

In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer (“Bond Counsel”), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Series 2019 Bonds is exempt from State of California personal income taxes. Bond Counsel observes that interest on the Series 2019 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Series 2019 Bonds. See “TAX MATTERS.”

\$100,000,000

INLAND EMPIRE TOBACCO SECURITIZATION AUTHORITY

Tobacco Settlement Asset-Backed Refunding Bonds

(Inland Empire Tobacco Securitization Corporation)

Series 2019 Turbo Current Interest Bonds (Federally Taxable)

Dated: Date of Delivery

Due: June 1, 2038

Inland Empire Tobacco Securitization Authority (the “**Issuer**”) is a public entity created pursuant to a Joint Exercise of Powers Agreement, dated as of July 18, 2007, by and between the County of Riverside, California (the “**County**”) and the County of San Bernardino, California (each, a “**Local Agency**”). The Issuer is a separate entity from each Local Agency and its debts, liabilities and obligations do not constitute debts, liabilities or obligations of the County or its other Local Agency. See “THE ISSUER” herein.

The Issuer’s Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation), Series 2019 Turbo Current Interest Bonds (Federally Taxable) (the “**Series 2019 Bonds**”), are to be issued pursuant to an Indenture, dated as of August 1, 2007, as previously supplemented, and as supplemented by a Series 2019 Supplement, dated as of May 1, 2019 (collectively, the “**Indenture**”), between the Issuer and Wells Fargo Bank, National Association, as indenture trustee (the “**Indenture Trustee**”). The proceeds of the Series 2019 Bonds, along with other available funds under the Indenture, will be deposited with Wells Fargo Bank, National Association, as Indenture Trustee and as escrow agent (the “**Escrow Agent**”) under an escrow agreement, dated as of May 1, 2019 (the “**Escrow Agreement**”), by and between the Issuer and the Escrow Agent to (i) refund and defease, in accordance with the Indenture, the Issuer’s outstanding Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation) Series 2007A and 2007B (the “**Refunded Bonds**”), (ii) fund the Debt Service Reserve Account and the Debt Service Account for the Series 2019 Bonds, and (iii) pay the costs of issuance incurred in connection with the issuance of the Series 2019 Bonds.

A portion of the proceeds of the Refunded Bonds were used to partly fund a loan under the Loan Agreement to purchase a portion of the County Tobacco Assets (such portion, the “**Sold County Tobacco Assets**”). As more fully described herein, the “**County Tobacco Assets**” consist of a portion of tobacco settlement revenues (“**TSRs**”) required to be paid to the State of California (the “**State**”) under the Master Settlement Agreement (the “**MSA**”) entered into by participating cigarette manufacturers (the “**PMs**”), 46 states, including the State, and six other U.S. jurisdictions, in November 1998 in settlement of certain cigarette smoking-related litigation and made payable to the County pursuant to agreements with the State and other parties. The Series 2019 Bonds are secured primarily by the Sold County Tobacco Assets. See “SECURITY FOR THE SERIES 2019 BONDS” herein.

The portion of the County Tobacco Assets not consisting of the Sold County Tobacco Assets is referred to herein as the “**Unsold County Tobacco Assets.**” The Bondholders will have no interest in the Unsold County Tobacco Assets.

Concurrently with the issuance of the Refunded Bonds, the Issuer issued its Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007C, Series 2007D, Series 2007E, and Series 2007F (the “**Series 2007C-F Bonds**”), which are currently outstanding as described herein. The Series 2007C-F Bonds are payable from Sold County Tobacco Assets on a basis subordinate to the Series 2019 Bonds. The right of the Bondholders to receive payments on their Series 2019 Bonds from the Sold County Tobacco Assets that consist of Pre-2027 Lump Sum Sold Tobacco Assets (herein defined) is equal to and on a parity with, and is not inferior or superior to, the right of the County to receive the Unsold County Tobacco Assets that consist of Lump Sum Payments (herein defined) prior to January 1, 2027.

The Revenues (herein defined) derived from the Sold County Tobacco Assets will be deposited with the Indenture Trustee. See “SECURITY FOR THE SERIES 2019 BONDS” herein.

The amount of Sold County Tobacco Assets received depends on many factors, including future domestic cigarette consumption, the financial capability of the PMs and the domestic tobacco industry, litigation generally, including litigation challenging the MSA and related state statutes, and federal, state and local regulations affecting the domestic tobacco industry. Payments by the PMs under the MSA are subject to certain adjustments, including the NPM Adjustment (as defined herein), which may be material. As discussed further herein, the State was one of several jurisdictions to enter into settlements with the OPMS and certain SPMS (each as defined herein) regarding claims related to the 2003 through 2017 NPM Adjustments and the determination of subsequent NPM Adjustments. See “RISK FACTORS” and “LEGAL CONSIDERATIONS” herein.

Prospective investors should carefully consider the discussion of certain risks and other considerations contained in “RISK FACTORS” and “LEGAL CONSIDERATIONS,” as well as the other information contained in this Offering Circular, regarding an investment in the Series 2019 Bonds. One or a combination of the risk factors discussed herein, and other risks, may materially adversely affect the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full, and could have a material adverse effect on the liquidity and/or market value of the Series 2019 Bonds.

Interest on the Series 2019 Bonds will be payable semi-annually on June 1 and December 1 of each year, commencing December 1, 2019.

The Series 2019 Bonds are subject to mandatory redemption from amounts on deposit in the Turbo Redemption Account, mandatory prepayment from amounts on deposit in the Lump Sum Prepayment Account, and mandatory clean-up call redemption, as described herein. The Series 2019 Bonds are also subject to Extraordinary Prepayment upon an Event of Default under the Indenture as described herein. Turbo Redemptions may cause payment of the principal of the Series 2019 Bonds to be substantially earlier than their scheduled maturity date. Failure to make Turbo Redemptions with respect to any Series 2019 Bonds will not constitute an event of default under the Indenture to the extent that such failure results from an insufficiency of amounts in the Turbo Redemption Account.

The Series 2019 Bonds are limited obligations of the Issuer, payable from and secured solely by Revenues and the other Collateral (herein defined) pledged under the Indenture. The Bondholders have no recourse to other assets of the Issuer, including, but not limited to, any assets pledged to secure payment of any other debt obligation of the Issuer. If, notwithstanding the limitation on recourse described in the preceding sentence, any Bondholders are deemed to have an interest in any asset of the Issuer pledged to the payment of other debt obligations of the Issuer, the Bondholders’ interest in such asset shall be subordinate to the claims and rights of the holders of such other debt obligations and the Indenture will constitute a subordination agreement for purposes of Section 510(a) of the U.S. Bankruptcy Code.

The Series 2019 Bonds do not constitute a charge against the general credit of the Issuer or any of its Local Agencies, including the County, and under no circumstances shall the Issuer or any Local Agency, including the County, be obligated to pay the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds, except from the Collateral pledged therefor under the Indenture. The credit of neither the State, nor any public agency of the State (other than the Issuer), nor any Local Agency of the Issuer, including the County, is pledged to the payment of the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds. The Series 2019 Bonds do not constitute a debt, liability or obligation of the State or any public agency of the State (other than the Issuer) or any Local Agency of the Issuer, including the County. The County is under no obligation to make payments of the principal or redemption premiums, if any, or interest on the Series 2019 Bonds in the event that Revenues are insufficient for the payment thereof.

See Inside Front Cover for Maturity and Yield

The cover page contains information for quick reference only. It is not a summary of this issue. Investors must read the entire Offering Circular to obtain information essential to making an informed investment decision.

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The Series 2019 Bonds are offered when, as and if issued and accepted by the Underwriters, subject to the approval of validity by Orrick, Herrington & Sutcliffe LLP, as Bond Counsel to the Issuer. Certain legal matters with respect to the Issuer, the Corporation and the County will be passed upon by County Counsel. Certain legal matters will be passed upon for the Issuer by Hawkins Delafield & Wood LLP, as Disclosure Counsel to the Issuer, and for the Underwriters by their counsel, Nixon Peabody LLP. It is expected that the Series 2019 Bonds will be available for delivery in book-entry form only through DTC in New York, New York on or about May 30, 2019.

Date: May 21, 2019

\$100,000,000
INLAND EMPIRE TOBACCO SECURITIZATION AUTHORITY
Tobacco Settlement Asset-Backed Refunding Bonds
(Inland Empire Tobacco Securitization Corporation)
Series 2019 Turbo Current Interest Bonds (Federally Taxable)

\$100,000,000 3.678% Turbo Term Bonds due June 1, 2038 (Expected Average Life*: 5.603 years)
Price: 100%, CUSIP† No. 45734TAJ3

* Assumes Turbo Redemption payments are made in accordance with the Sold County Tobacco Assets Projection Methodology and Assumptions described herein under “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS.” See the table entitled “Projected Series 2019 Bonds Debt Service Under the IHS Global Forecast” in “TABLES OF PROJECTED BOND DEBT SERVICE” herein. No assurance can be given that these structuring assumptions will be realized.

† Copyright American Bankers Association. CUSIP data herein are provided by Standard & Poor’s, CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc. The CUSIP numbers listed above are being provided solely for the convenience of Bondholders only at the time of issuance of the Series 2019 Bonds and the Issuer, the Corporation, the County and the Underwriters do not make any representation with respect to such numbers or undertake any responsibility for their accuracy now or at any time in the future. The CUSIP number is subject to being changed after the issuance of the Series 2019 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part of such maturity or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of the Series 2019 Bonds.

Certain capitalized terms used but not defined in the following paragraphs are defined in the Offering Circular on the pages noted in APPENDIX I – INDEX OF DEFINED TERMS.

Certain persons participating in this offering may engage in transactions that stabilize or maintain the price of the securities at a level above that which might otherwise prevail in the open market, or otherwise affect the price of the securities offered hereby, including over-allotment and stabilizing transactions. Such stabilizing, if commenced, may be discontinued at any time.

No dealer, broker, salesperson or other person is authorized in connection with any offering made hereby to give any information or make any representation other than as contained herein, and, if given or made, such information or representation must not be relied upon as having been authorized by the Issuer, the Issuer, the County, or the Underwriters. This Offering Circular does not constitute an offer to sell, or a solicitation of an offer to buy, any of the securities offered hereby by any person in any jurisdiction in which it is unlawful for such person to make such an offer or solicitation.

There is currently a limited secondary market for securities such as the Series 2019 Bonds. There can be no assurance that a secondary market for the Series 2019 Bonds will develop, or if one develops, that it will provide bondholders with liquidity or that it will continue for the life of the Series 2019 Bonds.

This Offering Circular contains information furnished by the Issuer, the Corporation, IHS Global and other sources, all of which are believed to be reliable. Information concerning the tobacco industry and participants therein has been obtained from certain publicly available information provided by certain participants and certain other sources (see “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY”). The participants in such industry have not provided any information to the Issuer, the Corporation or the County for use in connection with this offering. In certain cases, tobacco industry information provided herein (such as market share data) may be derived from sources which are inconsistent or in conflict with each other. The Issuer and the Corporation have no independent knowledge of any facts indicating that the information under the captions “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY” herein is inaccurate in any material respect, but the Issuer and the Corporation have not independently verified this information and cannot and do not warrant the accuracy or completeness of this information. The information contained under the caption “SUMMARY OF THE TOBACCO CONSUMPTION REPORT” and in the Tobacco Consumption Report attached as APPENDIX A hereto has been included in reliance upon IHS Global as an expert in econometric forecasting and has not been independently verified for accuracy or appropriateness of assumptions, although the Issuer and the Corporation have no independent knowledge that the information is not materially accurate and complete.

The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Offering Circular nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Issuer, the Corporation or the County or the matters covered by the report of IHS Global included as APPENDIX A hereto, or under the caption “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY” herein, since the date hereof or that the information contained herein is correct as of any date subsequent to the date hereof. Such information and expressions of opinion are made for the purpose of providing information to prospective investors and are not to be used for any other purpose or relied on by any other party. With respect to certain matters relating to the Series 2019 Bonds, the Issuer has undertaken to provide updates to investors through certain information repositories. See “CONTINUING DISCLOSURE UNDERTAKING” and APPENDIX H – “FORM OF CONTINUING DISCLOSURE UNDERTAKING” herein.

This Offering Circular contains forecasts, projections and estimates that are based on current expectations or assumptions. In light of the important factors that may materially affect the amount of Revenues (see “RISK FACTORS,” “LEGAL CONSIDERATIONS,” “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT,” “THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE CALIFORNIA ESCROW AGREEMENT,” and “SUMMARY OF THE TOBACCO CONSUMPTION REPORT” herein), the inclusion in this Offering Circular of such forecasts, projections and estimates should not be regarded as a representation by the Issuer, the Corporation, the County, IHS Global or the Underwriters that the results of such forecasts, projections and estimates will occur. Such forecasts, projections and estimates are not intended as representations of fact or guarantees of results.

References in this Offering Circular to the Act, the Indenture, the Loan Agreement, the Purchase and Sale Agreement, and the Continuing Disclosure Undertaking do not purport to be complete. Refer to the Act, the Indenture, the Loan Agreement, the Purchase and Sale Agreement, and the Continuing Disclosure Undertaking for full and complete details of their provisions. Copies of the Act, the Indenture, the Loan Agreement, the Purchase and Sale Agreement, and the Continuing Disclosure Undertaking are on file with the Issuer and the Indenture Trustee.

The order and placement of material in this Offering Circular, including its appendices, are not to be deemed a determination of relevance, materiality or importance, and all materials in this Offering Circular, including its appendices, must be considered in their entirety.

If and when included in this Offering Circular, the words “expects,” “forecasts,” “projects,” “intends,” “anticipates,” “estimates,” “assumes” and analogous expressions are intended to identify forward-looking statements and any such statements inherently are subject to a variety of risks and uncertainties that could cause actual results to differ materially from those that have been projected. Such risks and uncertainties include, among others, general economic and business conditions, changes in political, social and economic conditions, regulatory initiatives and compliance with governmental regulations, litigation and various other events, conditions and circumstances, many of which are beyond the control of the Issuer. These forward-looking statements speak only as of the date of this Offering Circular. The Issuer disclaims any obligation or undertaking to release publicly any updates or revisions to any forward-looking statement contained herein to reflect any changes in the Issuer’s expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

The proposed securities transactions described herein will be made upon the exemption from registration provided in Section 3(a)2 of the Securities Act of 1933, as amended.

The Series 2019 Bonds have not been approved or disapproved by the United States Securities and Exchange Commission, any State securities commission or any other regulatory authority, nor has any of the foregoing passed upon the accuracy or adequacy of this Offering Circular. Any representation to the contrary is a criminal offense.

The Underwriters have provided the following sentence for inclusion in this Offering Circular: The Underwriters have reviewed the information in this Offering Circular in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

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SUMMARY STATEMENT

This Summary Statement is subject in all respects to more complete information contained in this Offering Circular and should not be considered a complete statement of the facts material to making an investment decision. The offering of the Series 2019 Bonds to potential investors is made only by means of the entire Offering Circular. Capitalized terms used in this Summary Statement and not otherwise defined shall have the meanings given such terms in the Indenture or the Purchase and Sale Agreement, as applicable. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – Definitions” attached hereto.

Overview

Inland Empire Tobacco Securitization Authority (the “**Issuer**”) is issuing its Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation) Series 2019 Turbo Current Interest Bonds (Federally Taxable) (the “**Series 2019 Bonds**”) pursuant to an Indenture, dated as of August 1, 2007, as previously supplemented, and as supplemented by a Series Supplement dated as of May 1, 2019 (collectively, the “**Indenture**”), between the Issuer and Wells Fargo Bank, National Association, as indenture trustee (the “**Indenture Trustee**”). The proceeds of the Series 2019 Bonds, along with other available funds under the Indenture, will be deposited with Wells Fargo Bank, National Association, as Indenture Trustee and as escrow agent (the “**Escrow Agent**”) under an escrow agreement, dated as of May 1, 2019 (the “**Escrow Agreement**”), by and between the Issuer and the Escrow Agent to (i) refund and defease, in accordance with the Indenture, the Issuer’s outstanding Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation) Series 2007A and 2007B (the “**Refunded Bonds**”), (ii) fund the Debt Service Reserve Account and the Debt Service Account for the Series 2019 Bonds, and (iii) pay the costs of issuance incurred in connection with the issuance of the Series 2019 Bonds.

Following the refunding and defeasance of the Refunded Bonds, there shall remain outstanding under the Indenture, in addition to the Series 2019 Bonds, the following Bonds of the Issuer (collectively, the “**Series 2007C-F Bonds**” and, together with the Series 2019 Bonds and any Additional Bonds (defined herein), the “**Bonds**”):

<u>Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation):</u>	<u>Principal Amount at Maturity</u>
Series 2007C Turbo Capital Appreciation Bonds	\$ 765,930,000
Series 2007D Turbo Capital Appreciation Bonds	721,315,000
Series 2007E Turbo Capital Appreciation Bonds	786,900,000
Series 2007F Turbo Capital Appreciation Bonds	1,345,750,000

The Series 2007C-F Bonds are capital appreciation bonds and are subordinate to the Series 2019 Bonds. The Owners of the Series 2007C-F Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2019 Bonds and any other Bonds senior to the Series 2007C-F Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default.

A portion of the proceeds of the Refunded Bonds were used to partly fund a loan under a Secured Loan Agreement dated as of August 1, 2007 (the “**Loan Agreement**”) by and between the Inland Empire Tobacco Securitization Corporation (the “**Corporation**”), a nonprofit public benefit corporation organized under the laws of the State, and the Issuer to purchase a portion of the County Tobacco Assets (such portion, the “**Sold County Tobacco Assets**”), pursuant to the Purchase and Sale Agreement, dated as of August 1, 2007 (the “**Purchase and Sale Agreement**”), by and between the County and the Corporation. As more fully described herein, the

“**County Tobacco Assets**” consist of a portion of tobacco settlement revenues (“**TSRs**”) required to be paid to the State of California (the “**State**”) under the Master Settlement Agreement (the “**MSA**”) entered into by participating cigarette manufacturers (the “**PMs**”), 46 states, including the State, and six other U.S. jurisdictions, in November 1998 in settlement of certain cigarette smoking-related litigation and made payable to the County pursuant to agreements with the State and other parties. The Series 2019 Bonds are secured primarily by the Sold County Tobacco Assets. See “**SECURITY FOR THE SERIES 2019 BONDS**” herein.

The portion of the County Tobacco Assets not consisting of the Sold County Tobacco Assets is referred to herein as the “**Unsold County Tobacco Assets.**” The Bondholders will have no interest in the Unsold County Tobacco Assets.

The Sold County Tobacco Assets consist of (i) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$10,000,000 has been paid to the County in each year beginning on January 1, 2008 and ending on December 31, 2020 (the “**2008-2020 Sold Tobacco Assets**”); (ii) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$11,537,208 has been paid to the County in each year beginning on January 1, 2021 and ending on December 31, 2026 (the “**2021-2026 Sold Tobacco Assets**”); (iii) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County from and after January 1, 2027 (the “**Post 2026 Sold Tobacco Assets**”); and (iv) the County Tobacco Assets to the extent consisting of or relating to the applicable percentage (shown in the definition of “**Pre-2027 Lump Sum Sold Tobacco Assets**” in APPENDIX F – “**SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – DEFINITIONS**”) on a pari passu pro rata basis with any Lump Sum Payments made during the period from and after the dated date of the Series 2019 Bonds and before January 1, 2027 (the “**Pre-2027 Lump Sum Sold Tobacco Assets**”).

The right of the Bondholders to receive payments on their Series 2019 Bonds from the Sold County Tobacco Assets consisting of Pre-2027 Lump Sum Sold Tobacco Assets is equal to and on a parity with, and is not inferior or superior to, the right of the County to receive the Unsold County Tobacco Assets consisting of Lump Sum Payments prior to January 1, 2027.

The Revenues (herein defined) derived from the Sold County Tobacco Assets will be deposited with the Indenture Trustee. See “**SECURITY FOR THE SERIES 2019 BONDS**” herein.

The Issuer	The Issuer is a public entity created by a Joint Exercise of Powers Agreement, dated as of July 18, 2007, between the County and County of San Bernardino, California (each, a “ Local Agency ”). The Issuer is a separate entity from each Local Agency, and its debts, liabilities and obligations do not constitute debts, liabilities or obligations of the Local Agencies.
The Corporation	The Corporation is a special purpose nonprofit public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law.
The County	The County of Riverside (the “ County ”) is a political subdivision in the State of California and is a separate entity from the Issuer and the Corporation.
Securities Offered	It is expected that the Series 2019 Bonds will be delivered in book-entry form through the facilities of The Depository Trust Company, New York, New York (“ DTC ”), on or about May 30, 2019 (the “ Closing Date ”). Beneficial owners of the Series 2019 Bonds will not receive physical delivery of bond certificates. See APPENDIX G –

“BOOK-ENTRY ONLY SYSTEM” attached hereto. The Series 2019 Bonds will be issued in the principal amounts set forth on the inside cover to this Offering Circular, in the authorized denomination of \$5,000 or any integral multiple thereof.

Collateral

The Series 2019 Bonds will be secured by the Issuer’s rights under the Loan Agreement, including the right to receive Loan Payments (the “**Loan Payments**”); certain moneys and investments held under the Indenture, the Corporation Tobacco Assets (as defined below); and such other assets and property as are described in the Indenture (as further described herein, the “**Collateral**”).

Loan Agreement

Pursuant to the Loan Agreement, the Corporation has agreed to pay or cause to be paid to the Indenture Trustee, for deposit in the Collection Account, Loan Payments consisting of all payments receivable with respect to Sold County Tobacco Assets when they are received. As security for the loan, the Corporation has granted to the Issuer a security interest in all right, title and interest of the Corporation in, to and under the following property, whether now owned or hereafter acquired: (a) the Sold County Tobacco Assets, (b) to the extent permitted by law (as to which no representation is made by the Corporation), corresponding present or future rights, if any, of the Corporation to enforce or cause the enforcement of payment of Sold County Tobacco Assets pursuant to the MOU and the ARIMOU, (c) corresponding rights of the Corporation under the Purchase and Sale Agreement, and (d) all proceeds of any and all of the foregoing (collectively, the “**Corporation Tobacco Assets**”).

