

**NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURER
("NPM") CERTIFICATION SEEKING LISTING ON THE CALIFORNIA
TOBACCO DIRECTORY**

JUS-TOB5 (Rev. 09/2020)

PART I: Certification Type

A. Applicant: _____

B. Application year: _____

C. Application type:

- Initial certification – Applicant is not currently listed on the California Tobacco Directory.
- Annual certification – Applicant is currently listed on the California Tobacco Directory and seeks to reestablish Directory eligibility.
- Supplemental certification – Information in support of Applicant's last certification (JUS-TOB5 Rev. 09/2020) is no longer current, accurate, or complete. Alternatively, Applicant is requesting to add or remove Brand Styles from the California Tobacco Directory.

D. Application version: _____

If Applicant has submitted more than one JUS-TOB5 this year, describe the pending certification. For example, responses may include Amended Annual, Second Amended Annual, First Supplemental, etc.

- Applicant has carefully read and reviewed all definitions, instructions, forms and exhibits in support of Applicant's certification, including but not limited to Title 11, California Code of Regulations Sections 999.10-999.29, and Definitions (JUS-TOB8 (Rev. 09/2020)).
- Applicant understands that all statements, information, and exhibits in support of Applicant's certification are sworn under the penalty of perjury and/or criminal prosecution under the laws of California.
- Applicant understands that, under Title 11, California Code of Regulations Section 999.17, if any information within this certification is no longer current, accurate, or complete, Applicant shall submit a supplemental certification within thirty (30) days of the change.
- Applicant understands that incomplete or illegible submissions will not be processed.

PART II: Applicant

A. Primary contact person designated by Applicant

If the Office of the Attorney General has questions or requires additional information, documents, or other submissions, Applicant instructs the Office of the Attorney General to first contact:

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escrow owed on Brands Styles of Cigarettes listed on Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)) that are Units Sold in California. **No** **Yes**

D. _____ **(Initial)** Approving this certification does not waive or otherwise limit California's ability to assert that Applicant is liable for escrow owed on Brand Styles of Cigarettes that are not listed on Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)) that are Units Sold in California. **No** **Yes**

E. Using columns A, B, C, and D of Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)), Applicant identified all the Brand Styles of Cigarettes that Applicant seeks to add, remove, or recertify for listing on the California Tobacco Directory. Column A identifies the Brand Styles of Cigarettes that Applicant seeks to add to the California Tobacco Directory. Column B identifies the Brand Styles of Cigarettes that are currently listed on the California Tobacco Directory and Applicant seeks to reestablish eligibility for listing on California Tobacco Directory. Column C identifies the Brand Styles of Cigarettes that Applicant seeks to remove from the California Tobacco Directory. Column D identifies the Brand Styles of Cigarettes that Applicant does not seek to list on the California Tobacco Directory.

No **Yes**

F. Using columns G and H of Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)), Applicant provided all carton and pack UPCs used or otherwise associated with all of the Brand Styles of Cigarettes listed on Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)), including all promotional UPCs. **No** **Yes**

Part V: Reserve Fund Statute Compliance

A. For Sales Year _____ (prior calendar year), Applicant's total Units Sold, under subdivision (j) of Section 104556 of the Health and Safety Code, in the State of California was _____ (total Cigarettes in Sticks), and Applicant has deposited a total of _____ Qualified Escrow Principal (total in dollars) into a Qualified Escrow Fund for the benefit of California based upon those sales.

B. Applicant will retain all records, invoices, and other documentation regarding all of its Cigarettes sold in California during the prior Sales Year for at least five (5) years, unless Applicant is required to retain them for a longer period pursuant to other laws or regulations. **No** **Yes**

C. Attached as Exhibit _____ / CIG-MAP JUS-TOB7 is Applicant's CIG-MAP (JUS-TOB7 (Rev. 09/2020)), which accurately states the number of Applicant's Cigarettes sold and on which tobacco escrow or equity fee payments were made in California, all other states, the District of Columbia, and United States territories during the prior Sales Year.

D. By April 30, Applicant updated all CIG-MAPs (JUS-TOB7 (Rev. 09/2020)) previously submitted to Office of the Attorney General for two (2) additional years to update all

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sales totals, additional deposits of escrow or equity fee, or withdrawals of escrow.

No **Yes**

- E. Excluding Applicant's communications with California distributors (which must be identified on Applicant's JUS-TOB4), does Applicant receive any data or information regarding Applicant's Cigarette sales in California from any source, including but not limited to MSAi data?

No **Yes** **Part VI: Qualified Escrow Account Compliance**

- A. Applicant last executed California's Approved Tobacco Escrow Agreement on or about _____ (the Execution Date). (If the dates on the first page and the signature page(s) of the Approved Tobacco Escrow Agreement do not match, Applicant shall use the date on the first page of its Approved Tobacco Escrow Agreement.)
- B. Since the Execution Date, has Applicant or any other Person or entity modified or amended any terms or conditions in California's Approved Tobacco Escrow Agreement?

