



STANDARD WAIVER OF SOVEREIGN IMMUNITY BY TOBACCO MANUFACTURER OR IMPORTER

WHEREAS, _____
[Manufacturer's or Importer's Name] represents that it is not a foreign state or directly owned in whole or majority part by a foreign state, within the meaning of the Foreign Sovereign Immunities Act, 28 U.S.C. § 1603;

WHEREAS, _____
[Manufacturer's or Importer's Name] represents that it is not owned by, chartered by, operated for the benefit of, or an "arm" of a Native American Tribe;

WHEREAS, _____
[Manufacturer's or Importer's Name] was formed for all business and commercial purposes allowed under the laws of the country of _____, state or jurisdiction of _____, including the manufacture and sale of cigarettes and tobacco products in the United States, and specifically the State of California;

WHEREAS, _____
[Manufacturer's or Importer's Name] has applied to the State of California to be placed on the State of California Directory of compliant tobacco manufacturers whose products may be legally sold in the State of California;

WHEREAS, the State of California requires that all tobacco manufacturers on the State Tobacco Directory, to the full extent allowed by law, be subject to State regulations and enforcement of California law, including being susceptible to all remedies and enforcement measures permitted under California law;

WHEREAS, the State of California requires that all tobacco manufacturers on the State Tobacco Directory, either sign the Master Settlement Agreement and make payments pursuant to that agreement or make escrow deposits as required by the California reserve fund statute;

WHEREAS, the State of California requires that all tobacco manufacturers sell cigarettes and tobacco products only to a distributor, wholesaler, importer, retailer or other person holding a valid license from the California Board of Equalization;

WHEREAS, the State of California requires that the distributor either pay applicable state taxes and surcharges on sales of cigarettes and tobacco products in the State of California or collect them from the consumer;

THEREFORE, _____
[Manufacturer's or Importer's Name] hereby expressly waives any claim or defense based in whole or in part on sovereign immunity and treaty rights, including but not limited to any claims or defenses based on the fact that any of the manufacturer's facilities are located on tribal or government lands and/or that its owner or owners are members of a Native American tribe, against suit, liability, judgment and collection with respect to the manufacturer's obligations and duties under the California reserve fund statute (Health & Saf. Code, § 104555 *et seq.*), the California Tobacco Directory Law (Rev. & Tax. Code, § 30165.1), the California Cigarette and Tobacco Products Licensing Act of 2003 (Bus & Prof. Code, § 22970 *et seq.*), the Cigarette and Tobacco Products Tax Law (Rev. & Tax. Code, Division 2, Part 13, 30001 *et seq.*), regulations implementing those laws, and any other California law, rule or regulation that pertains to the sale of tobacco products in the state of California.



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In so waiving its immunity, _____
[Manufacturer's or Importer's Name]

recognizes and agrees, that any suits, or administrative actions brought against the manufacturer or any of its affiliates relating to the duties and obligations referenced above, may be brought in the California Superior Court, and that all such actions and proceedings, shall be governed by California's substantive and procedural law.

_____ agrees that upon the request of the State, the
[Manufacturer's or Importer's Name]
manufacturer and its distributor or distributors will assist the State of California in the assessment and collection of any California taxes, surcharges and escrow deposits due.

Finally, _____ agrees to the jurisdiction of the
[Manufacturer's or Importer's Name]
California Superior Court, waives personal service of process, and agrees that service of process by certified or registered mail, return receipt requested, to the following address shall constitute adequate service:

[Manufacturer or Importer's Name] _____

[Street Address or P.O. Box] _____

[City and State, Postal Code] _____

Executed this _____ day of _____, 20 ____ .
[Month]

[Signature of company official authorized to bind Manufacturer/Importer]

[Printed name of company official authorized to bind Manufacturer/Importer]