The Bondholders will have no interest in the Unsold County Tobacco Assets. The right of the Bondholders to receive payments on their Series 2019 Bonds from the Sold County Tobacco Assets consisting of Pre-2027 Lump Sum Sold Tobacco Assets is equal to and on a parity with, and is not inferior or superior to, the right of the County to receive the Unsold County Tobacco Assets consisting of Lump Sum Payments prior to January 1, 2027.

The Revenues derived from the Sold County Tobacco Assets will be deposited with the Indenture Trustee. See “SECURITY FOR THE SERIES 2019 BONDS” herein.

Master Settlement Agreement

On November 23, 1998, the MSA was entered into by 46 states (including the State), the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands (collectively, the “**Settling States**”) and what were then the four largest United States tobacco manufacturers: Philip Morris Incorporated (now Philip Morris USA Inc., “**Philip Morris**”), R.J. Reynolds Tobacco Company (“**Reynolds Tobacco**”), Brown & Williamson Tobacco Corporation (“**B&W**”) and Lorillard Tobacco Company (“Lorillard”). In January 2004, Reynolds American Inc. (“**Reynolds American**”) was incorporated as a holding company to facilitate the combination of the U.S. assets, liabilities and operations of B&W with those of Reynolds Tobacco. On June 12, 2015, Reynolds American acquired Lorillard, Inc., of which Lorillard was a wholly-owned subsidiary, and Lorillard was merged into Reynolds Tobacco, with Reynolds Tobacco as the surviving entity. Contemporaneous with Reynolds American’s acquisition of Lorillard, Inc., Imperial Tobacco Group PLC (“**Imperial Tobacco**”) purchased certain of Reynolds Tobacco’s and certain of Lorillard’s cigarette brands, among other assets. The payment obligations under the MSA follow tobacco product brands if they are transferred; thus, Imperial Tobacco is required to make payments under the MSA as a result of its acquisition of those cigarette brands. On July 25, 2017, Reynolds American became a wholly-owned subsidiary of British American Tobacco p.l.c. (“**BAT**”) following BAT’s acquisition of the approximately 58% of Reynolds American stock not then owned by BAT. As a result of such acquisition, BAT is responsible for Reynolds Tobacco’s payment obligations under the MSA.

References herein to the “**Original Participating Manufacturers**” or “**OPMs**” means (i) prior to July 30, 2004, collectively, Philip Morris, Reynolds Tobacco, B&W and Lorillard, (ii) after July 30, 2004 and prior to June 12, 2015, collectively Philip Morris, Reynolds Tobacco and Lorillard, and (iii) on and after June 12, 2015, Philip Morris and Reynolds Tobacco, along with Imperial Tobacco with respect to those cigarette brands that Imperial Tobacco acquired from Reynolds Tobacco and Lorillard. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Industry Overview.” The MSA provides for tobacco companies, other than the OPMs, to become parties to the MSA (“**Subsequent Participating Manufacturers**” or “**SPMs**”).

The MSA is an industry-wide settlement of litigation between the OPMs and SPMs (collectively, the “**Participating Manufacturers**” or “**PMs**”) and the Settling States, and resolved cigarette smoking-related litigation among the Settling States and the OPMs, released the PMs from past and present smoking-related claims by the Settling States and provides for a continuing release of future smoking-related claims in exchange for certain payments to be made to the Settling States. The MSA also provides for the imposition of certain tobacco advertising and marketing restrictions, among other things. Neither the Issuer, the County, nor the Corporation are parties to the MSA. “See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT.”

MSA Payments

Under the MSA, the OPMs are required to pay to the Settling States: (i) five initial payments (the “**Initial Payments**”) (all of which have been previously made by the OPMs), (ii) annual payments (the “**Annual Payments**”), which are required to be made annually on each April 15, having commenced April 15, 2000, and continuing in perpetuity (subject to adjustment as described herein), and (iii) ten annual payments of \$861 million (subject to adjustment as described herein) that were required to be made on each April 15 in the years 2008 through 2017 (the “**Strategic Contribution Payments**”). SPMs are also required to make Annual Payments (and were also required to make Strategic Contribution Payments) in certain circumstances. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Subsequent Participating Manufacturers.”

The Annual Payments that are due under the MSA are subject to numerous adjustments, some of which are material. Such adjustments include reductions when the PMs experience a loss of market share to tobacco companies that do not become part of the MSA (“**Non-Participating Manufacturers**” or “**NPMs**”), as a result of the PMs’ participation in the MSA (the “**NPM Adjustment**”). The NPM Adjustment has been the subject of disputes between Settling States and PMs since at least 2004. As discussed further herein, the State was one of several jurisdictions to enter into settlements with the OPMs and certain SPMs regarding claims related to the 2003 through 2017 NPM Adjustments and the determination of subsequent NPM Adjustments. See “RISK FACTORS—Payment Decreases Under the Terms of the MSA,” “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments” and “—NPM Adjustment Claims and NPM Adjustment Settlement,” and APPENDIX C — “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT.”

Other adjustments to payments due under the MSA include reductions for decreased domestic cigarette shipments, reductions for amounts paid by OPMs to four states which had previously settled their claims against the PMs independently of the MSA, and increases related to inflation of not less than 3% each year, and offsets for disputed and/or miscalculated payments, as described herein.

Under the MSA, each OPM is required to pay an allocable portion of each Annual Payment based on its relative market share of cigarettes shipped in the United States by the OPMs during the preceding calendar year. Each SPM has Annual Payment obligations under the MSA (separate from the payment obligations of the OPMs) according to its market share (as determined in accordance with the MSA, “**Market Share**”). However, any SPM that became a party to the MSA within 90 days after it became effective pays only if its Market Share exceeds the higher of its 1998 Market Share or 125% of its 1997 Market Share.

Payments by the PMs are required to be made to Citibank, N.A., as the MSA Escrow Agent appointed pursuant to the MSA (the “**MSA Escrow Agent**”), which is required, in turn, to remit an allocable share of such payments to the parties entitled thereto. The MSA Escrow Agent has distributed the Annual Payments and Strategic Contribution Payments due through April 15, 2018 to the Settling States.

Under the MSA, the State is entitled to 12.7639554% of the Annual Payments made by PMs under the MSA and distributed through the National Escrow Agreement, entered into on December 23, 1998 (the “**National Escrow Agreement**”), among the Settling States, the OPMs and the MSA Escrow Agent. By operation of the Memorandum of Understanding (the “**MOU**”), as agreed to by the State and the Participating Jurisdictions (as defined below), and the Agreement Regarding Interpretation of Memorandum of Understanding, as amended (the “**ARIMOU**”), the State has allocated 50% of such payments to the Participating Jurisdictions and retained the remaining 50%. See “SUMMARY STATEMENT - *California Consent Decree, the MOU, the ARIMOU and the California Escrow Agreement*” below. See also “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT” herein.

California Consent Decree, the MOU, the ARIMOU and the California Escrow Agreement

On December 9, 1998, a Consent Decree and Final Judgment (the “**Consent Decree**”) was entered in the Superior Court of the State of California for San Diego County. The Consent Decree is final and non-appealable. Prior to the entering of the Consent Decree, the plaintiffs of certain pending cases agreed, among other things, to coordinate their pending cases and to allocate certain portions of the recovery among the State, its counties, the Cities of San Jose, Los Angeles and San Diego and the City and County of San Francisco (the “**Participating Jurisdictions**”). This agreement was memorialized in the MOU, by and among counsel representing the State and various counsel representing a number of the Participating Jurisdictions. To set forth the understanding of the interpretation to be given to the terms of the MOU and to establish procedures for the resolution of any future disputes that may arise regarding the interpretation of the MOU among the State and the Participating Jurisdictions, the parties entered into the ARIMOU.

Under the MOU, 45% of the State’s entire allocation of tobacco settlement payments under the MSA is allocated to the Participating Jurisdictions that are counties, 5% is allocated to the four cities that are Participating Jurisdictions (1.25% each), and the remaining 50% is allocated to the State. The 45% share of the TSRs allocated to the Participating Jurisdictions that are counties is allocated among the counties based on population, on a per capita basis as reported in the 1990 Official United States Decennial Census, as adjusted by the 2000 Official United States Decennial Census, as adjusted by the 2010 Official United States Decennial Census. Pursuant to the proportional allocable share provided in the MOU and the ARIMOU, the County is currently entitled to receive 2.644923% of the total statewide share of the TSRs (based on adjustments made to reflect the 2010 Official United States Decennial Census.) This percentage is subject to adjustments for population changes every ten years based on the Official United States Decennial Census as described herein. The TSRs are subject to several adjustments as described herein. See “THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE

CALIFORNIA ESCROW AGREEMENT” and “RISK FACTORS—Potential Payment Adjustments for Population Changes Under the MOU and the ARIMOU” herein.

Under the MSA, the State’s portion of the tobacco settlement payments is deposited into the California State-Specific Account held by the MSA Escrow Agent. Pursuant to the terms of the MOU, the ARIMOU and the Escrow Agreement, dated April 12, 2000, as amended (the “**California Escrow Agreement**”), between the State and Citibank, N.A., as escrow agent (the “**California Escrow Agent**”), the State has instructed the MSA Escrow Agent to transfer (upon receipt thereof) all amounts in the California State-Specific Account to the California Escrow Agent. The California Escrow Agent is required to deposit the State’s 50% share of the tobacco settlement payments into an account for the benefit of the State (the “**California State Government Escrow Account**”), and the remaining 50% of the tobacco settlement payments into separate sub-accounts of an account for the benefit of the Participating Jurisdictions or as otherwise directed by the local jurisdiction (this account is referred to herein as the “**California Local Government Escrow Account**”). The MOU provides that the distribution of tobacco-related recoveries is not subject to alteration by legislative, judicial or executive action at any level, and, if such alteration were to occur and survive legal challenge, any modification would be borne proportionally by the State and the Participating Jurisdictions. The County has irrevocably instructed the California Escrow Agent to disburse the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets and the Post-2026 Sold Tobacco Assets from the California Local Government Escrow Account directly to the Indenture Trustee. The County will transfer any Pre-2027 Lump Sum Sold Tobacco Assets to the Indenture Trustee. See “THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE CALIFORNIA ESCROW AGREEMENT” and APPENDIX D — “THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE CALIFORNIA ESCROW AGREEMENT.”

Industry Overview

Philip Morris and Reynolds Tobacco (both OPMs) are the largest manufacturers of cigarettes in the United States (based on 2018 market share). The market for cigarettes is highly competitive and is characterized by brand recognition. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY.”

As reported by the National Association of Attorneys General (“**NAAG**”), based upon OPM shipments reported to Management Science Associates, Inc., an independent third-party database management organization that collects wholesale shipment data (“**MSAI**”), the OPMs accounted for approximately 82.91%* of the U.S. domestic cigarette market in payment year 2019 (sales year 2018), based upon shipments and measuring roll-your-own cigarettes at 0.0325 ounces per cigarette conversion rate. Also as reported by NAAG, based upon shipments reported to MSAI, the SPMs accounted for approximately 9.61%* of the U.S. domestic cigarette market in payment year 2019 (sales year 2018), based upon shipments and measuring roll-your-own cigarettes at 0.09 ounces per cigarette conversion rate.

* OPMs make payments under the MSA based upon the 0.0325 ounce per cigarette conversion rate, and SPMs make payments under the MSA based upon the 0.09 ounce per cigarette conversion rate. The aggregate market share information is based on information as reported by NAAG and may differ materially from the market share information as reported by the OPMs for purposes of their filings with the Securities and Exchange Commission. See “CERTAIN INFORMATION RELATING TO THE DOMESTIC TOBACCO INDUSTRY.” The aggregate market share information from NAAG used in the Sold County Tobacco Assets Projection Methodology and Assumptions may differ materially in the future from the market share information used by the MSA Auditor in calculating the adjustments to MSA payments in future years. See “METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” and “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments.”

Cigarette Consumption

As described in the Tobacco Consumption Report referred to below, domestic cigarette consumption grew dramatically in the 20th century, reaching a peak of 640 billion cigarettes in 1981. Consumption declined in the 1980s, 1990s and 2000s, falling to less than 400 billion cigarettes in 2003 and 264 billion cigarettes in 2014, before increasing slightly to 269 billion cigarettes in 2015 and then decreasing to 259 billion cigarettes in 2016, 247 billion cigarettes in 2017, and 236 billion cigarettes in 2018. Industry reports for 2018 indicate that market volume fell to approximately 237 billion. The Tobacco Consumption Report projects that consumption declines will continue in subsequent years. See “SUMMARY OF THE TOBACCO CONSUMPTION REPORT” herein and APPENDIX A – “TOBACCO CONSUMPTION REPORT” attached hereto.

Tobacco Consumption Report

IHS Global Inc. (“**IHS Global**”) has prepared a report dated May 21, 2019 on the consumption of cigarettes in the United States from 2018 through 2038 entitled, “*A Forecast of U.S. Cigarette Consumption (2018-2038) for the Inland Empire Tobacco Securitization Authority*” (the “**Tobacco Consumption Report**”).

IHS Global’s cigarette consumption model is based on historical United States data between 1965 and 2018. In the Tobacco Consumption Report, IHS Global has projected the average annual rate of decline in U.S. cigarette consumption from 2019 through 2038 to be approximately 3.1%, resulting in a forecast of total U.S. cigarette consumption in 2038 to be 126.1 billion cigarettes, including a roll-your-own equivalent of 0.0325 ounces per cigarette (a 47% decline from the 2018 level). The projections and forecasts regarding future cigarette consumption included in the Tobacco Consumption Report are estimates which have been prepared on the basis of certain assumptions and hypotheses. No representation or warranty of any kind is or can be made with respect to the accuracy or completeness of, and no representation or warranty should be inferred from, these projections and forecasts. See “SUMMARY OF THE TOBACCO CONSUMPTION REPORT” and APPENDIX A — “TOBACCO CONSUMPTION REPORT.” See also “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS.”

Department of Finance Population Forecast

In January 2018, the Department of Finance of the State of California (the “**Department of Finance**”) published projections of the population of the State and all of the counties in the State (including the County) for July 1, 2010 to 2060 in one-year increments (the “**Population Forecast**”). The Population Forecast has been used in making certain projections of payments under the MOU and the ARIMOU. The Population Forecast is an estimate which was prepared by the Department of Finance on the basis of certain assumptions and hypotheses, including regarding fertility, mortality and migration. No representation or warranty of any kind is or can be made with respect to the accuracy or completeness of, and no representation or warranty should be inferred from, these projections and forecasts. See “DEPARTMENT OF FINANCE POPULATION FORECAST,” “RISK FACTORS—Potential Payment Adjustments for Population under the MOU and the ARIMOU” and “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS”

Use of Proceeds

The proceeds of the Series 2019 Bonds, along with other available funds under the Indenture, will be deposited with the Indenture Trustee and with the Escrow Agent under the Escrow Agreement, by and between the Issuer and the Escrow Agent to: (i) refund and defease, in accordance with the Indenture, the Refunded Bonds, (ii) fund the Debt Service Reserve Account and the Debt Service Account for the Series 2019 Bonds, and (iii) pay the costs of issuance incurred in connection with the issuance of the Series 2019 Bonds.

Interest Interest on the Series 2019 Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months, and shall be payable on June 1 and December 1 of each year (each a “**Distribution Date**”), commencing on December 1, 2019.

Principal Principal is payable on the Series 2019 Bonds on their scheduled Maturity Date (the “**Maturity Date**”) as set forth on the inside cover page hereof. Principal is also payable on the Series 2019 Bonds by Turbo Redemptions, as described below.

Turbo Redemption The Series 2019 Bonds are subject to mandatory redemption, in whole or in part, prior to their stated Maturity Date from amounts on deposit in the Turbo Redemption Account on each Distribution Date, at the redemption price of 100% of the principal thereof, together with interest accrued to the date of redemption, if applicable, without premium; provided, however, that any such redemption shall be in a minimum maturity value of \$5,000 (“**Turbo Redemption**”). See “THE SERIES 2019 BONDS – Turbo Redemption” herein. Amounts in the Debt Service Reserve Account shall not be available to make Turbo Redemption Payments unless such amounts together with all available Revenues are sufficient to retire all Series 2019 Bonds still outstanding, in which event all amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be so utilized. Any redemption of Bonds as described in this paragraph shall be made in accordance with the Payment Priorities. For purpose of defeasance, Bonds shall have the related assumed redemption schedules of Projected Turbo Redemption payments set forth in this Offering Circular. See “TABLES OF PROJECTED BOND DEBT SERVICE.”

“**Payment Priorities**” means, subject to the issuance of Additional Bonds which may be payable on a parity or subordinate basis to the Series 2019 Bonds, payment of Bonds (herein defined) in the following order of priority:

- (1) first, the Series 2019 Bonds until they are Fully Paid, subject to \$5,000 minimum denominations;
- (2) second, the Series 2007C-1 Bonds and the Series 2007C-2 Bonds until they are Fully Paid in chronological order of maturities and by lot within a maturity, except for the purpose of Extraordinary Prepayments, in which case they are paid Pro Rata among maturities and by lot within a maturity;
- (3) third, the Series 2007D Bonds until they are Fully Paid, by lot within a maturity;
- (4) fourth, the Series 2007E Bonds until they are Fully Paid, by lot within a maturity; and
- (5) fifth, the Series 2007F Bonds until they are Fully Paid, by lot within a maturity.

Except in case of failure to pay the current interest on any Series 2019 Bond when due, or the principal of any Series 2019 Bond when due at maturity or upon prior redemption in accordance with the terms of the Indenture, a failure by the Corporation to make Turbo Redemption payments on the Series 2019 Bonds or the Series 2007C-F Bonds will ***not*** constitute an Event of Default under the Indenture to the extent that such failure results from the insufficiency of available Collateral to make such payment or provision therefor.

Actual Payments of Principal and Interest

Due to a number of factors, including actual shipments of cigarettes in the United States and the actual level of payments received by the Settling States under the MSA, the amount available to pay the principal of and interest on the Series 2019 Bonds may fluctuate from year to year. As a result, Revenues received by the Issuer from the Corporation under the Loan Agreement may be insufficient to pay principal at maturity or insufficient for Turbo Redemptions. In either event, the Issuer will have no obligation to make Turbo Redemptions. A failure by the Issuer to pay the principal of and interest on a Series 2019 Bond when due, whether at maturity or upon prior redemption (other than Turbo Redemption), will constitute an Event of Default under the Indenture.

No Optional Redemption

The Series 2019 Bonds are not subject to optional redemption.

Extraordinary Prepayment

If an Event of Default has occurred and is continuing, the principal of and accrued interest on Outstanding Series 2019 Bonds are subject to mandatory prepayment, in whole or in part on each Distribution Date, from all available funds in the Debt Service Account, the Extraordinary Prepayment Account, the Debt Service Reserve Account and the Lump Sum Prepayment Account Pro Rata in accordance with Payment Priorities.

Interest on any unpaid principal of the Series 2019 Bonds will continue to accrue until the earlier of the Maturity Date or redemption date. The Lump Sum Prepayment Account will be applied on each Distribution Date to prepay the Series 2019 Bonds in accordance with the Payment Priorities, at a price of 100% of the principal thereof, together with interest accrued thereon, if applicable, without premium, but to the extent legally permissible, with interest on overdue interest.

Any such payment of principal and interest following an Event of Default is referred to herein as an “**Extraordinary Prepayment.**” For a description of the Events of Default under the Indenture, see APPENDIX F — “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS.”

Prepayment from Lump Sum Prepayments

The Series 2019 Bonds are subject to mandatory prepayment, in whole or in part prior to their stated Maturity Date from amounts on deposit in the Lump Sum Prepayment Account on any date for which notice can be given in accordance with the Indenture, upon at least 20 days’ notice (or such shorter period as may be permitted by DTC in writing), at the prepayment price of 100% of the principal thereof on the date fixed for prepayment, together with interest accrued thereon to the prepayment date, if applicable, without premium. Any prepayment of Bonds from amounts in the Lump Sum Prepayment Account shall be used to pay the Outstanding Bonds in accordance with the Payment Priorities.

Mandatory Clean-Up Call Redemption

The Indenture provides that if the amounts in the Debt Service Reserve Account together with all available Revenues are sufficient to retire all outstanding Series 2019 Bonds, such amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be used to retire such Series 2019 Bonds.

Bond Structuring Assumptions and Methodology

The Series 2019 Bonds were structured on the basis of forecasts, which themselves are based on assumptions, as described herein. Among these are a forecast of United States cigarette consumption contained in the Tobacco Consumption Report, a forecast of future population in the County based on the Population Forecast available from the Department of Finance, a forecast of the application of certain adjustments and offsets to payments to be made by the PMs pursuant to the MSA, and a forecast of the Accounts and all earnings on amounts on deposit in the Accounts (the “**Accounts**”) established under the Indenture. In addition, such forecasts were used to

project amounts expected to be available for redemption of the Series 2019 Bonds from Turbo Redemptions and the resulting expected average life of the Series 2019 Bonds.

No assurance can be given, however, that events will occur in accordance with such assumptions and forecasts. Any deviations from such assumptions and forecasts could materially and adversely affect the payment of the Series 2019 Bonds. See “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” herein.

Debt Service Reserve Account for the Series 2019 Bonds

A reserve account (the “**Debt Service Reserve Account**”) will be established and held by the Indenture Trustee and initially funded from proceeds of the Series 2019 Bonds in the amount of the Debt Service Reserve Requirement (the “**Debt Service Reserve Requirement**”), which means an amount equal to \$10,500,000 with respect to the Series 2019 Bonds. The Debt Service Reserve Requirement may be changed in connection with the issuance of Additional Bonds. Amounts in the Debt Service Reserve Account constitute security for the Series 2019 Bonds only and do not constitute security for the Series 2007C-F Bonds. See APPENDIX F – “SUMMARY PRINCIPAL LEGAL DOCUMENTS.”