No **Yes**

- C. Account information

Name of financial institution: _____

Escrow agent: _____

Telephone number: _____

Email address: _____

Mailing address: _____

Escrow account number: _____

California sub-account number(s): _____

- D. A Ledger, as defined by section 2.1 of California's Approved Tobacco Escrow Agreement (JUS-TOB6 (Rev. 5/24/19)), reflecting all the Minimum Qualified Escrow Principal On-Deposit and all of Applicant's deposits, withdrawals, assignments, and Returns itemized by both Deposit Date and Sales Year is attached as Exhibit _____ / LEDGER.
- E. Does anyone other than Applicant or the State of California have any rights, ownership, or security interest in Applicant's Qualified Escrow Fund Account or any funds in the Qualified Escrow Fund Account, this includes but is not limited to any purported ownership right or security interest in any Principal or Interest in the account or any ownership or interest right in the account?

No **Yes**

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Section XI: Federal Excise Tax

- A. How many entities paid or will pay federal excise tax on any of the Cigarette Brand Styles listed on Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)) for the preceding calendar year?
- _____
- B. Identify all entities that paid or will pay federal excise tax on any of the Cigarette Brand Styles listed on Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)) during the preceding calendar year.
- _____
- _____
- _____
- C. Applicant has provided the Office of the Attorney General with:
- copies of all tax returns reflecting all of the federal excise tax paid on all of the Cigarettes Brand Styles listed on Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)) during the preceding calendar year; or
 - written consent to obtain all tax returns reflecting all of the federal excise tax paid on all of the Cigarettes Brand Styles listed on Exhibit B / Brand List (JUS-TOB15 (Rev. 09/2020)) during the preceding calendar year.

Section XII: Cigarette Fire Safety Standard Compliance

For each Brand Style that Applicant seeks to list on the California Tobacco Directory, all letters and supporting documentation establishing compliance with the California Cigarette Fire Safety and Firefighter Protection Act, Health and Safety Code sections 14950-14959, are attached as Exhibit _____ / FIRE STANDARD COMPLIANT.

Section XIII: Packaging or Labeling

For each Brand Style that Applicant seeks to list on the California Tobacco Directory:

- Electronic copies of all packaging or labeling that was not previously provided to the Office of the Attorney General are attached as Exhibit _____ / PACKAGING. Do not submit actual packaging or labeling; or
- Applicant certifies that: none of its packaging has changed since Applicant's last submission to Office of the Attorney General; and the Office of the Attorney General has received electronic copies of all of Applicant's current packaging.

The Office of the Attorney General is not approving Applicant's packaging through the Directory certification process.

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Section XIV: Federal Trade Commission Rotation Plan Compliance

For each Brand Style that Applicant seeks to list on the California Tobacco Directory, copies of the complete and unredacted warning rotation plan(s) submitted to the Federal Trade Commission ("FTC") pursuant to 15 U.S.C. § 1333 and the FTC's current approval letter for each Brand Family are attached as Exhibit _____ / FTC APPLICATIONS.

Section XV: FDA Compliance

- A. Has the United States Food and Drug Administration ("FDA") determined that any Brand Style of Cigarettes on Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)) is not currently lawful for sale in the United States, including but not limited to not compliant with Substantial Equivalence under section 905(j) of the Federal Food, Drug and Cosmetic Act? **No** **Yes**
- B. Has FDA issued a finding or otherwise advised Applicant that any Brand Style of Cigarettes on Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)) may not be lawful for sale in the United States, including but not limited to compliance with Substantial Equivalence under section 905(j) of the Federal Food, Drug and Cosmetic Act? **No** **Yes**
- C. Applicant will notify the Office of the Attorney General within five (5) business days if FDA or any other federal or state agency determines or issues a statement that any Brand Style of Cigarettes on Exhibit B / Brand List (JUS-TOB 15 (Rev. 09/2020)) is no longer lawful for sale in the United States or California. **No** **Yes**

Section XVI: Department of Health and Human Services Ingredient Compliance

For each Brand Style that Applicant seeks to list on the California Tobacco Directory, copies of the current documentation from the Department of Health and Human Services establishing compliance with 15 U.S.C. § 1333a is attached as Exhibit _____ / DHHS INGREDIENT.

Section XVII: Additional Questions

- A. Has Applicant's business structure or owners changed since Applicant's last Certification seeking Listing on the California Tobacco Directory (JUS-TOB5) (Rev. 09/2020)? **No** **Yes**
- B. Does Applicant or any of Applicant's Affiliates have any contract or other agreement with any Participating Manufacturer under the Master Settlement Agreement? **No** **Yes**
- C. Is Applicant or any of Applicant's Affiliates prohibited, enjoined, or banned from selling any Cigarettes in any state or in the United States by any court order, administrative

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forum, or state or federal agency order, ruling, or other determination?

