forms and attach it as **Attachment** _____ (insert Attachment number).

26. If Applicant is a foreign Nonparticipating Manufacturer, list the names of every importer of Applicant's Cigarettes (includes roll-your-own) below, and for each importer, complete the US Importer Declaration Accepting Joint and Several Liability form located at https://www.azag.gov/tobacco/forms and attach as **Attachment** _____ (insert Attachment number).

Importer Names: _____

27. Every nonparticipating manufacturer must post a bond for the exclusive benefit of Arizona. [A.R.S. § 44-7111(3)(d)]. Please respond to the appropriate paragraph below. Note: Information about Arizona's surety bond requirement can be found at https://www.azag.gov/tobacco/faq.

A. If the Applicant is submitting this Certification as part of an Annual Certification, then please provide a copy of the Applicant's current surety bond posted for the exclusive benefit of Arizona and attach it as **Attachment**_____ (insert Attachment number).

B. If the Applicant is submitting this Certification as part of an Initial Certification, then please complete the NPM Surety Bond form, located at https://www.azag.gov/tobacco/forms, in the amount of fifty thousand dollars and attach it as **Attachment** _____ (insert Attachment number).

C. If the Applicant is submitting this Certification as part of a Supplemental Certification, then please provide a copy of the new bond posted for the exclusive benefit of Arizona and attach it as **Attachment** _____ (insert Attachment number).

**Part 6: Participating and Non-Participating PACT Act, Fire-Safe and Flavored Cigarette Compliance**

The Federal Prevent All Cigarette Trafficking ("PACT") Act, 15 U.S.C. §§ 375, *et seq*., requires all persons who sell, transfer, or ship cigarettes in interstate commerce into Arizona (or who advertise or offer to do so) from outside the State, from Indian Country, or from within Arizona through points outside the State or through Indian Country, to register with the Arizona Department of Revenue before any such sale or transfer occurs. The PACT Act further requires that such persons file monthly reports with the Arizona Department of Revenue identifying the brands, quantities, and recipients of cigarette and smokeless tobacco shipments into Arizona.

28. Has the Applicant, directly or through a retailer, distributor or similar intermediary, participated in the direct sale of its Cigarettes to customers via catalog, the Internet, by phone or by mail? Such participation includes the sale of Applicant's Cigarettes to a retailer that in turn sells directly to customers via catalog, the Internet, by phone or by mail. Please select Applicant's response from those presented below or provide an explanation as to why none apply as **Exhibit** _____ (insert Exhibit number):

_____ The Applicant directly sells its Cigarettes to customers via catalog, the Internet, by phone and/or by mail. If Applicant sells its products via the Internet, please provide the website address for the site(s) at which its products are sold.

_____ The Applicant provides its Cigarettes to retailers and/or distributors which sell directly to customers via catalog, the Internet, by phone and/or by mail. If so, please provide the name, website address, physical mailing address, and telephone number for all such retailers.

_____ The Applicant does not participate, directly or through a retailer, distributor or similar intermediary, in the direct sale of its Cigarettes to customers via catalog, the Internet, by phone and/or by mail.

_____ Please check to acknowledge that, pursuant to A.R.S. § 36-798.06 ("Delivery Sales Statute"), it is unlawful for any person, other than a person licensed under A.R.S. § 42-3201, or a retailer ordering from a person so licensed, to order or purchase, or cause to be ordered or purchased, a tobacco product via mail, phone, the Internet, or any electronic means (except for pipe tobacco and cigars).

29. Has the Applicant fully complied with the registration and reporting requirements set forth in the Federal Prevent All Cigarette Trafficking ("PACT") Act, 15 U.S.C. §§ 375, *et seq*, with regard to any and all shipments made into the United States? Please provide a copy of the registration form submitted to the Attorney General of the United States pursuant to 15 U.S.C. § 376(a)(1) as **Exhibit** _____ (insert Exhibit number).

30. Has the Applicant sold, transferred, or shipped for profit cigarettes or smokeless tobacco into the State of Arizona? If so, please provide a copy of the registration form submitted to the Arizona Department of Revenue, pursuant to 15.U.S.C. § 376(a)(1), as **Exhibit** _____(insert Exhibit number).

_____ If the Applicant has sold, transferred, or shipped for profit cigarettes or smokeless tobacco into the State of Arizona, please check to acknowledge that the Applicant is in full compliance with 15 U.S.C. § 376(a)(2)'s reporting requirements.

32. Have the Applicant's Brand Families certified in Part 3.A. or 3.B been certified in accordance with Arizona's Reduced Cigarette Ignition Propensity Statute, A.R.S. § 41-2170, *et seq*? If so, please provide proof of certification from the Office of the Arizona State Fire Marshal's website as **Exhibit** _____ (insert Exhibit number).

_____ Please check if the Applicant's Brand Families certified in Part 3.A. or 3.B are in compliance with the flavored cigarette restrictions contained in 21 U.S.C.A. § 387(g).

_____ Please check to acknowledge that, to the Tobacco Product Manufacturer's knowledge, all sales of cigarettes (includes roll-your-own) flow through Arizona licensed Distributors before being purchased by consumers.

_____ Please check to acknowledge that the Tobacco Product Manufacturer agrees that all state laws, including but not limited to, Title 42, Chapter 3 of the Arizona Revised Statutes, as well as A.R.S. §§ 44-7101 and 44-7111, apply to sales of cigarettes (includes roll-your-own) on Indian Reservations located in Arizona.

**Part 7: Removal of Brand Families**

The Tobacco Product Manufacturer identified in Part 2 requests that the Brand Family(ies) listed in the table below be removed from the Directory.

| **Brand Families** | | |
|---|---|---|
| | | |
| | | |
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**Part 8:** **Execution by Authorized Designee**

**NOTICE:** **All signatures and the notary seal must be original. Photocopies or facsimile transmissions of Part 8 are unacceptable, and will result in the Certification being deemed incomplete.**

Under penalty of perjury, I state that: (i) I have read the instructions included as part of this Certification; (ii) the information contained in this Certification, which includes all Exhibits and other attachments, is true, complete and accurate; and (iii) I am an employee of the Tobacco Product Manufacturer identified in Part 2 and am authorized to bind the Tobacco Product Manufacturer under either the laws of the State of Arizona or of the jurisdiction where the Tobacco Product Manufacturer resides or is organized.

Designee (Print Name): _____ Title: _____

Signature of Designee: _____ Date: _____

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____ City or County of:_____

My Commission expires: _____

**Mail the Completed Certification to:**

The Office of the Attorney General
Tobacco Enforcement Unit
1275 W. Washington
Phoenix, Arizona 85007-2926