Flow of Revenues

“**Revenues**” means the portion of the Collateral consisting of payments received pursuant to the MOU, the ARIMOU, the MSA and the Consent Decree and all fees, charges, payments, proceeds, collections, investment earnings and other income and receipts (including Bond proceeds but only to the extent deposited in an Account) derived from the Collateral and paid or payable to the Issuer or the Indenture Trustee for the account of the Issuer or the Bondholders.

Sold County Tobacco Assets are to be promptly (and in no event later than two Business Days after their receipt) deposited by the Indenture Trustee in the Collection Account created under the Indenture. As soon as possible following each deposit of Revenues to the Collection Account, the Indenture Trustee is to transfer Revenues on deposit in the Collection Account as provided under the Indenture. See “SECURITY FOR THE SERIES 2019 BONDS – Flow of Funds” for a detailed description of the Accounts created under the Indenture and the uses of moneys therein.

Events of Default

The occurrence of any of the following events will constitute an “**Event of Default**” under the Indenture:

- (i) failure to pay the current interest on any Bond when due, or the principal of any Bond at maturity or upon prior redemption;
- (ii) failure of the Issuer to observe or perform any other provision of the Indenture which is not remedied within 60 days after notice thereof has been given to the Issuer by the Indenture Trustee or to the Issuer and the Indenture Trustee by the Bondholders of at least 25% in Bond Obligation;
- (iii) bankruptcy, reorganization, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors, are instituted by or against the Issuer and if instituted against the Issuer, are not dismissed within 60 days after such institution;
- (iv) an event of default has occurred and is continuing under the Loan Agreement, which events consist of (a) failure by the Corporation to pay, or cause to be paid, to the Indenture Trustee for deposit in the Collection Account established under the Indenture the portion of the TSRs relating to the Sold County Tobacco

Assets as required pursuant to the Loan Agreement, (b) failure by the Corporation to observe or perform any other covenant, obligation, condition or agreement contained in the Loan Agreement and such failure shall continue for thirty (30) days from the date of written notice from the Issuer or the Indenture Trustee of such failure, (c) any representation, warranty, certificate, information or other statement (financial or otherwise) made or furnished by or on behalf of the Corporation to the Issuer in or in connection with the Loan Agreement shall be false, incorrect, incomplete or misleading in any material respect when made or furnished, (d) the Corporation shall (1) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (2) be unable, or admit in writing its inability, to pay its debts generally as they mature, (3) make a general assignment for the benefit of its or any of its creditors, (4) be dissolved or liquidated in full or in part, (5) become insolvent (as such term may be defined or interpreted under any applicable statute), (6) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (7) take any action for the purpose of effecting any of the foregoing, (e) proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Corporation or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Corporation or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within sixty (60) days of commencement, (f) the Loan Agreement or any material term thereof shall cease to be, or be asserted by the Corporation not to be, a legal, valid and binding obligation of the Corporation enforceable in accordance with its terms, and (g) the instructions to the Attorney General of the State regarding disbursing the Corporation Tobacco Assets to the Indenture Trustee as provided in the Loan Agreement shall be revoked or cease to be complied with.

See “SECURITY FOR THE SERIES 2019 BONDS – Events of Default; Remedies” herein for a discussion of the remedies available to the Indenture Trustee upon the occurrence of an Event of Default.

Additional Bonds

Subsequent to the issuance of the Series 2019 Bonds, additional series of bonds (the “**Additional Bonds**”) may be issued on a parity or subordinate basis to one or more series of the Series 2007 Bonds or the Series 2019 Bonds, upon receipt by the Indenture Trustee of (i) a Rating Confirmation from each Rating Agency then rating the Outstanding Bonds, (ii) an opinion of a firm of nationally-recognized attorneys-at-law experienced in legal work related to the issuance of Tax-Exempt Bonds selected by the Issuer to the effect that the issuance of the Additional Bonds will not, in and of itself, cause interest on any Tax-Exempt Bonds to be included in gross income for federal income tax purposes, and (iii) a certificate of the Issuer that (x) no Event of Default has occurred under the Indenture, (y) the Debt Service Reserve Account is, after giving effect to the issuance of such Additional Bonds and the application of the proceeds thereof, funded at the Debt Service Reserve Requirement, and (z) as a result of the issuance of such Additional Bonds, the weighted average life of each Bond then Outstanding, projected in years from its date of issuance, will not exceed the sum of (A) the weighted average life of each such Outstanding Bond as projected at the time such Bond was issued and set forth in the Series Supplement relating thereto and (B) one. In calculating the weighted average life of each of the Outstanding Bonds for the purpose of the certificate required by clause (z) of the preceding sentence, the Issuer shall take into consideration (1) the amount of Turbo Redemptions of such Bonds that have been paid prior to and including the date of issuance of the

Additional Bonds and (2) the amount of Turbo Redemptions projected by the Issuer to be paid on each Distribution Date subsequent to the issuance of such Additional Bonds based upon the amount of Revenues then expected to be received by the Issuer and available for payment of Turbo Redemptions of each Outstanding Bond. In determining compliance with clause (iii)(z) of this paragraph, the Issuer may rely conclusively on a certification of a financial advisor, who may rely on a report of a nationally recognized firm of econometric experts on matters related to projected or forecasted cigarette consumption. See “SECURITY FOR THE SERIES 2019 BONDS – Additional Bonds” herein.

Covenants	The County, the Corporation and the Issuer have made certain covenants for the benefit of the Bondholders. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Indenture” for a summary of the covenants made by the Issuer, APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Loan Agreement” for a summary of covenants made by the Corporation, and APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Purchase and Sale Agreement” for a summary of the covenants made by the County.
Continuing Disclosure	In order to assist the Underwriters in complying with Rule 15c2-12(b)(5) (the “ Rule ”) of the U.S. Securities and Exchange Commission, pursuant to a Continuing Disclosure Undertaking (the “ Continuing Disclosure Undertaking ”), the Issuer will agree to provide, or cause to be provided, to the Municipal Securities Rulemaking Board, on its Electronic Municipal Market Access (“ EMMA ”) system, certain annual financial information and operating data and, in a timely manner, notice of certain material events. See “CONTINUING DISCLOSURE UNDERTAKING” and APPENDIX H — “FORM OF CONTINUING DISCLOSURE UNDERTAKING.”
Rating	The rating for the Series 2019 Bonds addresses only the ability of the Issuer to pay the principal when due at maturity as set forth on the inside cover page of this Offering Circular. Neither projections of Turbo Redemption payments of the Series 2019 Bonds nor any principal payment amounts used for structuring purposes, other than amounts due on the Maturity Date for the Series 2019 Bonds, have been rated by S&P Global Ratings (“ S&P ”). A rating is not a recommendation to buy, sell or hold securities, and such rating is subject to revision or withdrawal at any time. See “ RATING ” herein.
Legal Considerations	Reference is made to “ LEGAL CONSIDERATIONS ” herein for a description of certain legal issues relevant to an investment in the Series 2019 Bonds.
Tax Matters	In the opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer (“ Bond Counsel ”), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, interest on the Series 2019 Bonds is exempt from State of California personal income taxes. Bond Counsel observes that interest on the Series 2019 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Series 2019 Bonds. See “ TAX MATTERS .”
Risk Factors	Reference is made to “ RISK FACTORS ” herein for a description of certain considerations relevant to an investment in the Series 2019 Bonds.
Availability of Documents	Included herein are brief summaries of certain documents and reports, which summaries do not purport to be complete or definitive, and reference is made to such documents and reports for full and complete statements of the contents thereof.

Copies of the Indenture, the Loan Agreement, and the Purchase and Sale Agreement may be obtained upon request from the Indenture Trustee at: Wells Fargo Bank, National Association, 333 South Grand Avenue, 5th Floor, Suite 5A, Los Angeles, California 90071, Attention: Corporate Trust Services. Any statements in this Offering Circular involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Offering Circular is not to be construed as a contract or agreement among the Issuer, the Corporation, the County and the purchasers or Bondholders.

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INTRODUCTORY STATEMENT

This Offering Circular sets forth information concerning the issuance by Inland Empire Tobacco Securitization Authority (the “**Issuer**”) of its Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation), Series 2019 Turbo Current Interest Bonds (Federally Taxable) (the “**Series 2019 Bonds**”) in the principal amount of \$100,000,000. The Series 2019 Bonds are to be issued pursuant to an Indenture, dated as of August 1, 2007, as previously supplemented, and as supplemented by a Series 2019 Supplement, dated as of May 1, 2019 (collectively, the “**Indenture**”), between the Issuer and Wells Fargo Bank, National Association, as indenture trustee (the “**Indenture Trustee**”). The proceeds of the Series 2019 Bonds, along with other available funds under the Indenture, will be deposited with Wells Fargo Bank, National Association, as Indenture Trustee and as escrow agent (the “**Escrow Agent**”) under an escrow agreement, dated as of May 1, 2019 (the “**Escrow Agreement**”), by and between the Issuer and the Escrow Agent to: (i) refund and defease, in accordance with the Indenture, the Issuer’s outstanding Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation) Series 2007A and 2007B (the “**Refunded Bonds**”), (ii) fund the Debt Service Reserve Account and the Debt Service Account for the Series 2019 Bonds, and (iii) pay the costs of issuance incurred in connection with the issuance of the Series 2019 Bonds. See “PLAN OF REFUNDING” and “ESTIMATED SOURCES AND USES OF FUNDS.”

The Issuer is a public entity created by a Joint Exercise of Powers Agreement, dated as of July 18, 2007, between the County of Riverside (the “**County**”) and County of San Bernardino, California (each, a “**Local Agency**”). The Issuer is a separate entity from each Local Agency, and its debts, liabilities and obligations do not constitute debts, liabilities or obligations of the Local Agencies.

The Master Settlement Agreement (the “**MSA**”), which was entered into on November 23, 1998, among the attorneys general of 46 states (including the State), the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands (collectively, the “**Settling States**”) and the then four largest United States tobacco manufacturers (namely, Philip Morris Incorporated (now Philip Morris USA Inc., “**Philip Morris**”), R.J. Reynolds Tobacco Company (“**Reynolds Tobacco**”), Brown & Williamson Tobacco Corporation (“**B&W**”) and Lorillard Tobacco Company (“**Lorillard**”) (collectively, the “**Original Participating Manufacturers**” or “**OPMs**,” which term also includes Imperial Tobacco Group PLC with respect to those cigarette brands that it acquired from Reynolds Tobacco and Lorillard)), resolved all cigarette smoking-related litigation between the Settling States and the OPMs, released the OPMs and the tobacco companies that become parties to the MSA after the OPMs (the “**Subsequent Participating Manufacturers**” or “**SPMs**,” and together with the OPMs, the “**Participating Manufacturers**” or “**PMs**”) from past and present smoking-related claims, and provides for a continuing release of future smoking-related claims in exchange for payments to be made to the Settling States, as well as, among other things, certain tobacco advertising and marketing restrictions. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY” for a discussion of certain information relating to the PMs and the domestic tobacco industry.

Under the MSA, the base amounts of Annual Payments (as defined herein) payable by the PMs thereunder are subject to various adjustments, offsets and recalculations, including the “**NPM Adjustment**,” which operates in the event of losses in Market Share (as defined herein) by PMs to tobacco companies that are not parties to the MSA (“**Non-Participating Manufacturers**” or “**NPMs**”), as a result of such PMs’ participation in the MSA. As discussed further herein, the State was one of several jurisdictions to enter into settlements with the OPMs and certain SPMs regarding claims related to the 2003 through 2017 NPM Adjustments and the determination of subsequent NPM Adjustments. See “RISK FACTORS—Payment Decreases Under the Terms of the MSA,” “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments” and “— NPM Adjustment Claims and NPM Adjustment Settlement,” and APPENDIX C — “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT.”

Under the MSA, as modified by the Memorandum of Understanding (the “**MOU**”) as agreed to by the State and its counties, the Cities of San Jose, Los Angeles and San Diego and the City and County of San Francisco (the “**Participating Jurisdictions**”), and the Agreement Regarding Interpretation of Memorandum of Understanding, as amended (the “**ARIMOU**”), the 45% share of the TSRs allocated to the Participating Jurisdictions that are counties is allocated among the counties based on population, on a per capita basis as reported in the 1990 Official United

States Decennial Census, as adjusted by the 2000 Official United States Decennial Census, as adjusted by the 2010 Official United States Decennial Census. Pursuant to the proportional allocable share provided in the MOU and the ARIMOU, the County is currently entitled to receive 2.644923% of the total statewide share of the TSRs (based on adjustments made to reflect the 2010 Official United States Decennial Census.) The allocations prior to the Maturity Date of the Series 2019 Bonds are subject to adjustments for population changes based on the 2020 and 2030 Official United States Decennial Census.

The Series 2019 Bonds are limited obligations of the Issuer, payable from and secured solely by Revenues and the other Collateral (herein defined) pledged under the Indenture. The Bondholders have no recourse to other assets of the Issuer, including, but not limited to, any assets pledged to secure payment of any other debt obligation of the Issuer. If, notwithstanding the limitation on recourse described in the preceding sentence, any Bondholders are deemed to have an interest in any asset of the Issuer pledged to the payment of other debt obligations of the Issuer, the Bondholders' interest in such asset shall be subordinate to the claims and rights of the holders of such other debt obligations and the Indenture will constitute a subordination agreement for purposes of Section 510(a) of the U.S. Bankruptcy Code.

The Series 2019 Bonds do not constitute a charge against the general credit of the Issuer or any of its Local Agencies, including the County, and under no circumstances shall the Issuer or any Local Agency, including the County, be obligated to pay the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds, except from the Collateral pledged therefor under the Indenture. The credit of neither the State, nor any public agency of the State (other than the Issuer), nor any Local Agency of the Issuer, including the County, is pledged to the payment of the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds. The Series 2019 Bonds do not constitute a debt, liability or obligation of the State or any public agency of the State (other than the Issuer) or any Local Agency of the Issuer, including the County. The County is under no obligation to make payments of the principal of, redemption premiums, if any, or interest on the Series 2019 Bonds in the event that Revenues are insufficient for the payment thereof.

Interest on the Series 2019 Bonds is payable on June 1 and December 1 of each year, commencing December 1, 2019 (each a **"Distribution Date"**). Principal of the Series 2019 Bonds is payable on the scheduled Maturity Date as shown on the inside cover page hereof. The Series 2019 Bonds will be subject to Turbo Redemptions as described herein, but, except in case of failure to pay the current interest on any Series 2019 Bond when due, or the principal of any Series 2019 Bond when due at maturity or upon prior redemption in accordance with the terms of the Indenture, a failure to make Turbo Redemptions with respect to any Series 2019 Bonds will not constitute an Event of Default (as defined herein) under the Indenture to the extent that such failure results from an insufficiency of available Collateral to make such payment or provision therefor. The Series 2019 Bonds are also subject to prepayment by Extraordinary Prepayments in the event of a Payment Default, as described herein. See **"SECURITY FOR THE SERIES 2019 BONDS."**

Certain methodologies and assumptions were used to establish the amounts, scheduled Maturity Date and projected Turbo Redemptions of the Series 2019 Bonds. See **"TABLES OF PROJECTED BOND DEBT SERVICE"** and **"SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS."** In addition, the amount and timing of payments on the Series 2019 Bonds may be affected by various factors. See **"RISK FACTORS"** and **"LEGAL CONSIDERATIONS."**

SECURITY FOR THE SERIES 2019 BONDS

Purchase and Sale Agreement

Pursuant to the Purchase and Sale Agreement, dated as of August 1, 2007 (the **"Purchase and Sale Agreement"**), by and between the County and the Inland Empire Tobacco Securitization Corporation (the **"Corporation"**), a nonprofit public benefit corporation organized under the laws of the State, the County has sold to the Corporation and the Corporation has purchased from the County the Sold County Tobacco Assets. The California Escrow Agent is irrevocably instructed, pursuant to the ARIMOU, to disburse all of the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets and the Post-2026 Sold Tobacco Assets from the California Local Government Escrow Account to the Indenture Trustee. The County will transfer to the Indenture Trustee any

Pre-2027 Lump Sum Sold Tobacco Assets upon the receipt thereof. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Purchase and Sale Agreement” attached hereto.

Loan Agreement

Pursuant to a Secured Loan Agreement dated as of August 1, 2007 (the “**Loan Agreement**,”) by and between the Corporation and the Issuer, the Corporation has agreed to pay or cause to be paid to the Indenture Trustee, for deposit in the Collection Account, Loan Payments consisting of all payments receivable with respect to Sold County Tobacco Assets when they are received. As security for the loan, the Corporation has granted to the Issuer a security interest in all right, title and interest of the Corporation in, to and under the following property, whether now owned or hereafter acquired: (a) the Sold County Tobacco Assets purchased from the County, (b) to the extent permitted by law (as to which no representation is made by the Corporation), corresponding present or future rights, if any, of the Corporation to enforce or cause the enforcement of payment of purchased Sold County Tobacco Assets pursuant to the MOU and the ARIMOU, (c) corresponding rights of the Corporation under the Purchase and Sale Agreement, and (d) all proceeds of any and all of the foregoing. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Loan Agreement” attached hereto.

Indenture

The Series 2019 Bonds are to be issued pursuant to the Indenture and are secured by all the Issuer’s right, title and interest, whether now owned or hereafter acquired in the Collateral. “**Collateral**” is defined under the Indenture as (a) the Issuer’s rights with respect to the Loan Agreement, including but not limited to the right to receive Loan Payments and to enforce the obligations of the Corporation pursuant to the Loan Agreement, (b) the Corporation Tobacco Assets, (c) the Accounts, all money, instruments, investment property, or other property credited to or on deposit in the Accounts, and all investment earnings on amounts on deposit in or credited to the Accounts; (d) all present and future claims, demands, causes and things in action in respect of any or all of the foregoing and all payments on or under and all proceeds of every kind and nature whatsoever in respect of any or all of the foregoing, including all proceeds of the conversion, voluntary or involuntary, into cash or other liquid property, all cash proceeds, accounts, general intangibles, notes, drafts, acceptances, chattel paper, checks, deposit accounts, insurance proceeds, condemnation awards, rights to payment of any and every kind, and other forms of obligations and receivables, instruments and other property which at any time constitute all or part of or are included in the proceeds of any of the foregoing, and (e) all proceeds of the foregoing. The Collateral does not include (i) the rights of the Issuer to consent under the Loan Agreement or other action by the Issuer, notice to the Issuer, indemnity or the filing of documents with the Issuer, or otherwise for its benefit and not for the benefit of the Owners of the Series 2019 Bonds or (ii) the Rebate Account or the Operating Account and all money, instruments, investment property or other property credited to or on deposit in the Rebate Account or the Operating Account. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Indenture” attached hereto.

The Indenture further provides that the Series 2019 Bonds are payable from and secured solely by Revenues and the other Collateral pledged under the Indenture on a parity basis to the Payment Priority provided for the Refunded Bonds, and will be subject to Turbo Redemption in accordance with the Payment Priorities as specified in the Indenture.

Debt Service Reserve Account for the Series 2019 Bonds

The Debt Service Reserve Account will be established and held by the Indenture Trustee and initially funded from proceeds of the Series 2019 Bonds in the amount of the Debt Service Reserve Requirement (the “**Debt Service Reserve Requirement**”), which means an amount equal to \$10,500,000. The Debt Service Reserve Requirement may be changed in connection with the issuance of Additional Bonds. Amounts in the Debt Service Reserve Account constitute security for the Series 2019 Bonds and do not constitute security for the Series 2007C-F Bonds, and amounts in such account will not be available to pay any amounts when due under the Series 2007C-F Bonds. See APPENDIX F – “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS” attached hereto.

Defeasance

When, among other conditions set forth in the Indenture (including required notices), there is held by or for the account of the Indenture Trustee Defeasance Collateral in such principal amounts, bearing fixed interest at such rates and with such maturities, including any applicable redemption or prepayment premiums, as will provide

sufficient funds to pay or redeem or prepay, in accordance with the terms of the Indenture, all obligations on the Series 2019 Bonds or a portion thereof in full (to be verified by a nationally recognized firm of independent verification agents), then upon written notice from the Issuer to the Indenture Trustee, such Bondholders will cease to be entitled to any benefit or security under the Indenture except the right to receive payment of the funds so held and other rights which by their nature cannot be satisfied prior to or simultaneously with the termination of the lien under the Indenture, and as to such Bonds so defeased, the security interests created by the Indenture (except in such funds and investments) will terminate. Upon such defeasance, the funds and investments required to pay or redeem the Series 2019 Bonds will be irrevocably set aside for that purpose, subject, however, to the terms of the Indenture regarding unclaimed money. Money held for defeasance will be invested only as provided in the Indenture and applied by the Indenture Trustee to the retirement of the Series 2019 Bonds. Any funds or property held by the Indenture Trustee and not required for the payment or redemption of the Series 2019 Bonds and such other obligations to the Fiduciaries will be distributed to the order of the Issuer.

When Series 2019 Bonds are to be defeased, they are to be defeased pursuant to the Defeasance Turbo Schedule set forth in the Indenture and the Issuer shall provide for Turbo Redemption payment of the principal of the Series 2019 Bonds, based on the assumed redemption schedule of Projected Turbo Redemption payments as identified and set forth in "TABLES OF PROJECTED BOND DEBT SERVICE" in the table entitled "Projected Series 2019 Bonds Debt Service Under the IHS Global Forecast" under the column heading "Projected Turbo Redemptions and Principal Payments" herein ("**Projected Turbo Redemption**").