No **Yes**

D. Does any state or the United States government have any unsatisfied judgment against Applicant or any of Applicant's Affiliates? **No** **Yes**

E. During the past five (5) years, has Applicant or any of Applicant's Affiliates been named as a party in a criminal or civil proceeding related to the manufacturing or distribution of Cigarettes in the United States or any state? **No** **Yes**

F. During the past five (5) years, has Applicant withdrawn any certification or other application seeking listing on a state's tobacco directory before the state rendered a decision on any portion of the certification or application? **No** **Yes**

If Applicant answered "Yes" to any of questions A-F above, a narrative that fully explains Applicant's answer(s) is attached as Exhibit _____. Applicant's response shall contain, at least, the names of the states, dates, years, Brand Families, Persons, case names and numbers involved, and/or dates the ownership or business structure change became effective.

G. During the past five (5) years, has any state denied any part of a certification by Applicant seeking listing on any state's tobacco directory? **No** **Yes**

If Applicant answered "Yes", attach a narrative that includes the state(s), year(s) and attach a copy of the letter(s) or notice(s) of denial. Exhibit _____.

H. During the past five (5) years, has Applicant deposited all tobacco escrow demanded by any state within ninety (90) days of each demand? This question concerns whether Applicant deposited all of escrow demanded by all states during the past five (5) years, not whether Applicant agrees with the grounds or sufficiency of any escrow demand(s) at issue. **No** **Yes**

If Applicant answered "No", a narrative that fully explains Applicant's answer, including but not limited to, the year(s), state(s), whether the amount of escrow demanded by any state remains unsatisfied is attached as Exhibit _____.

I. Has any of Applicant's owners or officers, or the officers or owners of Applicant's Affiliates ever been an owner or officer of another tobacco company that a state contends did not make the escrow deposits required by a state's Reserve Fund Statute? **No** **Yes**

If Applicant answered "Yes," attach a narrative that fully explains Applicant's answer, including but not limited to the owner(s) or officer(s) and the companies and states(s) involved is attached as Exhibit _____.

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- J. Over the past three (3) years, has Applicant's average annual gross receipts totaled less than fifteen million dollars (\$15,000,000)? The scope of this question is not limited to gross receipts from Cigarettes sales. **No** **Yes**
- K. Does Applicant have more than one hundred employees? **No** **Yes**
- L. Is Applicant a federally recognized tribe? **No** **Yes**
- M. Is Applicant a corporation formed under tribal law? **No** **Yes**
- N. Is Applicant affiliated with any tribe? **No** **Yes**
- O. Is Applicant's facility or business located on tribal land? **No** **Yes**

Section XVIII: Exhibits

All exhibits in support of this certification are hereby incorporated by reference.

No **Yes**

I have carefully reviewed all of the exhibits in support of Applicant's certification and they are, to the best of Applicant's knowledge, true, correct, and complete. **No** **Yes**

All exhibits in support of this certification shall be identified, organized, and ordered by alphabetical designation.

Exhibit A shall be an index that lists and identifies all of the exhibits in support of this certification. The first column must list all exhibits by their alphabetical designation in alphabetical order. The second column must provide a brief description of each exhibit. California predesignated several brief exhibit descriptions, which appear in this certification in all capitals following blank spaces where Applicant enters alphabetical designations for the exhibits in support of this certification. For example, on page seven (7) of this certification, the brief exhibit description for Applicant's CDTFA manufacturers license is "CDTFA LICENSE" and appears on the certification as "Exhibit _____ / CDTFA LICENSE." Thus, Applicant shall use "CDTFA LICENSE" as the predesignated brief exhibit description in Applicant's exhibit index. Conversely, the exhibits in support of Applicant's responses to section XVI, if any, do not have predesignated brief exhibit descriptions and Applicant may choose their own brief descriptions for these exhibits.

If Applicant is submitting both Paper Exhibits and Electronic Exhibits, Exhibit A shall contain a third column reflecting whether each exhibit is submitted as a Paper Exhibit or Electronic Exhibit.

Exhibit B must be an Excel copy of Brand List (JUS-TOB15 (Rev. 09/2020)).



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Except for Exhibit A and Exhibit B, Applicant may choose the alphabetical designations for the exhibits in support of this certification. Applicant may not skip or duplicate any letters.

Each Paper Exhibit shall be separated by a hard 8 1/2 x 11 sheet with hard paper or plastic tabs extending below the bottom of the page bearing the exhibit alphabetical designation.

Electronic Exhibits must be delivered in a format that displays each exhibit's alphabetical designation and a brief description of each exhibit.

Section XIX: Signature

I understand that the Office of the Attorney General may require additional information and/or documentation to establish eligibility for listing on the California Tobacco Directory.

I understand that California regulations require that this certification be signed by a qualified company officer or other such individual authorized to bind Applicant. I am an officer authorized by Applicant to legally bind Applicant under the law of the State of California and I hereby bind Applicant.

I declare, under the penalty of perjury, that all of the statements and information contained in this certification, including but not limited to Exhibits and accompanying statements, are true, correct, accurate, and complete.

NPM

SIGNATURE OF AUTHORIZED AGENT FOR NPM: _____

NAME OF AUTHORIZED AGENT FOR NPM: _____

TITLE: _____

DATE: _____

To be completed by a notary public

A notary public verifies only the identity of the individual who signed the document to which this certificate is attached, not the truthfulness, accuracy, or validity of that document.

On _____, before me, _____
personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the



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instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(Seal)