Limited Obligations

The Series 2019 Bonds are limited obligations of the Issuer, payable from and secured solely by Revenues and the other Collateral pledged under the Indenture. The Bondholders have no recourse to other assets of the Issuer, including, but not limited to, any assets pledged to secure payment of any other debt obligation of the Issuer. The Series 2019 Bonds do not constitute a charge against the general credit of the Issuer or any of its Local Agencies, including the County, and under no circumstances shall the Issuer or any Local Agency, including the County, be obligated to pay the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds, except from the Collateral pledged therefor under the Indenture. Neither the credit of the State, nor any public agency of the State (other than the Issuer), nor any Local Agency of the Issuer, including the County, is pledged to the payment of the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds. The Series 2019 Bonds do not constitute a debt, liability or obligation of the State or any public agency of the State (other than the Issuer) or any Local Agency of the Issuer, including the County. The County is under no obligation to make payments of the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds in the event that Revenues are insufficient for the payment thereof.

Flow of Funds

The Indenture Trustee will establish and maintain the following segregated trust accounts in the Indenture Trustee's name: the Collection Account, the Operating Account, the Debt Service Account, the Debt Service Reserve Account, the Extraordinary Prepayment Account, the Turbo Redemption Account, the Lump Sum Prepayment Account, and the Costs of Issuance Account.

Any Sold County Tobacco Assets shall be promptly (and in no event later than two Business Days after receipt by the Indenture Trustee) deposited by the Indenture Trustee in the Collection Account. "**Business Day**" means any day other than (i) a Saturday or a Sunday, or (ii) a day on which banking institutions in New York, New York, or Riverside, California, or where the Corporate Trust Office of the Indenture Trustee is otherwise located, are required or authorized by law to be closed. Unless otherwise specified in the Indenture, the Indenture Trustee will deposit all Revenues it receives in the Collection Account.

As soon as possible following each deposit of Revenues to the Collection Account pursuant to the Indenture, the Indenture Trustee will withdraw Revenues on deposit in the Collection Account and transfer such amounts as follows:

- (i) to the Operating Account, an amount specified in an Officer's Certificate (or certificate of an authorized officer of the Corporation, as appropriate), but not exceeding, when taken together with other applicable transfers, the Operating Cap for the then current calendar year;

- (ii) to the Debt Service Account, an amount sufficient to cause the amount therein, together with any investment earnings transferred from the Debt Service Reserve Account, to equal interest (including (i) interest on any Outstanding Bonds, (ii) overdue interest on any Outstanding Bonds, and (iii) interest on overdue interest on any Outstanding Bonds (to the extent legally permissible)) due on the next two succeeding Distribution Dates, taking into account amortization of Bonds on the next succeeding Distribution Date;
- (iii) unless an Event of Default has occurred and is continuing, to the Debt Service Account, an amount sufficient to cause the amount therein (without regard to amounts on deposit therein pursuant to (ii) above) to equal the principal of Outstanding Bonds due on the next succeeding Distribution Date;
- (iv) unless an Event of Default has occurred and is continuing, to the Debt Service Reserve Account, an amount sufficient to cause the amounts therein to equal the Debt Service Reserve Requirement;
- (v) if an Event of Default has occurred and is continuing, to the Extraordinary Prepayment Account all amounts remaining in the Collection Account;
- (vi) to the Lump Sum Prepayment Account, the amount of any Pre-2027 Lump Sum Sold Tobacco Assets prior to January 1, 2027 or any Lump Sum Payment on or after January 1, 2027;
- (vii) to the Operating Account, an amount specified by an Officer's Certificate (or certificate of an authorized officer of the Corporation, as appropriate) to pay for any Operating Expenses in excess of the Operating Cap for the then current calendar year; and
- (viii) to the Turbo Redemption Account, the amount remaining in the Collection Account.

Except as otherwise provided in the Indenture, investment earnings on the Accounts shall be deposited in the Collection Account.

On each Distribution Date, the Indenture Trustee will apply amounts in the various Accounts in the following order of priority:

- (1) from the Debt Service Account and the Debt Service Reserve Account, (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), in that order, to pay interest (including (i) interest on any Outstanding Bonds, (ii) overdue interest on any Outstanding Bonds, and (iii) interest on overdue interest on any Outstanding Bonds (to the extent legally permissible)) due on such Distribution Date;
- (2) unless an Event of Default has occurred and is continuing, from the Debt Service Account and the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), in that order, to pay the principal of Outstanding Bonds scheduled to be due on such Distribution Date;
- (3) unless an Event of Default has occurred and is continuing, from the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), any amount remaining in excess of the Debt Service Reserve Requirement, to the Debt Service Account;
- (4) if an Event of Default has occurred and is continuing, from the Extraordinary Prepayment Account, the Debt Service Account and the Debt Service Reserve Account to pay Extraordinary Prepayments on Bonds (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), pursuant to the Indenture;

- (5) from the Lump Sum Prepayment Account, to redeem or prepay Bonds pursuant to a Lump Sum Payment pursuant to the Indenture; and
- (6) from the Turbo Redemption Account, to redeem the Series 2019 Bonds pursuant to the Indenture.

The Indenture Trustee shall apply on any day amounts from the Operating Account to the parties entitled thereto to pay Operating Expenses as directed by an Officer's Certificate.

Events of Default; Remedies

Events of Default Under the Indenture

The occurrence of any of the following events will constitute an "Event of Default" under the Indenture:

- (i) failure to pay the current interest on any Bond when due, or the principal of any Bond when due at maturity or upon prior redemption in accordance with the terms of the Indenture;
- (ii) failure of the Issuer to observe or perform any other provision of the Indenture which is not remedied within 60 days after written notice thereof is given to the Issuer by the Indenture Trustee or to the Issuer and the Indenture Trustee by the Bondholders of at least 25% in Bond Obligation;
- (iii) bankruptcy, reorganization, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors, are instituted by or against the Issuer and if instituted against the Issuer, are not dismissed within 60 days after such institution; or
- (iv) an event of default has occurred and is continuing under the Loan Agreement, which events consist of (a) failure by the Corporation to pay, or cause to be paid, to the Indenture Trustee for deposit in the Collection Account established under the Indenture the portion of the TSRs relating to the Sold County Tobacco Assets as required pursuant to the Loan Agreement, (b) failure by the Corporation to observe or perform any other covenant, obligation, condition or agreement contained in the Loan Agreement and such failure shall continue for thirty (30) days from the date of written notice from the Issuer or the Indenture Trustee of such failure, (c) any representation, warranty, certificate, information or other statement (financial or otherwise) made or furnished by or on behalf of the Corporation to the Issuer in or in connection with the Loan Agreement shall be false, incorrect, incomplete or misleading in any material respect when made or furnished, (d) the Corporation shall (1) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (2) be unable, or admit in writing its inability, to pay its debts generally as they mature, (3) make a general assignment for the benefit of its or any of its creditors, (4) be dissolved or liquidated in full or in part, (5) become insolvent (as such term may be defined or interpreted under any applicable statute), (6) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (7) take any action for the purpose of effecting any of the foregoing, (e) proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Corporation or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Corporation or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within sixty (60) days of commencement, (f) the Loan Agreement or any material term thereof shall cease to be, or

be asserted by the Corporation not to be, a legal, valid and binding obligation of the Corporation enforceable in accordance with its terms, and (g) the instructions to the Attorney General of the State regarding disbursing the Corporation Tobacco Assets to the Indenture Trustee as provided in the Loan Agreement shall be revoked or cease to be complied with.

Except as specified in (i) above, failure to make any Turbo Redemption Payment does not constitute an Event of Default to the extent that such failure results from the insufficiency of available Collateral to make such payment or provision therefor.

Remedies Available to the Indenture Trustee

If an Event of Default occurs and is continuing:

(i) The Indenture Trustee may, and upon written request of the Bondholders of at least 25% in Bond Obligation will, in its own name by action or proceeding in accordance with law: (a) enforce all rights of the Bondholders and require the Issuer to carry out its agreements with the Bondholders; (b) sue upon such Bonds; (c) require the Issuer to account as if it were the trustee of an express trust for such Bondholders; and (d) enjoin any acts or things which may be unlawful or in violation of the rights of such Bondholders.

(ii) The Indenture Trustee will, in addition to the other provisions of the Indenture, have and possess all of the powers necessary or appropriate for the exercise of any functions incident to the general representation of Bondholders in the enforcement and protection of their rights.

(iii) Upon a Default of the Issuer for failure to pay when due the interest on or principal of the Bonds or a failure actually known to an Authorized Officer of the Indenture Trustee to make any other payment required by the Indenture within seven days after the same becomes due and payable, the Indenture Trustee will give written notice thereof to the Issuer. The Indenture Trustee will give Default notices under the Indenture if it has knowledge of such a Default or when instructed to do so by the written direction of another Fiduciary or the Bondholders of at least 25% in Bond Obligation. The Indenture Trustee will proceed under the Indenture for the benefit of the Bondholders in accordance with the written direction of at least 25% in Bond Obligation. The Indenture Trustee will not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred therein. Upon receipt from such Bondholders of written notice, direction and indemnity, and after making such investigation, if any, as it deems appropriate to verify the occurrence of any event of which it is notified as aforesaid, the Indenture Trustee will promptly pursue the remedies provided by the Indenture or any such remedies (not contrary to any such direction) as it deems appropriate for the protection of the Bondholders, and will act for the protection of the Bondholders with the same promptness and prudence as would be expected of a prudent person in the conduct of such person's own affairs.

The Indenture Trustee shall not have the right to foreclose on or otherwise sell any of the Collateral.

Extraordinary Prepayment

If an Event of Default has occurred and is continuing, the principal of and accrued interest on Outstanding Series 2019 Bonds are subject to mandatory prepayment, in whole or in part on each Distribution Date, from all available funds in the Debt Service Account, the Extraordinary Prepayment Account, the Debt Service Reserve Account and the Lump Sum Prepayment Account Pro Rata in accordance with Payment Priorities. See "THE SERIES 2019 BONDS – Extraordinary Prepayment" herein.

Other Outstanding Bonds of the Issuer

Following the refunding and defeasance of the Refunded Bonds, there shall remain outstanding under the Indenture, in addition to the Series 2019 Bonds, the following Bonds of the Issuer (collectively, the "**Series 2007C-F Bonds**"):

<u>Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation):</u>	<u>Principal Amount at Maturity</u>
Series 2007C Turbo Capital Appreciation Bonds	\$ 765,930,000
Series 2007D Turbo Capital Appreciation Bonds	721,315,000
Series 2007E Turbo Capital Appreciation Bonds	786,900,000
Series 2007F Turbo Capital Appreciation Bonds	1,345,750,000

The Series 2007C-F Bonds are referred to collectively with the Refunded Bonds as the “**Series 2007 Bonds.**” The Series 2007C-F Bonds together with the Series 2019 Bonds and any Additional Bonds (defined below), are referred to as the “**Bonds.**”

The Series 2007C-F Bonds are capital appreciation bonds and are subordinate to the Series 2019 Bonds. The Owners of the Series 2007C-F Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2019 Bonds and any other Bonds senior to the Series 2007C-F Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default.

Additional Bonds

Subsequent to the issuance of the Series 2019 Bonds, additional series of bonds (the “**Additional Bonds**”) may be issued on a parity or subordinate basis to the Series 2019 Bonds, upon receipt by the Indenture Trustee of (i) a Rating Confirmation from each Rating Agency then rating the Outstanding Bonds, (ii) an opinion of a firm of nationally-recognized attorneys-at-law experienced in legal work related to the issuance of Tax-Exempt Bonds selected by the Issuer to the effect that the issuance of the Additional Bonds will not, in and of itself, cause interest on any Tax-Exempt Bonds to be included in gross income for federal income tax purposes, and (iii) a certificate of the Issuer that (x) no Event of Default has occurred under the Indenture, (y) the Debt Service Reserve Account is, after giving effect to the issuance of such Additional Bonds and the application of the proceeds thereof, funded at the Debt Service Reserve Requirement, and (z) as a result of the issuance of such Additional Bonds, the weighted average life of each Bond then Outstanding, projected in years from its date of issuance, will not exceed the sum of (A) the weighted average life of each such Outstanding Bond as projected at the time such Bond was issued and set forth in the Series Supplement relating thereto and (B) one. In calculating the weighted average life of each of the Outstanding Bonds for the purpose of the certificate required by clause (z) of the preceding sentence, the Issuer shall take into consideration (1) the amount of Turbo Redemptions of such Bonds that have been paid prior to and including to the date of issuance of the Additional Bonds and (2) the amount of Turbo Redemptions projected by the Issuer to be paid on each Distribution Date subsequent to the issuance of such Additional Bonds based upon the amount of Sold County Tobacco Assets then expected to be received by the Issuer and available for payment of Turbo Redemptions of each Outstanding Bond. In determining compliance with clause (iii)(z) of this paragraph, the Issuer may rely conclusively on a certification of a financial advisor, who may rely on a report of a nationally recognized firm of econometric experts on matters related to projected or forecasted cigarette consumption.

Non-Impairment Covenants

The Issuer will not: (i) permit the validity or effectiveness of the Indenture to be impaired, or permit the lien of the Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to Bonds under the Indenture except as may be expressly permitted in the Indenture, (ii) permit any lien, charge, excise, claim, security interest, mortgage or other encumbrance (except for the liens of the Indenture and the liens securing Additional Bonds issued thereunder) to be created on or extend to or otherwise arise upon or burden the Collateral or any part thereof or any interest therein or the proceeds thereof or (iii) permit the lien of the Indenture not to constitute a valid first priority security interest in the Collateral.

THE SERIES 2019 BONDS

The following summary describes certain terms of the Series 2019 Bonds. This summary does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the Indenture and the Series 2019 Bonds. Terms used herein and not previously defined have the meanings given to them in APPENDIX F

– “SUMMARY OF PRINCIPAL LEGAL DOCUMENTS” attached hereto. Copies of the Indenture, the Loan Agreement, and the Purchase and Sale Agreement may be obtained upon written request to the Indenture Trustee.

General

The Series 2019 Bonds will be dated their date of delivery, will be issued in the principal amount, and will accrue interest at the rate and mature on the date set forth on the inside cover of this Offering Circular.

The Series 2019 Bonds will initially be represented by one certificate registered in the name of DTC, New York, New York or its nominee. DTC will act as securities depository for the Series 2019 Bonds. Beneficial Owners of the Series 2019 Bonds will not receive physical delivery of the Series 2019 Bonds. See APPENDIX G – “BOOK-ENTRY ONLY SYSTEM” attached hereto. The Series 2019 Bonds will be issued in the authorized denomination of \$5,000 or any integral multiple thereof.

Payments on the Series 2019 Bonds

Payments of Interest

Interest shall be calculated on the basis of a year of 360 days and twelve 30-day months. Interest on the Series 2019 Bonds is payable on each Distribution Date, commencing on December 1, 2019. For each Distribution Date on which a payment is due, payments will be made to Owners of record (the “**Owners**”) as of the Record Date. “**Record Date**” means the 15th day of the calendar month immediately preceding the Distribution Date. The Indenture Trustee and the Issuer may establish special record dates for the determination of the Owners for various purposes of the Indenture, including giving consent or direction to the Indenture Trustee.

Payments of Principal

The principal of the Series 2019 Bonds will be paid by the Maturity Date as set forth on the inside front cover of this Offering Circular.

Turbo Redemption

The Series 2019 Bonds are subject to mandatory redemption, in whole or in part, prior to their stated Maturity Date from amounts on deposit in the Turbo Redemption Account on each Distribution Date, at the redemption price of 100% of the principal thereof on the date of redemption, together with interest accrued to the redemption date, if applicable, without premium; provided, however, that any such redemption shall be in a minimum maturity value of \$5,000. See “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” herein. Except in case of failure to pay the current interest on any Series 2019 Bond when due, or the principal of any Series 2019 Bond when due at maturity or upon prior redemption in accordance with the terms of the Indenture, a failure by the Corporation to make Turbo Redemption payments on the Series 2019 Bonds will ***not*** constitute an Event of Default under the Indenture to the extent that such failure results from the insufficiency of available Collateral to make such payment or provision therefor. Amounts in the Debt Service Reserve Account shall not be available to make Turbo Redemption Payments on the Series 2019 Bonds unless such amounts together with all available Revenues are sufficient to retire all Series 2019 Bonds still outstanding, in which event all amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be so utilized. Any redemption of the Series 2019 Bonds from amounts on deposit in the Turbo Redemption Account shall be made Pro Rata in accordance with Payment Priorities.

Turbo Redemption Upon Defeasance

For purposes of defeasance, the Series 2019 Bonds shall have the related assumed redemption schedule of Projected Turbo Redemption payments as identified and set forth in “TABLES OF PROJECTED BOND DEBT SERVICE” in the table entitled “Projected Series 2019 Bonds Debt Service Under the IHS Global Forecast” under the column heading “Projected Turbo Redemptions and Principal Payments” herein.

No Optional Redemption

The Series 2019 Bonds are not subject to optional redemption.

Notice of Redemption

Pursuant to the Indenture, the Indenture Trustee will give at least 20 days' notice (or such shorter period as may be permitted by DTC in writing) by mail, or otherwise transmit the redemption notice in accordance with any appropriate provisions of the Indenture, to the registered owners of any Series 2019 Bonds that are to be redeemed, at their addresses shown on the registration books of the Issuer. Such notice may be waived by any Bondholders holding Series 2019 Bonds to be redeemed. Failure by a particular Bondholder to receive notice, or any defect in the notice to such Bondholder, will not affect the redemption of any other Series 2019 Bond. Any notice of redemption given pursuant to the Indenture may be rescinded by written notice to the Indenture Trustee by the Issuer no later than 2 days prior to the date specified for redemption. The Indenture Trustee will give notice of such rescission as soon thereafter as practicable in the same manner and to the same persons, as notice of such redemption was given as described above.

Extraordinary Prepayment

If an Event of Default has occurred and is continuing, the principal of and accrued interest on Outstanding Series 2019 Bonds are subject to mandatory prepayment, in whole or in part on each Distribution Date, from all available funds in the Debt Service Account, the Extraordinary Prepayment Account, the Debt Service Reserve Account and the Lump Sum Prepayment Account Pro Rata in accordance with Payment Priorities.

Interest on any unpaid principal of the Series 2019 Bonds will continue to accrue until the earlier of the Maturity Date or redemption date. The Lump Sum Prepayment Account will be applied on each Distribution Date to prepay the Series 2019 Bonds in accordance with the Payment Priorities, at a price of 100% of the principal thereof, together with interest accrued thereon, if applicable, without premium, but to the extent legally permissible, with interest on overdue interest.

For a description of the Events of Default under the Indenture, see APPENDIX F—"SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" attached hereto.

Mandatory Prepayment from Lump Sum Prepayment

The Series 2019 Bonds are subject to mandatory prepayment, in whole or in part prior to their stated Maturity Date from amounts on deposit in the Lump Sum Prepayment Account on any date for which notice can be given in accordance with the Indenture, upon at least 20 days' notice (or such shorter period as may be permitted by DTC in writing), at the prepayment price of 100% of the principal thereof on the date fixed for prepayment, together with interest accrued thereon to the prepayment date, if applicable, without premium. Any prepayment of Series 2019 Bonds from amounts in the Lump Sum Prepayment Account shall be used to pay the Outstanding Series 2019 Bonds Pro Rata in accordance with Payment Priorities.

Mandatory Clean-Up Redemption

The Indenture provides that if the amounts in the Debt Service Reserve Account together with all available Revenues are sufficient to retire all outstanding Series 2019 Bonds, such amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be used to retire such Series 2019 Bonds. See "-- Turbo Redemption," above.

Partial Redemption; Partial Prepayment

Except as described above under "*–Extraordinary Prepayment*" and "*–Mandatory Prepayment from Lump Sum Prepayment*," if less than all the Outstanding Series 2019 Bonds are to be redeemed or prepaid, the particular Series 2019 Bonds or portions thereof to be redeemed or prepaid will be selected on a pro-rata pass-through distribution of principal basis in accordance with DTC procedures, provided that the selection for redemption or prepayment of such Bonds will be made in accordance with the operational arrangements of DTC then in effect.

It is the Issuer's intent that redemption or prepayment allocations made by DTC be made on a pro-rata pass-through distribution of principal basis as described above. However, none of the Issuer, the Corporation, the Underwriters or the Indenture Trustee can provide any assurance that DTC, DTC's Participants or any other intermediary will allocate the redemption or prepayment of Series 2019 Bonds on such basis. If the DTC

operational arrangements do not allow for the redemption or prepayment of the Series 2019 Bonds on a pro-rata pass-through distribution of principal basis as discussed above, then the Series 2019 Bonds will be selected for redemption or prepayment in accordance with DTC procedures, by lot.

THE ISSUER

The Issuer is a public entity created by a Joint Exercise of Powers Agreement (the “**Joint Powers Agreement**”), dated as of July 18, 2007, between the County and the County of San Bernardino, California (the “**Partner County**”), pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Section 6500 and following). The Issuer was created, in part to finance and refinance the County Tobacco Assets and to securitize, sell, purchase or otherwise dispose of, or administer some or all of the County Tobacco Assets and to provide for the exercise of additional powers given to a joint powers entity under Articles 1, 2, 3 and 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (Sections 6500-6599), including, but not limited to, the Marks-Roos Local Bond Pooling Act of 1985.

The Issuer is a separate entity from each Local Agency (including the County), and its debts, liabilities and obligations do not constitute debts, liabilities or obligations of the Local Agencies.

Board of Directors

The Issuer is administered by a three-member Board of Directors (the “**Board**”). Two members of the Board are designated by the Board of Supervisors of the County, and one member of the Board is designated by the Board of Supervisors of the Partner County. The County and the Partner County are the only Local Agencies of the Issuer. The Board will take no action except upon the affirmative vote of the majority of the directors present.

Officers

The officers of the Issuer are the Chair, Vice-Chair, Secretary and Treasurer/Controller. Pursuant to the Joint Powers Agreement, the Chair shall be one of the members of the Board designated as such by the Board of Supervisors of the County, the Clerk of the Board of Supervisors of the County shall be the Secretary, the Treasurer-Tax Collector of the County shall be the Treasurer/Controller, and the Vice-Chair shall be selected by the Board.

THE CORPORATION

The Corporation is organized under California law as a nonprofit public benefit corporation. The Corporation is governed by a three-person board of directors consisting of two directors who may be employees of the County and one independent director who was not, for the five-year period prior to being elected as independent director, and during the continuation of serving as independent director will not become, and any member of his or her family was not for such five year period and will not become: (1) an employee, director, member of the County’s Board of Supervisors, consultant, agent, attorney, accountant or officer of the Corporation or the County (other than his or her service as an independent director of the Corporation or any other special purpose entity that is substantially similar to the Corporation and that shall have been created for the limited purpose of facilitating discrete financing transactions); or (2) a creditor (other than being a creditor of the County by virtue of being a taxpayer or resident of the County), customer or supplier of the Corporation or the County. The Corporation has no material assets other than the Sold County Tobacco Assets. The Corporation was organized for the special purpose of financing the purchase of the Sold County Tobacco Assets.

PLAN OF REFUNDING

A portion of the proceeds of the Series 2019 Bonds will be used to refund and defease, in accordance with the Indenture, the Refunded Bonds, which consist of the Issuer’s outstanding Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation) Series 2007A Turbo Current Interest Bonds (the “**Series 2007A Bonds**”), currently outstanding in the aggregate principal amount of \$42,270,000, and the Issuer’s outstanding Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation) Series 2007B Turbo Convertible Capital Appreciation Bonds (the “**Series 2007B Bonds**”), currently outstanding in the

aggregate Accreted Value of \$68,565,000. The Refunded Bonds were issued for the purpose of financing in part the purchase of the Sold County Tobacco Assets under the Purchase and Sale Agreement. The proceeds of the Refunded Bonds were loaned by the Issuer to the Corporation pursuant to the Loan Agreement.

The Issuer will cause the redemption and defeasance of the Refunded Bonds by depositing a portion of the proceeds of the Series 2019 Bonds, along with other available funds under the Indenture into an escrow account established in trust under the Escrow Agreement. Upon such deposit of the Series 2019 Bond proceeds under the Escrow Agreement, the Refunded Bonds will be legally defeased.

Pursuant to the Indenture, the Refunded Bonds will be redeemed according to the following schedule:

<u>Refunded Bonds</u>	<u>Redemption Date</u>	<u>Type of Redemption</u>	<u>Redemption Amount</u>
Series 2007A Bonds	June 1, 2019	Turbo Redemption	\$6,605,000
Series 2007A Bonds	June 14, 2019	Optional Redemption	35,665,000
Series 2007B Bonds	June 14, 2019	Defeasance	46,740,000
Series 2007B Bonds	June 1, 2020	Defeasance	21,825,000

The Refunded Bonds will be redeemed at a redemption price equal to 100% of the principal amount thereof together with interest accrued thereon to their respective redemption dates.

The portion of the proceeds of the Series 2019 Bonds along with other available funds under the Indenture deposited with the Escrow Agent under the Escrow Agreement as described above will be used to purchase certain Defeasance Collateral, as prescribed in the Indenture, in an amount sufficient to pay or redeem or prepay all obligations on the Refunded Bonds (to be verified by an independent firm of nationally recognized certified public accountants). See “VERIFICATION OF MATHEMATICAL COMPUTATIONS.”

ESTIMATED SOURCES AND USES OF FUNDS

The estimated sources and uses of funds are expected to be as follows:

Estimated Sources and Uses of Funds

Sources of Funds:	
Principal Amount of the Series 2019 Bonds	\$100,000,000.00
Refunded Bonds Debt Service Reserve Account	16,298,731.61
Refunded Bonds Turbo Redemption Account	6,605,000.00
Refunded Bonds Debt Service Account	5,596,723.50
Refunded Bonds Operating Account	205,070.94
Total Sources	<u>\$128,705,526.05</u>
Uses of Funds:	
Transfer to Escrow Agent for Defeasance of Refunded Bonds	\$114,632,350.53
Deposit to Debt Service Reserve Account	10,500,000.00
Deposit to Debt Service Account	<u>1,849,216.67</u>
Costs of Issuance ⁽¹⁾	<u>1,723,958.85</u>
Total Uses	<u>\$128,705,526.05</u>

⁽¹⁾ Includes underwriters' discount, legal fees, rating agency fees, fees of IHS Global, verification agent fees, printing costs and certain other expenses related to the issuance of the Series 2019 Bonds.

TABLES OF PROJECTED BOND DEBT SERVICE

The following tables set forth the projected debt service requirements for the Series 2019 Bonds based on the following cigarette consumption decline projections:

- IHS Global forecast;
- -5.00% constant annual decline beginning in 2019;
- -8.00% constant annual decline beginning in 2019; and
- -12.32% constant annual decline beginning in 2019.

Such tables are based on the application of the Sold County Tobacco Assets Projection Methodology and Assumptions and the Bond Structuring Methodology and Assumptions described herein under “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” with the exception that the Volume Adjustment utilizes the indicated assumption of cigarette consumption in the U.S. as described in each table. The -12.32% constant annual decline represents the “breakeven” consumption decline rate at which debt service on the Series 2019 Bonds would be paid in full at legal final maturity.

No assurance can be given that actual cigarette consumption in the U.S. will be as assumed, that actual County population during the term of the Series 2019 Bonds will be as assumed, or that the other assumptions underlying the Sold County Tobacco Assets Projection Methodology and Assumptions, including the market shares of the OPMs and the SPMs, will be consistent with future events, or that the other assumptions underlying the Bond Structuring Methodology and Assumptions will occur. If actual events deviate from one or more of the assumptions underlying the Sold County Tobacco Assets Projection Methodology and Assumptions and the Bond Structuring Methodology and Assumptions, the amount of funds available to the Issuer to pay the principal of and interest on the Series 2019 Bonds and to make Turbo Redemptions on the Series 2019 Bonds could be adversely affected. See “RISK FACTORS” herein.

Projected Series 2019 Bonds Debt Service Under the IHS Global Forecast

Series 2019 Bonds Debt Service							
Year	Projected Sold County Tobacco Assets Available for Debt Service ⁽¹⁾⁽²⁾	Operating Expenses at the Operating Cap	Projected Net Revenues Available for Debt Service	Projected Turbo Redemptions and Principal Payments ⁽³⁾⁽⁴⁾	Interest	Account Earnings / Debt Service Reserve Account Release ⁽¹⁾⁽⁴⁾	Net Debt Service ⁽⁵⁾
2019	\$1,849,217	-	\$1,849,217	-	\$1,849,217	-	\$1,849,217
2020	12,649,298	(\$296,790)	12,352,508	\$9,075,000	3,511,111	(236,906)	12,349,205
2021	11,959,641	(305,694)	11,653,947	8,705,000	3,184,137	(236,250)	11,652,887
2022	11,800,589	(314,865)	11,485,725	8,865,000	2,861,024	(236,250)	11,489,774
2023	11,676,265	(324,310)	11,351,955	9,055,000	2,531,475	(236,250)	11,350,225
2024	11,582,536	(334,040)	11,248,496	9,290,000	2,194,111	(236,250)	11,247,861
2025	11,543,530	(344,061)	11,199,469	9,590,000	1,846,908	(236,250)	11,200,658
2026	11,551,898	(354,383)	11,197,515	9,945,000	1,487,659	(236,250)	11,196,409
2027	23,136,747	(365,014)	22,771,732	22,110,000	898,168	(236,250)	22,771,918
2028	23,217,017	(375,965)	22,841,052	13,365,000	245,782	(10,736,250)	2,874,532
2029	23,299,224	(387,244)	22,911,981	-	-	-	-
2030	23,379,633	(398,861)	22,980,772	-	-	-	-
2031	24,791,330	(410,827)	24,380,503	-	-	-	-
2032	24,878,395	(423,152)	24,455,244	-	-	-	-
2033	24,967,427	(435,846)	24,531,581	-	-	-	-
2034	25,041,533	(448,922)	24,592,611	-	-	-	-
2035	25,112,536	(462,389)	24,650,147	-	-	-	-
2036	25,183,484	(476,261)	24,707,224	-	-	-	-
2037	25,250,048	(490,549)	24,759,500	-	-	-	-
2038	25,314,309	(505,265)	24,809,044	-	-	-	-
	\$378,184,658	(\$7,454,436)	\$370,730,223	\$100,000,000	\$20,609,591	(\$12,626,906)	\$107,982,685
			Average Life (years):	5.60			

* Series 2019 Bonds principal paid at maturity.

- (1) Based on application of the Sold County Tobacco Assets Projection Methodology and Assumptions described herein under “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS”.
- (2) Includes amounts on hand in the Debt Service Account.
- (3) Turbo Redemptions means the redemption of Series 2019 Bonds from amounts on deposit in the Turbo Redemption Account pursuant to the Indenture and as described in “THE SERIES 2019 BONDS—Turbo Redemption” herein. Failure to pay Turbo Redemptions on the Series 2019 Bonds, to the extent such failure results from the insufficiency of available Collateral, will not constitute an Event of Default under the Indenture.
- (4) Includes application of the Mandatory Clean-Up Redemption.

Projected Series 2019 Bonds Debt Service Under a -5.00% Constant Annual Cigarette Shipment Decline

Series 2019 Bonds Debt Service							
Year	Projected Sold County Tobacco Assets Available for Debt Service ⁽¹⁾⁽²⁾	Operating Expenses at the Operating Cap	Projected Net Revenues Available for Debt Service	Projected Turbo Redemptions and Principal Payments ⁽³⁾⁽⁴⁾	Interest	Account Earnings / Debt Service Reserve Account Release ⁽¹⁾⁽⁴⁾	Net Debt Service ⁽⁵⁾
2019	\$1,849,217	-	\$1,849,217	-	\$1,849,217	-	\$1,849,217
2020	12,459,368	(\$296,790)	12,162,578	\$8,880,000	3,514,697	(236,906)	12,157,791
2021	11,532,877	(305,694)	11,227,183	8,265,000	3,199,400	(236,250)	11,228,150
2022	11,098,573	(314,865)	10,783,709	8,125,000	2,897,988	(236,250)	10,786,738
2023	10,675,459	(324,310)	10,351,149	7,985,000	2,601,725	(236,250)	10,350,475
2024	10,263,350	(334,040)	9,929,310	7,855,000	2,310,428	(236,250)	9,929,178
2025	9,862,064	(344,061)	9,518,003	7,730,000	2,023,820	(236,250)	9,517,570
2026	9,471,430	(354,383)	9,117,047	7,610,000	1,741,717	(236,250)	9,115,467
2027	20,628,487	(365,014)	20,263,472	19,255,000	1,247,670	(236,250)	20,266,420
2028	20,258,655	(375,965)	19,882,690	24,295,000	446,785	(10,736,250)	14,005,535
2029	19,898,986	(387,244)	19,511,742	-	-	-	-
2030	19,549,327	(398,861)	19,150,466	-	-	-	-
2031	20,299,607	(410,827)	19,888,780	-	-	-	-
2032	19,950,803	(423,152)	19,527,651	-	-	-	-
2033	19,612,128	(435,846)	19,176,282	-	-	-	-
2034	19,283,443	(448,922)	18,834,522	-	-	-	-
2035	18,964,615	(462,389)	18,502,226	-	-	-	-
2036	18,655,516	(476,261)	18,179,255	-	-	-	-
2037	18,356,022	(490,549)	17,865,473	-	-	-	-
2038	18,066,016	(505,265)	17,560,750	-	-	-	-
	\$310,735,941	(\$7,454,436)	\$303,281,505	\$100,000,000	\$21,833,446	(\$12,626,906)	\$109,206,540
			Average Life (years):	5.94			

* Series 2019 Bonds principal paid at maturity.

- (1) Based on application of the Sold County Tobacco Assets Projection Methodology and Assumptions described herein under “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS”.
- (2) Includes amounts on hand in the Debt Service Account.
- (3) Turbo Redemptions means the redemption of Series 2019 Bonds from amounts on deposit in the Turbo Redemption Account pursuant to the Indenture and as described in “THE SERIES 2019 BONDS—Turbo Redemption” herein. Failure to pay Turbo Redemptions on the Series 2019 Bonds, to the extent such failure results from the insufficiency of available Collateral, will not constitute an Event of Default under the Indenture.
- (4) Includes application of the Mandatory Clean-Up Redemption.

Projected Series 2019 Bonds Debt Service Under a -8.00% Constant Annual Cigarette Shipment Decline

Series 2019 Bonds Debt Service							
Year	Projected Sold County Tobacco Assets Available for Debt Service ⁽¹⁾⁽²⁾	Operating Expenses at the Operating Cap	Projected Net Revenues Available for Debt Service	Projected Turbo Redemptions and Principal Payments ⁽³⁾⁽⁴⁾	Interest	Account Earnings / Debt Service Reserve Account Release ⁽¹⁾⁽⁴⁾	Net Debt Service ⁽⁵⁾
2019	\$1,849,217	-	\$1,849,217	-	\$1,849,217	-	\$1,849,217
2020	11,785,191	(\$296,790)	11,488,401	\$8,195,000	3,527,294	(236,906)	11,485,388
2021	10,173,265	(305,694)	9,867,572	6,855,000	3,250,524	(236,250)	9,869,274
2022	9,134,344	(314,865)	8,819,479	6,040,000	3,013,385	(236,250)	8,817,135
2023	8,152,824	(324,310)	7,828,514	5,260,000	2,805,578	(236,250)	7,829,328
2024	7,225,789	(334,040)	6,891,749	4,500,000	2,626,092	(236,250)	6,889,842
2025	6,350,473	(344,061)	6,006,412	3,770,000	2,474,007	(236,250)	6,007,757
2026	5,524,260	(354,383)	5,169,878	3,060,000	2,348,403	(236,250)	5,172,153
2027	16,281,885	(365,014)	15,916,871	14,120,000	2,032,463	(236,250)	15,916,213
2028	15,546,586	(375,965)	15,170,621	13,890,000	1,517,359	(236,250)	15,171,109
2029	14,853,354	(387,244)	14,466,110	13,690,000	1,010,163	(236,250)	14,463,913
2030	14,200,092	(398,861)	13,801,231	20,620,000	379,202	(10,736,250)	10,262,952
2031	14,355,705	(410,827)	13,944,878	-	-	-	-
2032	13,743,667	(423,152)	13,320,515	-	-	-	-
2033	13,167,908	(435,846)	12,732,062	-	-	-	-
2034	12,626,652	(448,922)	12,177,731	-	-	-	-
2035	12,118,222	(462,389)	11,655,833	-	-	-	-
2036	11,641,032	(476,261)	11,164,771	-	-	-	-
2037	11,193,582	(490,549)	10,703,033	-	-	-	-
2038	10,774,457	(505,265)	10,269,191	- *	-	-	-
	\$220,698,503	(\$7,454,436)	\$213,244,067	\$100,000,000	\$26,833,687	(\$13,099,406)	\$113,734,281
			Average Life (years):	7.30			

* Series 2019 Bonds principal paid at maturity.

- (1) Based on application of the Sold County Tobacco Assets Projection Methodology and Assumptions described herein under “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS”.
- (2) Includes amounts on hand in the Debt Service Account.
- (3) Turbo Redemptions means the redemption of Series 2019 Bonds from amounts on deposit in the Turbo Redemption Account pursuant to the Indenture and as described in “THE SERIES 2019 BONDS—Turbo Redemption” herein. Failure to pay Turbo Redemptions on the Series 2019 Bonds, to the extent such failure results from the insufficiency of available Collateral, will not constitute an Event of Default under the Indenture.
- (4) Includes application of the Mandatory Clean-Up Redemption.

Projected Series 2019 Bonds Debt Service Under a -12.32% Constant Annual Cigarette Shipment Decline

Series 2019 Bonds Debt Service							
Year	Projected Sold County Tobacco Assets Available for Debt Service ⁽¹⁾⁽²⁾	Operating Expenses at the Operating Cap	Projected Net Revenues Available for Debt Service	Projected Turbo Redemptions and Principal Payments ⁽³⁾⁽⁴⁾	Interest	Account Earnings / Debt Service Reserve Account Release ⁽¹⁾	Net Debt Service ⁽⁵⁾
2019	\$1,849,217	-	\$1,849,217	-	\$1,849,217	-	\$1,849,217
2020	10,814,374	(\$296,790)	10,517,584	\$7,205,000	3,545,500	(236,906)	10,513,594
2021	8,292,063	(305,694)	7,986,369	4,900,000	3,322,889	(236,250)	7,986,639
2022	6,522,679	(314,865)	6,207,814	3,275,000	3,172,551	(236,250)	6,211,301
2023	4,929,304	(324,310)	4,604,993	1,760,000	3,079,957	(236,250)	4,603,707
2024	3,495,020	(334,040)	3,160,981	355,000	3,041,062	(236,250)	3,159,812
2025	2,204,553	(344,061)	1,860,492	-	3,034,534	(1,171,353)	1,863,181
2026	1,044,113	(354,383)	689,730	-	3,034,534	(2,344,803)	689,730
2027	11,538,459	(365,014)	11,173,445	5,335,000	2,936,423	2,897,402	11,168,825
2028	10,601,935	(375,965)	10,225,970	7,770,000	2,695,422	(236,250)	10,229,172
2029	9,761,604	(387,244)	9,374,361	7,190,000	2,420,308	(236,250)	9,374,058
2030	9,008,310	(398,861)	8,609,449	6,680,000	2,165,239	(236,250)	8,608,989
2031	8,806,701	(410,827)	8,395,874	6,715,000	1,918,905	(236,250)	8,397,655
2032	8,169,259	(423,152)	7,746,107	6,300,000	1,679,559	(236,250)	7,743,309
2033	7,600,063	(435,846)	7,164,217	5,945,000	1,454,373	(236,250)	7,163,123
2034	7,092,694	(448,922)	6,643,772	5,640,000	1,241,325	(236,250)	6,645,075
2035	6,641,361	(462,389)	6,178,972	5,375,000	1,038,759	(236,250)	6,177,509
2036	6,240,842	(476,261)	5,764,581	5,160,000	845,021	(236,250)	5,768,771
2037	5,886,424	(490,549)	5,395,876	4,970,000	658,730	(236,250)	5,392,480
2038	5,573,860	(505,265)	5,068,595	15,425,000 *	283,666	(10,736,250)	4,972,416
	\$136,072,835	(\$7,454,436)	\$128,618,400	\$100,000,000	\$43,417,973	(\$14,899,411)	\$128,518,562
			Average Life (years):	11.80			

* Series 2019 Bonds principal paid at maturity.

- (1) Based on application of the Sold County Tobacco Assets Projection Methodology and Assumptions described herein under "SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS".
- (2) Includes amounts on hand in the Debt Service Account.
- (3) Turbo Redemptions means the redemption of Series 2019 Bonds from amounts on deposit in the Turbo Redemption Account pursuant to the Indenture and as described in "THE SERIES 2019 BONDS—Turbo Redemptions" herein. Failure to pay Turbo Redemptions on the Series 2019 Bonds, to the extent such failure results from the insufficiency of available Collateral, will not constitute an Event of Default under the Indenture.

SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS

Introduction

The following discussion describes the methodology and assumptions used to project the amount of Sold County Tobacco Assets to be received by the Issuer (the “**Sold County Tobacco Assets Projection Methodology and Assumptions**”), as well as the methodology and assumptions used to structure the Turbo Term Bond Maturities and Projected Turbo Redemptions for the Series 2019 Bonds (the “**Bond Structuring Methodology and Assumptions**”).

The assumptions set forth herein are only assumptions and no guarantee can be made as to the ultimate outcome of certain events assumed herein. Actual results will differ from those assumed, and any such difference could have a material effect on the receipt of Sold County Tobacco Assets. See “RISK FACTORS” herein. The discussions are followed by a table of projected Sold County Tobacco Assets to be received by the Indenture Trustee.

In projecting the amount of Sold County Tobacco Assets to be received by the Indenture Trustee, (a) the forecast of cigarette consumption in the U.S. developed by IHS Global and contained within the Tobacco Consumption Report is assumed to represent actual cigarette shipments measured pursuant to the MSA for the years covered by the report, (b) the forecast developed by the California State Department of Finance and published on its website as of the date hereof at <http://www.dof.ca.gov/Forecasting/Demographics/Projections/> under the title “P-1: State Population Projections (2010-2060) – Total Population by County (1-year increments)” is assumed to represent the population of the State of California and the County to be determined by the 2020 and 2030 Official United States Decennial Census, and (c) such forecasts are applied to calculate Annual Payments to be made by the PMs pursuant to the MSA. See “RISK FACTORS—Risks Relating to the Tobacco Consumption Report” herein. The calculation of payments required to be made was performed in accordance with the terms of the MSA, the MOU and the ARIMOU; however, as described below, certain further assumptions were made with respect to shipments of cigarettes in the U.S. and the applicability to such payments of certain adjustments and offsets set forth in the MSA. Such further assumptions may differ materially from the actual information utilized by the MSA Auditor in calculating payments due under the MSA as adjusted by the NPM Adjustment Settlement Agreement.

It was assumed, among other things described below, that:

- the PMs make all payments required to be made by them pursuant to the MSA,
- the aggregate Market Share of the OPMs remains constant throughout the forecast period at 82.91127%, based on the NAAG-reported market share for OPMs in sales year 2018 (measuring roll-your-own shipments at 0.0325 ounces per cigarette conversion rate), and
- the aggregate Market Share of the SPMs remains constant at 9.61312%, based on the NAAG-reported market share for SPMs in sales year 2018 (measuring roll-your-own shipments at 0.09 ounces per cigarette conversion rate).

Sold County Tobacco Assets Projection Methodology and Assumptions

Cigarette Shipments under the MSA

In applying the consumption forecast from the Tobacco Consumption Report, it was assumed that U.S. cigarette consumption forecasted by IHS Global was equal to the number of cigarettes shipped in and to the U.S., the District of Columbia and Puerto Rico, which, when adjusted by the aggregate OPM Market Share, is the number used to determine the Volume Adjustment. The Tobacco Consumption Report states that the quantities of cigarettes shipped and cigarettes consumed may not match at any given point in time as a result of various factors, such as inventory adjustments, but are substantially the same when compared over a period of time. IHS Global’s forecast for U.S. cigarette consumption is set forth in the Tobacco Consumption Report in APPENDIX A—“TOBACCO CONSUMPTION REPORT.” The Tobacco Consumption Report contains a discussion of the assumptions

underlying the projections of cigarette consumption contained therein. No assurance can be given that future consumption will be consistent with that projected in the Tobacco Consumption Report. See “RISK FACTORS – Risks Relating to the Tobacco Consumption Report.”

Annual Payments

In accordance with the Sold County Tobacco Assets Projection Methodology and Assumptions, the anticipated amounts of Annual Payments for the years 2020-2038 to be made by the OPMs were calculated by applying the adjustments applicable to the base amounts of Annual Payments set out in the MSA, in order, as described below. The anticipated amounts of Annual Payments for the years 2020-2038 to be made by the SPMs were calculated by (i) multiplying the base amounts of Annual Payments by the Adjusted SPM Market Share (as described below) and (ii) then applying the adjustments applicable to the Annual Payments for SPMs set out in the MSA, in order, as described below.

Inflation Adjustment. First, the Inflation Adjustment was applied to the schedule of base amounts for the Annual Payments set forth in the MSA. The inflation adjustment rate is compounded annually at the greater of 3.0% or the percentage increase in the actual Consumer Price Index for all Urban Consumers (“CPI-U”) in the prior calendar year as published by the Bureau of Labor Statistics (released each January). The calculations of Annual Payments for the years 2020-2038 assume the minimum Inflation Adjustment Percentage provided in the MSA of 3.0% in every year since inception, except for calendar years 2000, 2004, 2005, and 2007 where the actual percentage increases in CPI-U of approximately 3.387%, 3.256%, 3.416%, and 4.081%, respectively, were used. Thereafter, the annual Inflation Adjustment Percentage was assumed to be the 3.0% minimum provided in the MSA. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments—Inflation Adjustment” for a description of the formula used to calculate the Inflation Adjustment.

Volume Adjustment. Next, the Annual Payments calculated for the years 2020-2038 after application of the Inflation Adjustment were adjusted for the Volume Adjustment by multiplying the forecast for U.S. cigarette consumption contained in the Tobacco Consumption Report by the assumed aggregate OPM Market Share of the OPMs (82.91127% as described above). No add-back or benefit was assumed from any Income Adjustment. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments—Volume Adjustment” for a description of the formula used to calculate the Volume Adjustment.

Previously Settled States Reduction. Next, the amounts calculated for each year after application of the Inflation Adjustment and the Volume Adjustment were reduced by the Previously Settled States Reduction, which applies only to the payments owed by the OPMs. The Previously Settled States Reduction is not applicable to Annual Payments owed by the SPMs. The Previously Settled States Reduction is 11.0666667% for each year.

Non-Settling States Reduction. The Non-Settling States Reduction was not applied to the Annual Payments because such reduction has no effect on the amount of payments to be received by states that remain parties to the MSA. Thus, the Sold County Tobacco Assets Projection Methodology and Assumptions include an assumption that the State will remain a party to the MSA.

NPM Adjustment. The Sold County Tobacco Assets Projection Methodology and Assumptions include an assumption that the State has diligently enforced and will diligently enforce a Qualifying Statute that is not held to be unenforceable. For a discussion of the NPM Adjustment Settlement Agreement, see “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—NPM Adjustment Settlement and Award” (see also APPENDIX C—“ NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT” for a copy thereof), and for a discussion of the State’s Qualifying Statute, which is the Model Statute, see “STATE LAWS RELATED TO THE MSA—California Qualifying Statute.”

Offset for Miscalculated or Disputed Payments. The Sold County Tobacco Assets Projection Methodology and Assumptions include an assumption that there will be no adjustments to the Annual Payments due to miscalculated or disputed payments.

Litigating Releasing Parties Offset. The Sold County Tobacco Assets Projection Methodology and Assumptions include an assumption that the Litigating Releasing Parties Offset will have no effect on payments.

Offset for Claims-Over. The Sold County Tobacco Assets Projection Methodology and Assumptions include an assumption that the Offset for Claims-Over will have no effect on payments.

Subsequent Participating Manufacturers. The Sold County Tobacco Assets Projection Methodology and Assumptions treat the SPMs as a single manufacturer having executed the MSA on or prior to February 22, 1999 for purposes of calculating Annual Payments under Section IX(i) of the MSA. Further, the Market Share (as defined in the MSA) of the SPMs remains constant at 9.61312% (measuring roll your own cigarettes at 0.09 ounces per cigarette conversion rate) as described above. Because the 9.61312% Market Share exceeds the greater of (i) the SPM's 1998 Market Share or (ii) 125% of its 1997 Market Share, the SPMs are assumed to make Annual Payments in each year. For purposes of calculating Annual Payments owed by the SPMs, their aggregate adjusted Market Share ("**Adjusted SPM Market Share**") is equal to (y) the SPM Market Share (assumed at 9.61312%) less the Base Share (assumed at 3.49580%) divided by (z) the aggregate Market Share of the OPMs at 83.07606% (measuring roll your own cigarettes at 0.09 ounces per cigarette conversion rate), or 7.36352%.

Allocation Percentage for the State of California Under the MSA. The amount of Annual Payments, after application of the Inflation Adjustment, the Volume Adjustment and the Previously-Settled States Reduction for each year, was multiplied by the allocation percentage for Annual Payments for the State under the MSA (12.7639554%) in order to determine the amount of Annual Payments in each year to be made by the PMs to be allocated to the State.

Current Allocation Percentage for the County Under the MOU and the ARIMOU. 45% of the State's receipts of Annual Payments under the MSA are allocated to the each of the State's counties under the MOU and the ARIMOU. Each county receives its allocation of the 45% based upon the county's population relative to the population of the State according to the then most recent Official United States Decennial Census. According to the 2010 Official United State Decennial Census, the County had a population of 2,189,641 and the State had a population of 37,253,956 which currently results in the County receiving an allocation of 2.644923% of the State's Annual Payments ($2,189,641 \div 37,253,641 \times 0.45 = 2.644923\%$).

Future Allocation Percentage for the County Under the MOU and the ARIMOU - Population Adjustment. According to the California State Department of Finance, the County's population is projected to be 2,500,975 in 2020 and 2,857,496 in 2030 while the State's population in 2020 and 2030 is projected to be 40,639,392 and 43,939,250, respectively. By law, the Official United States Decennial Census is required to be published by March 31 of the calendar year following each census. Accordingly, the percentage of the State's Annual Payments allocated to the County from 2021-2030 and from 2030-2038 is assumed to be 2.7639554% and 2.926480%, respectively.

California Escrow Agent Fees. The annual California Escrow Agent Fee (assumed to be \$36,000) is assumed to be allocated among the Participating Jurisdictions, including the County, under the MOU and the ARIMOU based their then allocable payment percentages. Therefore, it is assumed that \$952 is deducted from the County's allocation of Annual Payments in 2020, \$997 in 2021-2030 and \$1,054 in 2031-2038.

Sold County Tobacco Assets. Of the net Annual Payments allocated under the MOU and the ARIMOU to the County, the first \$10,000,000 to be received in 2020 and the first \$11,537,208 to be received in 2021-2026 are Unsold County Tobacco Assets and are not available for payment of the Series 2019 Bonds. After deduction of the Unsold County Tobacco Assets, the balance of the Annual Payments allocated to the County consist of the Sold County Tobacco Assets.

Receipt and Application of Sold County Tobacco Assets

It is assumed that the Indenture Trustee will receive Sold County Tobacco Assets ten days after April 15 in each year, commencing in 2020, and will apply receipts, together with interest earnings in the Accounts held by the Indenture Trustee, as provided in the Indenture. See "SECURITY FOR THE BONDS—Application of Collections and Payment Priorities."

Projection of Sold County Tobacco Assets to be Received by the Indenture Trustee

The following table shows the projection of Sold County Tobacco Assets to be received by the Indenture Trustee in each year through 2038, calculated in accordance with the Sold County Tobacco Assets Projection Methodology and Assumptions and using the forecast contained within the Tobacco Consumption Report. The forecast contained within the Tobacco Consumption Report for U.S. cigarette consumption is set forth in “APPENDIX A—TOBACCO CONSUMPTION REPORT” attached hereto. See Appendix A hereto for a discussion of the assumptions underlying the projection of cigarette consumption contained in the Tobacco Consumption Report. See also “RISK FACTORS—Risks Relating to the Tobacco Consumption Report.”

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Projection of Sold County Tobacco Assets to be Received by the Indenture Trustee

Sales Year	Payment Year	IHS Global Consumption Decline Forecast	IHS Global Forecast of Cigarette Consumption	Estimated OPM Consumption	Base Annual Payment	Inflation Adjustment	Volume Adjustment	Previously Settled State's Reduction	Total Adjusted Annual Payments by OPMs	County TSR Allocation	OPM Annual Payments	SPM Annual Payments	California Escrow Agent Fees Allocated to the County		Total Sold County Tobacco Assets
													Unsold County Tobacco Assets	County Assets	
2019	2020	-4.155%	226,909,924,596	188,133,900,239	\$9,000,000,000	\$8,092,765,600	(\$10,125,516,202)	(\$771,044,482)	\$6,196,224,916	0.375968%	\$20,918,257	\$1,731,994	(\$10,000,000)	\$12,649,298	
2020	2021	-4.000%	217,832,455,010	180,607,654,921	9,000,000,000	8,065,569,600	(10,702,812,252)	(763,963,913)	6,139,224,453	0.354760%	21,701,059	1,796,807	(997)	11,936,641	
2021	2022	-3.762%	209,638,358,690	173,813,823,597	9,000,000,000	9,133,736,400	(11,271,174,884)	(758,792,810)	6,097,768,706	0.354760%	21,554,149	1,784,645	(997)	11,800,889	
2022	2023	-3.621%	202,046,626,035	167,519,423,638	9,000,000,000	9,677,748,600	(11,857,711,366)	(754,750,789)	6,065,286,444	0.354760%	21,439,332	1,775,138	(997)	11,676,365	
2023	2024	-3.496%	194,982,854,111	161,662,760,626	9,000,000,000	10,238,081,400	(12,445,580,311)	(751,703,456)	6,040,297,633	0.354760%	21,352,770	1,767,971	(997)	11,582,536	
2024	2025	-3.261%	188,624,186,398	156,390,708,470	9,000,000,000	10,815,223,500	(13,034,181,941)	(750,433,268)	6,030,606,291	0.354760%	21,316,746	1,764,988	(997)	11,543,530	
2025	2026	-3.056%	182,859,788,415	151,611,172,894	9,000,000,000	11,409,679,800	(13,626,179,715)	(750,707,345)	6,032,792,740	0.354760%	21,324,475	1,765,628	(997)	11,551,898	
2026	2027	-2.886%	177,582,512,501	147,235,916,412	9,000,000,000	12,021,970,500	(14,224,474,331)	(752,256,245)	6,045,239,924	0.354760%	21,368,473	1,769,271	(997)	23,136,477	
2027	2028	-2.746%	172,706,761,319	143,193,691,185	9,000,000,000	12,652,629,300	(14,831,551,161)	(754,865,983)	6,066,212,156	0.354760%	21,442,605	1,775,409	(997)	23,217,017	
2028	2029	-2.743%	167,969,395,895	139,245,559,348	9,000,000,000	13,302,207,900	(15,458,978,473)	(757,538,726)	6,087,690,702	0.354760%	21,518,526	1,781,695	(997)	23,299,224	
2029	2030	-2.737%	163,338,078,988	135,425,675,666	9,000,000,000	13,971,274,200	(16,102,421,897)	(760,152,990)	6,108,699,312	0.354760%	21,592,786	1,787,844	(997)	23,379,633	
2030	2031	-2.764%	158,824,196,509	131,683,138,393	9,000,000,000	14,660,412,300	(16,767,934,111)	(762,767,589)	6,129,710,601	0.375346%	22,896,587	1,895,796	(1,054)	24,791,130	
2031	2032	-2.761%	154,438,672,081	128,047,064,394	9,000,000,000	15,370,224,300	(17,453,541,162)	(765,446,270)	6,151,236,869	0.375346%	22,976,995	1,902,454	(1,054)	24,878,395	
2032	2033	-2.760%	150,176,691,229	124,513,401,942	9,000,000,000	16,101,331,200	(18,159,896,478)	(768,185,445)	6,173,249,277	0.375346%	23,059,219	1,909,262	(1,054)	24,967,427	
2033	2034	-2.829%	145,928,076,563	120,990,821,565	9,000,000,000	16,854,371,100	(18,892,334,453)	(770,465,391)	6,191,157,125	0.375346%	23,127,658	1,914,928	(1,054)	25,041,536	
2034	2035	-2.849%	141,770,662,629	117,543,585,873	9,000,000,000	17,630,001,900	(19,648,225,841)	(772,649,886)	6,209,126,172	0.375346%	23,193,232	1,920,538	(1,054)	25,112,536	
2035	2036	-2.856%	137,721,372,400	114,186,538,919	9,000,000,000	18,428,902,200	(20,427,401,917)	(774,832,700)	6,226,667,582	0.375346%	23,258,755	1,925,783	(1,054)	25,183,484	
2036	2037	-2.882%	133,752,503,582	110,895,999,376	9,000,000,000	19,251,769,500	(21,231,763,964)	(776,880,615)	6,243,124,921	0.375346%	23,320,229	1,930,873	(1,054)	25,250,488	
2037	2038	-2.899%	129,875,184,102	107,681,164,554	9,000,000,000	20,099,322,900	(22,061,452,362)	(778,857,675)	6,259,012,863	0.375346%	23,379,576	1,935,787	(1,054)	25,314,309	

Bond Structuring Methodology and Assumptions

The Bond Structuring Methodology and Assumptions of the Series 2019 Bonds and the forecast contained within the Tobacco Consumption Report were applied to the projections of Sold County Tobacco Assets described above. See “SUMMARY OF THE TOBACCO CONSUMPTION REPORT” and APPENDIX A—“TOBACCO CONSUMPTION REPORT.” See also “RISK FACTORS—Risks Relating to the Tobacco Consumption Report.”

The Bond Structuring Methodology and Assumptions are as follows:

Delivery Date

The Series 2019 Bonds are assumed to be delivered on May 30, 2019.

Issue Size

The objective in issuing the Series 2019 Bonds is to provide proceeds in an amount sufficient to: (1) refund the Refunded Bonds by establishing an irrevocable escrow for the defeasance and redemption of the Refunded Bonds, (2) fund the Debt Service Reserve Fund and the Debt Service Fund for the Series 2019 Bonds, and (3) pay the costs of issuance of the Series 2019 Bonds.

Maturity Date

The stated maturity date of the Series 2019 Bonds is June 1, 2038.

Mandatory Redemptions of Outstanding Bonds

All mandatory redemptions of the Series 2019 Bonds, including Turbo Redemptions and the Mandatory Clean-Up Redemption, are assumed to be made on June 1 in any year to the extent that sufficient Collateral is available therefore.

Interest Rate

The Series 2019 Bonds bear interest at the rate shown on the inside cover page hereof. Interest is calculated on the basis of a 360-day year consisting of twelve 30-day months.

Debt Service Reserve Account

The Debt Service Reserve Account will be fully funded on the Closing Date at the Debt Service Reserve Requirement of \$10,500,000.00.

Operating Expense Assumptions

Annual Operating Expenses of the Issuer have been assumed at \$296,790.01 for 2020 (the Operating Cap for such year) and are assumed to be inflated in each year thereafter by 3%. No Operating Expenses are assumed in excess of the annual Operating Cap, and no arbitrage payments, rebate or penalties were assumed to be paid as the Series 2019 Bonds are federally taxable. Further, it is assumed that the Issuer will have sufficient funds on deposit in the Operating Account as of the Closing Date to fund its Operating Expenses for calendar year 2019.

Debt Service Account

As of the Closing Date, the Debt Service Account will be funded in an amount at least equal to interest on the Series 2019 Bonds due on December 1, 2019.

Interest Earnings

Amounts on deposit in the Debt Service Reserve Account are assumed to be invested at a rate of 2.25% per annum with earnings distributed annually on each June 1.

Amounts in all other Accounts under the Indenture are assumed to be invested at a rate of 0.00% per annum. No interest earnings have been assumed on the Annual Payments prior to the time it is assumed they will be received by the Indenture Trustee.

Miscellaneous

The Sold County Tobacco Assets Projection Methodology and Assumptions assume that there is no optional redemption of the Series 2019 Bonds, that no Event of Default occurs, and that no PM makes a Lump Sum Payment, Partial Lump Sum Payment or Total Lump Sum Payment under the MSA. It is further assumed that all Distribution Dates occur on the first day of each June and December, whether or not such date is a Business Day.

No assurance can be given that actual cigarette consumption in the United States during the term of the Series 2019 Bonds will be as assumed, or that the other assumptions underlying the Sold County Tobacco Assets Projection Methodology and Assumptions and Bond Structuring Methodology and Assumptions, including that certain adjustments and offsets will not apply to payments due under the MSA, will be consistent with future events. If actual events deviate from one or more of the assumptions underlying the Sold County Tobacco Assets Projection Methodology and Assumptions and Bond Structuring Methodology and Assumptions, the amount of funds available to the Issuer to pay the principal of and interest on the Series 2019 Bonds and to make Turbo Redemptions on the Series 2019 Bonds could be adversely affected. See “RISK FACTORS” and “LEGAL CONSIDERATIONS” herein.

RISK FACTORS

The Series 2019 Bonds differ from many other state and local governmental securities in a number of respects. Prospective investors should carefully consider the factors set forth below regarding an investment in the Series 2019 Bonds, as well as the other information contained in this Offering Circular. One or a combination of the risk factors set forth below, and other risks, may materially adversely affect the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full, and could have a material adverse effect on the liquidity and/or market value of the Series 2019 Bonds.

The discussion of certain risks has been compiled from certain publicly available documents of the tobacco companies and their current or former parent companies, certain publicly available analyses of the tobacco industry and other public sources. Certain of those companies currently file annual, quarterly and certain other reports with the Securities and Exchange Commission (the “SEC”). Such reports are available on the SEC’s website (www.sec.gov) and upon request from the SEC’s Investor Information Service, 100 F Street, NE, Washington, D.C. 20549 (phone: (800) SEC-0330 or (202) 551-8090; e-mail: publicinfo@sec.gov). To the extent that any risk discussed in this section describes the domestic tobacco industry and litigation relating thereto, the Issuer does not warrant the accuracy or completeness of such information.

The list of risks set forth herein is not a complete list of the risks associated with the Sold County Tobacco Assets, nor does the order of presentation necessarily reflect the relative importance of the various and separate risks. Certain general categories of risks discussed below include, among others, payment decreases under the terms of the MSA and the NPM Adjustment Settlement Agreement, declines in cigarette consumption, litigation, and bankruptcy. There can be no assurance that other risk factors will not become material in the future. See also “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT,” “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY,” APPENDIX A – “TOBACCO CONSUMPTION REPORT,” and APPENDIX C — “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT.” Additional risk factors are set forth in “LEGAL CONSIDERATIONS.”

Payment Decreases Under the Terms of the MSA

Adjustments to MSA Payments

The MSA provides that the amounts payable by the PMs are subject to numerous adjustments, offsets and recalculations, some of which are material, including without limitation, the NPM Adjustment discussed below. Any such adjustment could trigger the Offset for Miscalculated or Disputed Payments. See “— Disputed MSA Payments and Potential for Significant Future Year Offsets to MSA Payments” and “— NPM Adjustment” below

for a description of disputes concerning MSA payments and the calculation thereof, including a settlement that the State and certain other Settling States entered into regarding the NPM Adjustment. Any such adjustments, offsets and recalculations could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

An amendment to the MSA (as described further herein, the “**PSS Credit Amendment**”) has been proposed that would allow SPMs to elect to receive a reduction in their MSA payments in an amount equal to a percentage of the fees paid to Previously Settled States pursuant to state legislation in the Previously Settled States requiring tobacco product manufacturers that did not sign onto the Previously Settled State Settlements to pay a fee to such Previously Settled States. By its terms, the PSS Credit Amendment will only take effect if and when all Settling States having aggregate Allocable Shares equal to at least 99.937049% (the equivalent of the aggregate Allocable Share of the 46 states that are Settling States), and all OPMs and Commonwealth Brands, Inc., have executed the PSS Credit Amendment. No assurance can be given as to if or when such an amendment will take effect. As of May 1, 2019, the State had not executed documentation approving the PSS Credit Amendment. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—NPM Adjustment Settlement and Award.” No assurance can be given that the State will execute documentation approving the PSS Credit Amendment, or when any such approval will be executed. Further, no assurance can be given as to whether the PSS Credit Amendment, if and when it takes effect, will reduce the amount of Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds. See “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—Amendments, Waivers and Termination” and “—Reliance on State Enforcement of the MSA; State Impairment” and “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments—Previously Settled States Reduction—PSS Credit Amendment.” See also “SECURITY FOR THE SERIES 2019 BONDS – Non-Impairment Covenants” herein.

Disputed MSA Payments and Potential for Significant Future Year Offsets to MSA Payments

Disputes concerning Annual Payments (as well as Strategic Contribution Payments) and their calculations may be raised up to four years after the respective Payment Due Date (as defined in the MSA). The resolution of disputed payments that arise in prior years may result in the application of offsets against subsequent payments. Disputes could result in the future diversion of disputed payments to the Disputed Payments Account under the MSA (the “**DPA**”), the withholding of all or a portion of any disputed amounts, or the application of offsets against future payments. Any such disputes or the resolution thereof could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

Miscalculations or recalculations by the MSA Auditor or disputed calculations by any of the parties to the MSA have resulted and could in the future result in offsets to, or delays in disbursements of, payments to the Settling States pending resolution of the disputed item in accordance with the provisions of the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments—*Offset for Miscalculated or Disputed Payments.*”

The cash flow assumptions used to prepare the coverage table herein do not factor in an offset for miscalculated or disputed payments or any release of funds currently held in the DPA other than pursuant to the NPM Adjustment Settlement (as defined herein). See “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” and APPENDIX C — “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT.” Adjustments in future Sold County Tobacco Assets, including adjustments pursuant to the NPM Adjustment Settlement Agreement described below, could be different from those projected.

NPM Adjustment

General. One of the adjustments under the MSA is the “**NPM Adjustment**,” which operates in certain circumstances to reduce the payments of the PMs under the MSA in the event of losses in Market Share by PMs

(who are subject to the payment obligations and marketing restrictions of the MSA) to non-participating manufacturers (“NPMs”) (who are not subject to such obligations and restrictions), during a calendar year as a result of such PMs’ participation in the MSA. Under the MSA, three conditions must be met in order to trigger an NPM Adjustment for one or more Settling States: (1) a Market Share loss for the applicable year must exist (as described herein); (2) a nationally recognized firm of economic consultants must determine that the disadvantages experienced as a result of the provisions of the MSA were a “significant factor” contributing to the Market Share loss for the year in question; and (3) the Settling States in question must be found to not have diligently enforced their Qualifying Statutes. If the PMs make a claim for an NPM Adjustment for any particular year and a Settling State is determined to be one of a few states (or the only state) not to have diligently enforced its Qualifying Statute in such year, the amount of the NPM Adjustment applied to such Settling State in the year following such determination could be as great as the amount of Annual Payments that could otherwise have been received by such Settling State in such year.

NPM Adjustment Settlement. On December 17, 2012, terms of a settlement were agreed to in the form of a term sheet (the “**NPM Adjustment Settlement Term Sheet**”) by 19 jurisdictions (including the State), the OPMs and certain SPMs regarding claims related to the 2003 through 2015 NPM Adjustments and the determination of subsequent NPM Adjustments. Subsequently, seven additional jurisdictions (Oklahoma, Connecticut, South Carolina, Indiana, Kentucky, Rhode Island and Oregon) joined the NPM Adjustment Settlement Term Sheet. On October 10, 2017, a final settlement agreement (the “**NPM Adjustment Settlement Agreement**”) became effective, incorporating the terms of, and superseding, the NPM Adjustment Settlement Term Sheet, and also providing for settlement of claims related to 2013 through 2015. According to Altria in its Form 10-K filed with the SEC for calendar year 2018 and its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in the first quarter of 2018 nine additional jurisdictions (Alaska, Colorado, Delaware, Hawaii, Maine, North Dakota, South Dakota, Utah and Vermont) joined the NPM Adjustment Settlement Agreement, and in the second quarter of 2018 Pennsylvania joined the NPM Adjustment Settlement Agreement. The signatory jurisdictions to the NPM Adjustment Settlement Term Sheet and NPM Adjustment Settlement Agreement, as applicable, are referred to herein as the “**NPM Adjustment Settlement Signatories**”, and the settlement effected by the NPM Adjustment Settlement Term Sheet and the NPM Adjustment Settlement Agreement, as applicable, is referred to herein as the “**NPM Adjustment Settlement**.”

On March 12, 2013, a three-judge panel that was selected to arbitrate the 2003 NPM Adjustment claims (the “**Arbitration Panel**”) issued a Stipulated Partial Settlement and Award (the “**NPM Adjustment Stipulated Partial Settlement and Award**”), in which it ruled that the NPM Adjustment Settlement Term Sheet was binding on the signatory jurisdictions and directed PricewaterhouseCoopers LLP, the independent auditor under the MSA (the “**MSA Auditor**”), to implement the terms of the NPM Adjustment Settlement Term Sheet. The Arbitration Panel concluded in the NPM Adjustment Stipulated Partial Settlement and Award that neither the NPM Adjustment Stipulated Partial Settlement and Award nor the NPM Adjustment Settlement Term Sheet constitutes an amendment to the MSA that would require the consent of any non-signatory jurisdiction. No assurance can be given, however, that a court would not hold that the NPM Adjustment Stipulated Partial Settlement and Award and the NPM Adjustment Settlement constitute amendments to the MSA. See “—Other Risks Relating to the MSA and Related Statutes—*Amendments, Waivers and Termination*” and “—*Reliance on State Enforcement of the MSA; State Impairment.*”

Under the NPM Adjustment Settlement, PMs received certain reductions and credits in April 2013 through April 2017, as described herein, to reflect a percentage of the NPM Adjustment Settlement Signatories’ aggregate share of the 2003 through 2015 NPM Adjustment claims that were settled and to reflect a percentage of the NPM Adjustment Settlement Signatories’ aggregate share of the NPM Adjustment claims for transition years 2013-2014. PMs received a reduction in April 2018 to reflect a percentage of the NPM Adjustment Settlement Signatories’ aggregate share of the NPM Adjustment claim for 2015, which, in October 2017, the PMs and the NPM Adjustment Settlement Signatories agreed pursuant to the NPM Adjustment Settlement Agreement to settle as a transition year. In addition, under the NPM Adjustment Settlement, each of the NPM Adjustment Settlement Signatories received in connection with the April 2013 MSA payment its allocable share of over \$4.7 billion then on deposit in the DPA (for a total of approximately \$1.76 billion plus earnings released to the NPM Adjustment Settlement Signatories from the DPA). The NPM Adjustment Settlement also details the determination of NPM Adjustments for sales year 2013 onward for the NPM Adjustment Settlement Signatories. Under the NPM Adjustment Settlement, for state cigarette excise tax-paid NPM sales of “non-compliant NPM cigarettes” (defined in the NPM Adjustment Settlement, with certain exceptions, as any NPM cigarette on which state cigarette excise tax was paid but for which

escrow is not deposited as required by the Model Statute, either by payment by the NPM or by collection upon a bond, or for which escrow was impermissibly released or refunded), the adjustment of PM payments due from signatory PMs is three times the per-cigarette escrow deposit rate contained in the Model Statute for the year of the sale, including the inflation adjustment in the statute (subject to a safe harbor). For NPM sales for which state cigarette excise tax was not paid, the total NPM Adjustment liability, if any, of each NPM Adjustment Settlement Signatory under the original formula for a year would be reduced by a percentage, as described herein.

The NPM Adjustment Settlement provides that the arbitration regarding NPM Adjustment Settlement Signatories' diligent enforcement for 2016 (and any subsequent year) will not commence until the diligent enforcement arbitration for 2016 (or such respective subsequent year) begins as to NPM Adjustment Settlement Non-Signatories (as defined below) (with an exception for an accelerated schedule as described therein). In the interim, pending the ultimate outcome of the applicable proceedings with respect to NPM Adjustments for sales year 2016 and onward, the signatory PMs will deposit into the DPA on the next April's MSA payment date the NPM Adjustment Settlement Signatories' aggregate Allocable Share of the potential maximum NPM Adjustment for such sales year (for example, on or before April 15, 2019 the signatory PMs made a deposit to the DPA for the NPM Adjustment for sales year 2018), and the PMs and the NPM Adjustment Settlement Signatories will jointly instruct the MSA Auditor to release promptly the entire amount deposited to the DPA and distribute it among the PMs and the NPM Adjustment Settlement Signatories according to a formula as described herein. In the NPM Adjustment Settlement, the NPM Adjustment Settlement Signatories agree that diligent enforcement will be determined as to them in a single arbitration each year. The NPM Adjustment Settlement also provides that, except for the DPA deposit (and subsequent release) described above, and except in certain other cases (primarily, if the dispute was noticed for arbitration by the PM and the party-selected arbitrator has not been appointed for over one year from the date notice was first given despite good faith efforts by the PM), the PMs will not withhold payments or pay into the DPA based on a dispute arising out of the NPM Adjustment as set forth in the NPM Adjustment Settlement. For a discussion of the terms of the NPM Adjustment Settlement and related matters, see "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—*NPM Adjustment Settlement and Award*." See APPENDIX C — "NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT" for a copy of the NPM Adjustment Settlement Agreement. See also "STATE LAWS RELATED TO THE MSA—State Statutory Enforcement Framework—*Indian Country Cigarette Sales*." Adjustments pursuant to the NPM Adjustment Settlement could be different from those projected. See "SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS."

Jurisdictions that did not sign the NPM Adjustment Settlement (the "**NPM Adjustment Settlement Non-Signatories**") objected to the NPM Adjustment Settlement Term Sheet and NPM Adjustment Stipulated Partial Settlement and Award. States that were found to be non-diligent in the 2003 NPM Adjustment arbitration challenged the judgment reduction method applied by the Arbitration Panel as to those states, arguing that their respective share of the 2003 NPM Adjustment should be reduced because the NPM Adjustment Settlement Signatories should not have been deemed diligent for purposes of the calculation, and in certain cases their share was ordered to be reduced. The status of these cases is discussed in "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—*2003 NPM Adjustment Arbitration Results and Disputes Concerning the NPM Adjustment Settlement Term Sheet and Stipulated Partial Settlement and Award*." No assurance can be given that other challenges to the NPM Adjustment Stipulated Partial Settlement and Award or NPM Adjustment Settlement will not be commenced in other MSA courts or that the NPM Adjustment Settlement Non-Signatories' pending arbitrations relating to the 2004 NPM Adjustment and future arbitrations relating to subsequent sales years' NPM Adjustments will not have an adverse effect on NPM Adjustment Settlement Signatories such as the State. If any such challenge is successful, there could be an adverse effect on the amount and/or timing of Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds on a timely basis or in full.

Furthermore, no assurance can be given as to the implementation in future years of the NPM Adjustment Settlement by the MSA Auditor with regard to the State, or as to whether or not the NPM Adjustment Settlement will be revised and any consequences thereto. Any such development could have an adverse effect on the amount and/or timing of Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds on a timely basis or in full.

2016 and 2017 NPM Adjustments Settlement Agreement. On various dates between June 14, 2018 and November 27, 2018, 26 NPM Adjustment Settlement Signatory States (including the State), and 39 tobacco manufacturers (including Philip Morris, Reynolds Tobacco, Liggett, Imperial Tobacco, and Lorillard) executed the 2016 and 2017 NPM Adjustments Settlement Agreement (the “**2016 and 2017 NPM Adjustments Settlement Agreement**”). The 2016 and 2017 NPM Adjustments Settlement Agreement provides for the following adjustments to the NPM Adjustments. First, the PM’s Annual Payments made for the benefit of the states signatory to the 2016 and 2017 NPM Adjustments Settlement Agreement (the “**2016-17 Settlement Signatory States**”) will not be subject to downward adjustment pursuant to Section V.B of the NPM Adjustment Settlement Agreement (the “Section V.B Adjustment”) relating to Non-Compliant NPM Cigarettes (as defined herein) for the 2015 sales year. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—NPM Adjustment Settlement and Award.” Second, in lieu of the 2016 NPM Adjustment and the 2017 NPM Adjustment (as defined in the NPM Adjustment Settlement Agreement), the PMs will receive, as applicable to the 2016-17 Settlement Signatory States, the following adjustments applied to their MSA payments due April 16, 2019: (A) an aggregate adjustment applicable to Annual Payments, subject to quarterly recognition provisions under the NPM Adjustment Settlement Agreement, equal 25% of the Potential Maximum 2016 NPM Adjustment and 2017 NPM Adjustment applicable to Annual Payments and to Strategic Contribution Payments multiplied by the aggregate Allocable Share of all 2016-17 Settlement Signatory States. Such aggregate amount shall be allocated to the PMs as provided in the 2016 and 2017 NPM Adjustments Settlement Agreement, and shall be allocated solely to and among the 2016-17 Settlement Signatory States, in proportion to their Allocable Shares and Strategic Contribution Payments Allocable Shares, as applicable; and (B) the amounts of the adjustments pursuant to clause (A) immediately above shall be determined based on the Market Share Loss for 2016 and the Potential Maximum NPM Adjustment for 2016, and the Market Share Loss for 2017 and the Potential Maximum NPM Adjustment for 2017, as applicable, as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the April 16, 2018 Payment Due Date and the April 15, 2019 Payment Due Date, respectively, and will not be subject to the Section V.B Adjustment for the 2016 sales year. Capitalized terms used in this subsection and not defined have the meanings given in the 2016 and 2017 NPM Adjustments Settlement Agreement. See APPENDIX C — “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT for a copy of the 2016 and 2017 NPM Adjustments Settlement Agreement.

Declines in Cigarette Consumption

Cigarette consumption in the U.S. has declined significantly over the last several decades. According to the Tobacco Consumption Report, a Centers for Disease Control and Prevention (“**CDC**”) study released in 2018 reported that approximately 34 million American adults were current smokers in 2017, representing approximately 14.0% of the population age 18 and older, a decline from 15.5% in 2016, 16.8% in 2014, 17.8% in 2013, and 19.4% in 2010. NAAG reported that total industry domestic cigarette shipment volume was 236.7 billion cigarettes in sales year 2018, 248.5 billion cigarettes in sales year 2017, and 260.1 billion cigarettes in sales year 2016 (including a roll-your-own equivalent of 0.0325 ounces per cigarette), as compared to shipments of approximately 390.3 billion in 2005. According to the Tobacco Consumption Report, consumption fell to 237.4 billion cigarettes (including a roll-your-own equivalent of 0.0325 ounces per cigarette) in 2018, and in April 2019 NAAG reported an industry volume decline of 4.7%, to 236.7 billion, an acceleration in the industry decline rate that coincided with the extraordinary growth of JUUL, a recent entrant to the e-cigarette market. Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 states that in connection with the rapid growth trend in the e-vapor category, Altria anticipates that the U.S. cigarette industry volume decline rate may exceed the recent historical long-term decline rate, and that in April 2019, Altria revised its estimated U.S. cigarette industry volume decline rate for 2019 from 3.5% - 5% to 4% - 5% and reaffirmed its estimated average U.S. annual cigarette industry volume decline rate of 4% - 5% over the next five years. Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that its cigarette shipment volume for the first quarter of 2019 declined 14.3% compared to the first quarter of 2018. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Cigarette Shipment Trends.”

A trend in the percentage of the population that smokes cigarettes does not necessarily correlate with the trends in the volume of cigarettes sold. As noted in the Tobacco Consumption Report, because of the growing number of “light smokers” (those who smoke just a few cigarettes per day), the rate of decline in the overall prevalence of smoking has slowed, while the rate of decline of the volume of cigarettes consumed has accelerated.

Payments under the MSA are determined in part by the volume of cigarettes sold by the PMs in the U.S. cigarette market. U.S. cigarette consumption in recent years has been reduced because of price increases, restrictions on advertising and promotions, increases in excise taxes, smoking bans in public places, the raising of the minimum age to possess or purchase tobacco products, other increased regulation such as state and local bans on characterizing flavors, a decline in the social acceptability of smoking, health concerns, funding of smoking prevention campaigns, increased pressure from anti-tobacco groups, increased usage of alternative products such as e-cigarettes and other vapor products, curtailments in the chain of distribution, and other factors. U.S. cigarette consumption is expected to continue to decline for the reasons stated above and others. Continuing declines in cigarette consumption could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. The following factors, among others, may negatively impact cigarette consumption in the U.S.

The Regulation of Tobacco Products by the FDA May Adversely Affect Overall Consumption of Cigarettes in the U.S. and the Operations of the PMs

The Family Smoking Prevention and Tobacco Control Act (the “FSPTCA”), signed by President Obama on June 22, 2009, granted the U.S. Food and Drug Administration (the “FDA”) broad authority over the manufacture, sale, marketing and packaging of tobacco products. The legislation, among other things, requires larger and more severe health warnings on cigarette packs and cartons, bans the use of certain descriptors on tobacco products, requires the disclosure of ingredients and additives to consumers, requires FDA pre-market review for new or modified products, and allows the FDA to place more severe restrictions on the advertising, marketing and sales of cigarettes. Since the passage of the FSPTCA, the FDA, among other things, has prohibited fruit, candy or clove flavored cigarettes (menthol is currently exempted from this ban), prohibited misleading marketing terms (“Light,” “Low,” and “Mild”) for tobacco products, rejected applications for the introduction of new tobacco products into the market, and issued its final rule subjecting e-cigarettes and certain other tobacco products to FDA regulations. In July 2017, the FDA announced its intent to develop a comprehensive plan for tobacco and nicotine regulation and is considering the issues surrounding the presence of menthol and the level of nicotine in cigarettes. On March 15, 2018, as part of this comprehensive plan, the FDA announced an Advance Notice of Proposed Rulemaking (“ANPRM”) to explore and seek comment on lowering the nicotine in cigarettes to minimally or non-addictive levels. In the March 15, 2018 announcement, the FDA also stated that it is starting new work to re-evaluate and modernize its approach to the development and regulation of medicinal nicotine replacement products such as gums, patches and lozenges; and plans to issue a series of foundational rules and guidance that will delineate key requirements of the regulatory process, such as the demonstration of substantial equivalence and the submission of applications for new tobacco products, as well as a framework for addressing substantial equivalence applications for provisional products that entered the market during applicable grace periods. On March 21, 2018, the FDA issued an additional ANPRM regarding the role that flavors, including menthol, play in initiation, use and cessation of use of tobacco products. In April 2018, as part of the comprehensive plan, the FDA announced a Youth Tobacco Prevention Plan focused on stopping the use by youth of tobacco products, particularly e-cigarettes. In a press release dated November 15, 2018, the FDA announced its intent to advance a Notice of Proposed Rulemaking that would seek to ban menthol in combustible tobacco products, including cigarettes and cigars, based on comments received from the March 21, 2018 ANPRM. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—FSPTCA.”

Tobacco manufacturers have filed suit regarding certain provisions of the FSPTCA and actions taken thereunder. In August 2009, a group of tobacco manufacturers and a tobacco retailer filed a complaint against the United States in the U.S. District Court for the Western District of Kentucky, *Commonwealth Brands, Inc. v. U.S.*, in which they asserted that various provisions of the FSPTCA violate their free speech rights under the First Amendment, constitute an unlawful taking under the Fifth Amendment, and are an infringement on their Fifth Amendment due process rights. In March 2012, the U.S. Court of Appeals for the Sixth Circuit affirmed the district court’s earlier decision upholding the FSPTCA’s restrictions on the marketing of modified-risk tobacco products, the FSPTCA’s bans on event sponsorship, branding non-tobacco merchandise, and free sampling, and the requirement that tobacco manufacturers reserve significant packaging space for textual health warnings. However, the Sixth Circuit affirmed the district court’s grant of summary judgment to plaintiff manufacturers on the unconstitutionality of the FSPTCA’s restriction of tobacco advertising to black and white text. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—FSPTCA Litigation” for a discussion of this case.

On June 22, 2011, the FDA issued a final regulation for the imposition of larger, graphic health warnings on cigarette packaging and advertising, which was scheduled to take effect September 22, 2012 (but which the FDA is currently enjoined from enforcing, as described below). On August 16, 2011, tobacco companies filed a lawsuit against the FDA in the U.S. District Court for the District of Columbia, *R. J. Reynolds Tobacco Co. v. U.S. Food and Drug Administration*, challenging the FDA's final regulation specifying nine new graphic "warnings" pursuant to the FSPTCA and seeking a declaratory judgment that the final regulation violates the plaintiffs' rights under the First Amendment to the U.S. Constitution and the Administrative Procedure Act ("APA"). On August 24, 2012, the U.S. Court of Appeals for the District of Columbia Circuit affirmed a February 29, 2012 decision of the district court that invalidated the graphic warning rule. On March 19, 2013, the FDA announced that it would undertake research to support a new rulemaking on different warning labels consistent with the FSPTCA and would propose a new graphic warnings rule in the future. In October 2016, several public health groups filed suit in the Federal District Court for the District of Massachusetts to force the FDA to issue final rules requiring graphic warnings on cigarette packs and advertising (*American Academy of Pediatrics, et al v. United States Food and Drug Administration*). In a March 5, 2019 Memorandum and Order, the court directed the FDA to submit by March 15, 2020 a final rule mandating color graphic warnings on cigarette packs and in cigarette advertisements as required by the FSPTCA. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues" for a discussion of these cases and several other cases.

The FDA has yet to issue final guidance with respect to many provisions of the FSPTCA. It is likely that future regulations promulgated by the FSPTCA, including regulation of menthol (including an outright ban thereof) or decreasing the permitted level of nicotine (though not to zero), as discussed herein, could result in a decrease in cigarette sales in the U.S., and an increase in costs to PMs, potentially resulting in a material adverse effect on the PMs' financial condition, results of operations and cash flows. Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, that in addition to the payment of user fees required by the FSPTCA, compliance with the FSPTCA's regulatory requirements has resulted and will continue to result in additional costs and that although the amount of additional compliance and related costs has not been material in any given quarter or year to date period, such compliance could become material, either individually or in the aggregate, to one or more of its tobacco subsidiaries. Additionally, the FDA's rules regarding clearance for new or modified cigarette products could adversely impact PMs' access to the market and could result in the removal of products from the market. The impact of the foregoing factors could be to reduce consumption of cigarettes in the U.S. and adversely affect the operations of the PMs, thereby reducing payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

Concerns That Mentholated Cigarettes May Pose Greater Health Risks Could Result in Further Federal, State and Local Regulation Which Could Adversely Affect the Volume of Cigarettes Sold in the U.S. and Thus Payments Under the MSA

According to research published in *Nicotine and Tobacco Research* in 2018, the menthol cigarette market share was 31.5% in 2015. News reports have estimated the 2018 market share of menthol cigarettes at 35%. Some plaintiffs and constituencies, including public health agencies and non-governmental organizations, have claimed or expressed concerns that mentholated cigarettes may pose greater health risks than non-mentholated cigarettes, including concerns that mentholated cigarettes may make it easier to start smoking and harder to quit, and increase smoking initiation among youth and the incidence of smoking among youth. Such plaintiffs and constituencies may seek restrictions or a ban on the production and sale of mentholated cigarettes. On November 8, 2013, twenty-seven states (including the State) sent a letter to the FDA in support of a ban on menthol-flavored cigarettes. In an August 2016 letter, the African American Tobacco Control Leadership Council asked President Obama to direct the FDA to issue a proposed rule to remove all flavored tobacco products, including mentholated cigarettes, from the marketplace. Any ban or material limitation on the use of menthol in cigarettes could materially adversely affect the results of operations, cash flow and financial condition of the PMs that sell large quantities of mentholated cigarettes, especially Reynolds Tobacco, a significant portion of whose sales, after the merger with Lorillard, are dependent on the Newport brand of mentholated cigarettes.

The FSPTCA established the Tobacco Products Scientific Advisory Committee ("TPSAC") and directs the TPSAC to evaluate issues surrounding the use of menthol as a flavoring or ingredient in cigarettes. In addition, the legislation permits the FDA to ban menthol upon a finding that such a prohibition would be appropriate for the

public health. The TPSAC or the Menthol Report Subcommittee held meetings throughout 2010 and 2011 to consider the issues surrounding the use of menthol in cigarettes. At a March 2011 meeting, TPSAC presented its findings that menthol likely increases experimentation and regular smoking, menthol likely increases the likelihood and degree of addiction for youth smokers, non-white menthol smokers (particularly African-Americans) are less likely to quit smoking and are less responsive to certain cessation medications, and consumers continue to believe that smoking menthol cigarettes is less harmful than smoking nonmenthol cigarettes as a result of the cigarette industry's historical marketing. TPSAC's overall recommendation to the FDA was that "removal of menthol cigarettes from the marketplace would benefit public health in the United States." In July 2013, the FDA released a preliminary evaluation on menthol cigarettes, finding among other things that menthol cigarettes likely pose a public health risk above that seen with non-menthol cigarettes. On March 21, 2018, as part of the FDA's comprehensive plan for tobacco and nicotine regulation, the FDA issued an ANPRM regarding the role that flavors (including menthol) play in initiation, use and cessation of use of tobacco products. The FDA is not required to follow the TPSAC's recommendations, and the FDA has not yet taken any final action with respect to menthol use. In a press release dated November 15, 2018, the FDA announced its intent to advance a Notice of Proposed Rulemaking that would seek to ban menthol in combustible tobacco products, including cigarettes and cigars, based on comments received from the March 21, 2018 ANPRM. There is no timeline or statutory requirement for the FDA to act on the TPSAC's recommendations. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—*FSPTCA Litigation*" for a discussion on litigation regarding the TPSAC.

If the FDA determines that the regulation of menthol is warranted, the FDA could promulgate regulations that, among other things, could result in a ban on or a restriction on the use of menthol in cigarettes. Several jurisdictions have already enacted bans on menthol and other characterizing flavors. The State of Maine, in 2007, became the first state to enact a statute that prohibits the sale of cigarettes and cigars that have a characterizing flavor, including menthol. In June 2017, San Francisco amended its city health code to prohibit tobacco retailers from selling flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, and voters approved the measure on June 5, 2018. In February 2018, New Jersey introduced a bill that would add menthol to its list of prohibited characterizing flavors. A bill (Senate Bill 38) was introduced into the California Senate in December 2018 that would ban the sale of all flavored tobacco products, including menthol-flavored cigarettes and e-cigarettes. A ban or any material restriction on the use of menthol in cigarettes could adversely affect the overall sales volume of cigarettes by the PMs, thereby reducing payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

The Volume of Cigarettes Sold by PMs in the U.S. Cigarette Market is Expected to Continue to Decline as a Result of Increases in Cigarette Excise Taxes

In the U.S., tobacco products are subject to substantial and increasing federal and state excise taxation, which has a negative effect on consumption. On April 2, 2009, Congress increased the federal excise tax per pack of cigarettes to \$1.01 per pack (an increase of \$0.62), and significantly increased taxes on other tobacco products. All of the states, the District of Columbia, Puerto Rico, Guam and the Northern Mariana Islands currently impose cigarette taxes, which as of January 30, 2019 ranged from \$0.17 per pack in Missouri to \$5.10 per pack in Puerto Rico, according to the American Lung Association's Tobacco Policy Project/State Legislated Actions on Tobacco Issues ("**SLATI**"). Since January 1, 2002, 48 states and the District of Columbia have raised their cigarette taxes a total of 136 times, according to the Campaign for Tobacco-Free Kids. In particular, in California, a \$2.00 per pack increase in the State's cigarette excise tax (in addition to the State's then current \$0.87 per pack excise tax) was passed by voters on November 8, 2016, effective April 1, 2017. In addition to federal and state excise taxes, certain city and county governments also impose substantial excise taxes on tobacco products sold, such as New York, Philadelphia and Chicago. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, between the end of 1998 (the year that the MSA was executed) and April 22, 2019, the weighted-average state and certain local cigarette excise taxes increased from \$0.36 to \$1.79 per pack. In addition, according to Altria in its Form 10-K filed with the SEC for calendar year 2018, Kentucky, Oklahoma, and Washington, D.C. had enacted cigarette excise tax increases during 2018. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 as of April 22, 2019, only one state, New Mexico, had increased its cigarette excise tax in 2019, although various increases were under consideration or had been proposed in other states. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—*Excise Taxes*" for a further description of excise taxes on cigarettes.

It is expected that state and local governments will continue to raise excise taxes on cigarettes in future years. Increased excise taxes are likely to result in declines in overall sales volume and shifts by consumers to less expensive brands, deep discount brands, untaxed cigarettes sold on certain Native American reservations and duty-free shops, counterfeit brands or pipe tobacco for roll-your-own consumers. Such trends and reductions in consumption will lead to reductions of payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

The Volume of Cigarettes Sold by PMs in the U.S. Cigarette Market is Expected to Continue to Decline Because of Efforts to Raise the Minimum Age for Purchase and Possession of Cigarettes

U.S. cigarette consumption is expected to continue to decline due to legislative efforts to raise the minimum age to possess or purchase tobacco products. All states and the District of Columbia have enacted statutes generally prohibiting the sale of tobacco products to individuals under the age of 18. In 2016, Hawaii became the first state to make 21 the minimum age to purchase tobacco products. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, an increasing number of states and localities have proposed legislation to increase the minimum age to purchase all tobacco products, including e-vapor products, above the current federal minimum age of 18; the following states have enacted such legislation: Delaware (21), Illinois (21), Arkansas (21), Washington (21), Utah (21), Virginia (21), California (21), Hawaii (21), Alabama (19), Alaska (19), New Jersey (21), Oregon (21), Maine (21) and Massachusetts (21); of these states, six enacted such legislation since the beginning of 2019; many localities have taken similar actions; and legislation is under consideration in various other states. According to the Campaign for Tobacco-Free Kids, as of May 1, 2019, at least 450 localities have raised the tobacco age to 21, including New York City, Chicago, San Antonio, Boston, Cleveland, Minneapolis, both Kansas Cities, and Washington, D.C. On April 30, 2019, bills were submitted in the U.S. Senate (S 1258) and House of Representatives (HR 2411) that would prohibit the sale of tobacco products to individuals under the age of 21. On May 20, 2019 another bill was introduced into the U.S. Senate (S 1541) by Senator Mitch McConnell that would increase the minimum age for sale of tobacco products to 21, including sales to military personnel. On March 6, 2019, the New York Assembly passed Assembly Bill 558-A, which would raise the minimum age for the sale of tobacco and electronic cigarette products from 18 to 21 in the State of New York. The bill passed the New York Senate on April 1, 2019. It has not yet been signed into law. On May 13, 2019 Maryland enacted legislation increasing the minimum age to purchase tobacco products, including vaping devices, to 21. In October, 2018 Altria announced its support for federal legislation to establish 21 as the minimum age to purchase any tobacco product.

On March 12, 2015, the Institute of Medicine of the National Academy of Sciences released a report recommending that the minimum age of legal access to tobacco products be raised to 21 and concluding that raising the minimum legal age to 21 would likely decrease smoking prevalence by 12% among today's teenagers when they become adults. In October 2015, the American Academy of Pediatrics issued a policy statement strongly recommending that the age for the purchase of tobacco products be raised to 21 as a means to reduce youth smoking rates. Declines in consumption due to increasing the minimum age to possess or purchase tobacco products could lead to reductions of payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

Increased Restrictions on Smoking in Public Places Could Adversely Affect U.S. Tobacco Consumption and Therefore Amounts to be Paid Under the MSA

In recent years, federal, state and many local and municipal governments and agencies, as well as private businesses, have adopted legislation, regulations, insurance provisions or policies which prohibit, restrict, or discourage smoking generally, smoking in public buildings and facilities, public housing, stores, restaurants and bars, and smoking on airline flights and in the workplace. Other similar laws and regulations are currently under consideration and may be enacted by state and local governments in the future. Restrictions on smoking in public and other places may lead to a decrease in the number of people who smoke or a decrease in the number of cigarettes smoked or both. Smoking bans have recently been extended by many state and local governments to outdoor public areas, such as beaches, parks and space outside restaurants, and others may do so in the future. Increased restrictions on smoking in public and other places have caused a decrease, and may continue to cause a decrease, in the volume of cigarettes that would otherwise be sold in the U.S. absent such restrictions, which could

lead to reductions of payments under the MSA and could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—*State and Local Regulation.*”

Several of the PMs and Their Competitors Have Developed Alternative Tobacco and Cigarette Products, Including Electronic Cigarettes and Vaporizers, Sales of Which Do Not Currently Result in Payments Under the MSA, and Have Announced Long-Term Goals of Ending the Sale of Traditional Cigarettes in Favor of Such Alternative Products

Certain of the major cigarette makers and other manufacturers have developed (or acquired) and marketed alternative cigarette products the shipments of which do not give rise to payment obligations under the MSA. For example, numerous manufacturers have developed and are marketing “**electronic cigarettes**” or “**e-cigarettes**,” which are not tobacco products but are battery powered devices that vaporize liquid nicotine which is then inhaled. E-cigarettes do not currently constitute “cigarettes” within the meaning of the MSA (as deemed by the manufacturers and certain states) because they do not contain or burn or heat tobacco. The growth in this area includes devices called “vaporizers,” which are larger, customizable devices that hold more liquid, produce larger vapor clouds and last longer. They allow users to mix and match hardware and refill cartridges with liquid bought in bulk, so that they are cheaper than e-cigarettes. E-cigarettes and other vapor products are currently not subject to the advertising restrictions to which tobacco products are subject. In addition, most jurisdictions do not subject electronic cigarettes or other vapor products to excise taxes.

According to the Tobacco Consumption Report, 2018 sales of electronic cigarettes in the U.S. were estimated at over \$7 billion, with rapid growth in the past two years, led by sales of the JUUL brand which is now the most popular electronic cigarette, accounting for approximately three-fourths of the market share. According to a CDC release dated October 2, 2018, based on an analysis of retail sales data from 2013-2017, sales of JUUL, an e-cigarette shaped like a USB flash drive, grew more than seven-fold from 2016 to 2017, and held the greatest share of the U.S. e-cigarette market by December 2017. Like other e-cigarettes, JUUL is a battery-powered device that heats a nicotine-containing liquid to produce an aerosol that is inhaled. No single e-cigarette manufacturer dominated the U.S. market through 2013. However, sales of British American Tobacco e-cigarette devices surged 146% during 2014 and led the market well into 2017. During 2016-2017, JUUL Labs’ sales increased 641 percent — from 2.2 million devices sold in 2016 to 16.2 million devices sold in 2017. By December of 2017, JUUL Labs’ sales comprised nearly 1 in 3 e-cigarette sales nationally, giving it the largest market share in the United States. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in December 2018, Altria, through a wholly-owned subsidiary, purchased shares of non-voting convertible common stock of JUUL Labs, Inc., representing a 35% economic interest for \$12.8 billion.

According to a CDC report published November 9, 2018, in 2017 2.8% of adults were current e-cigarette users. The CDC in September 2014 reported results of a survey that indicated that in 2013 approximately 8.5% of the adult population, and 36.5% of smokers, had tried e-cigarettes at some time. According to an article in the November 16, 2018 CDC Morbidity and Mortality Weekly Report, current e-cigarette use among high school students had increased to 20.8% in 2018 from 1.5% in 2011, and had increased by 78% (from 11.7% to 20.8%) during 2017–2018 alone. According to the same report, e-cigarettes were the most commonly used tobacco product among high school students (20.8%), followed by cigarettes (8.1%), and among middle school students, the most commonly used tobacco produce was e-cigarettes (4.9%), followed by cigarettes (1.8%). The CDC in June 2016 released survey results showing that in 2015, 45% of high school students had tried e-cigarettes compared with only 32% who had tried cigarettes. In December 2014 the University of Michigan’s Survey for Research Center reported its findings that e-cigarette use exceeded traditional cigarette smoking among teens in 2014. The National Health Survey of the CDC reported that in 2016, 15.4% of adults had tried e-cigarettes, and 3.2% were current users. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—E-Cigarettes and Vapor Products.”

In September 2017, Philip Morris International announced that it would contribute approximately \$80 million each year for the following 12 years to a non-profit organization called the Foundation for a Smoke-Free World, to fund research on smoke-free alternatives, among other things. In addition, in January 2018, Philip Morris International announced that its long-term goal is to replace its traditional cigarettes with smoke-free alternative products. On May 22, 2018, Altria announced the creation of two divisions within Altria—one division for

traditional cigarettes, pipe tobacco, cigars and snuff, and a second division for innovative, non-combustible, reduced-risk products such as vapor products. Altria reported that the new structure is expected, among other things, to accelerate innovation.

On May 5, 2016, the FDA released its final rule which subjects manufacturers, importers and/or retailers of e-cigarettes and certain other tobacco related products (including cigars and pipe tobacco) to the same and, in some cases additional, regulations applicable to cigarettes, cigarette tobacco and smokeless tobacco. Among other things, the rule bans sales of e-cigarettes and other vapor products, cigars, hookah tobacco, pipe tobacco and other products to people under 18 and requires new health warnings for these products. In addition, manufacturers must seek federal permission to continue marketing all e-cigarettes and other such products launched since 2007 (making up virtually all of the market). The rule does not restrict flavored products, online sales or advertising. As part of the FDA's comprehensive plan for tobacco and nicotine regulation, in March 2018 the FDA announced that it is considering over-the-counter regulation of e-cigarettes and in April 2018 the FDA announced a Youth Tobacco Prevention Plan focused on stopping the use by youth of tobacco products, particularly e-cigarettes. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—*FSPTCA*." No assurance can be given that regulation of e-cigarettes by the FDA will alter the trend of increased sales of e-cigarettes.

Cigarette manufacturers also market other types of alternative products, such as moist snuff, "snus" (a smokeless, spitless tobacco product that originated in Sweden), disposable nicotine discs, and dissolvable tobacco tablets, orbs, strips and sticks. According to a CDC report published November 9, 2018, 2.1% of U.S. adults were current users of smokeless tobacco (defined as chewing tobacco, snuff, dip, snus, or dissolvable tobacco) in 2017. According to a CDC report published December 9, 2016, per capita consumption of smokeless tobacco (defined as chewing tobacco and dry snuff) increased modestly, from 0.533 pounds in 2000 to 0.555 pounds 2015, or 4.2%.

Electronic cigarettes, other vapor products and smokeless tobacco products are viewed by some as alternatives to cigarette smoking that may lead to cigarette smoking cessation. According to the CDC, e-cigarettes are not currently approved by the FDA as a quit smoking aid; however, e-cigarettes may help non-pregnant adult smokers quit smoking cigarettes if used as a complete substitute for all cigarettes and other smoked tobacco products. The Tobacco Consumption Report notes that a new British study provides evidence that e-cigarettes are more effective as a smoking cessation aid than other forms of nicotine replacement products, and also notes that a study from the Centre for Substance Use Research in the United Kingdom found that at least 28.3% of adult smokers had quit smoking cigarettes completely after using a JUUL vaporizer for 3 months.

It has been reported that increases in cigarette taxes have caused an increase in the sale of e-cigarettes and other alternatives to cigarettes. According to the Tobacco Consumption Report, certain sources have shown that e-cigarette use is associated with quit attempts by smokers; that youth use of e-cigarettes is unlikely to increase the number of future cigarette smokers; and that the substantial increase in e-cigarette use among U.S. adult smokers this decade was associated with a statistically significant increase in the smoking cessation rate at the population level; however, the Tobacco Consumption Report cites two studies published in 2019 that found that teens who use e-cigarettes or other tobacco-related products are more likely to later initiate cigarette use. Growth in the electronic cigarette, vapor product and smokeless tobacco product markets may have an adverse effect on the traditional cigarette market. If consumers use such alternative products in lieu of traditional cigarettes containing nicotine or to quit smoking, it could reduce the size of the cigarette market. In addition, recreational marijuana, which has been legalized in Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Washington, Vermont, and Washington, D.C., may be an alternative to cigarette smoking and reduce the size of the cigarette market. Furthermore, because many alternative cigarette products continue to be deemed not to constitute "cigarettes" under the MSA, as these products gain market share of the domestic cigarette market to the detriment of traditional cigarettes, payments under the MSA may decrease, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—E-Cigarettes and Vapor Products," "—Heat-Not-Burn Tobacco Products" and "—Smokeless Tobacco Products."

U.S. Tobacco Companies are Subject to Significant Limitations on Advertising and Marketing Cigarettes That Could Negatively Impact Sales Volume

Television and radio advertisements of tobacco products have been prohibited since 1971. U.S. tobacco companies generally cannot use billboard advertising, cartoon characters, sponsorship of concerts, non-tobacco merchandise bearing brand names and various other advertising and marketing techniques. In addition, the MSA prohibits the targeting of youth in advertising, promotion or marketing of tobacco products. Accordingly, the tobacco companies have determined not to advertise cigarettes in magazines with large readership among people under the age of 18. Under the FSPTCA, which grants authority over the regulation of tobacco products to the FDA, the FDA has issued rules restricting access and marketing of cigarettes and smokeless tobacco products to youth, and announced its plans to propose a new rule in the future for the imposition of larger, graphic health warnings on cigarette packaging and advertising, as discussed herein. In addition, many states, cities and counties have enacted legislation or regulations further restricting tobacco advertising, marketing and sales promotions, and others may do so in the future. Additional restrictions may be imposed or agreed to in the future. These limitations significantly impair the ability of tobacco product manufacturers to launch new premium brands. Moreover, these limitations may make it difficult for PMs to maintain sales volume of cigarettes in the U.S., which could lead to reductions of payments under the MSA and could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

As discussed above, electronic cigarettes and other vapor products are not currently subject to the advertising restrictions to which tobacco products are subject, and the FDA did not include advertising restrictions in its final regulations on e-cigarettes and other vapor products. Therefore, e-cigarettes and other vapor products, which can currently be marketed more extensively than traditional cigarettes and other tobacco products, could gain market share to the detriment of the traditional cigarette market. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—E-Cigarettes and Vapor Products.”

Federal, State and Local Anti-Smoking Campaigns Could Negatively Impact Cigarette Sales Volume

Federal, state and local anti-smoking campaigns have resulted and may continue to result in a decline in cigarette consumption. For example, the FDA launched an integrated anti-smoking campaign targeting teenagers, including the “Real Cost” campaign that targets young people aged 12-17 years and shows the costs and health consequences associated with tobacco use. The FDA reported that the “Real Cost” campaign prevented nearly 350,000 youth aged 11 to 18 nationwide from smoking during 2014-2016 and announced the campaign’s expansion in May 2018. The CDC launched a national anti-tobacco effort in 2012 entitled “Tips From Former Smokers” (TIPS) which features graphic advertisements intended to shock smokers into quitting with stories of people damaged by tobacco products. The CDC reported that as a result of the 2012 campaign an estimated 1.6 million smokers attempted to quit smoking and more than 200,000 Americans had quit smoking immediately following the campaign, of which researchers estimated that more than 100,000 would likely quit smoking permanently, according to the CDC. The CDC renewed the campaign over subsequent years. See “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—*Other Federal Action.*” In addition, the California Department of Public Health’s Tobacco Control Program launched a campaign on June 4, 2018 entitled “Never Just A Smoke,” showing the dangers of social smoking and of new forms of tobacco such as hookahs and e-cigarettes. A decline in cigarette consumption as a result of such anti-smoking campaigns could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

The Distribution Chain for Cigarettes May Continue to be Curtailed, Which Could Negatively Impact Sales Volume

Certain stores have ceased the sale of tobacco products. The retail chain store Target reportedly stopped selling tobacco products in 1996. In September 2014 the national pharmacy chain CVS reportedly stopped selling all cigarettes and other tobacco products in all its stores (following a February 2014 announcement), citing that such sales were inconsistent with its mission. A group of state attorneys general have pressured large retail stores with pharmacies to take similar action, and in April 2014 several members of Congress called on these retailers to stop selling cigarettes and other items containing tobacco. According to the American Nonsmokers’ Rights Foundation (“ANRF”), as of April 1, 2019, one state (Massachusetts) and 213 cities and counties, located principally in

California and Massachusetts, have tobacco-free pharmacy laws. In addition, Costco has also reportedly reduced the number of locations that sell cigarettes because of slowing demand, according to news reports in March 2016. The Walgreens drugstore chain announced in April, 2019, that, effective September 1, 2019, it will require customers to be at least 21 years old to purchase tobacco in any of its more than 9,500 stores nationwide. On May 8, 2019, WalMart announced that, beginning July 1, 2019, all WalMart and Sam's Club stores will raise the minimum age to purchase tobacco products, including all e-cigarettes, to 21, and will discontinue the sale of fruit- and dessert-flavored electronic nicotine delivery systems. Furthermore, certain municipalities have enacted laws limiting the number or density of cigarette retailers. For example, in 2014, San Francisco's Tobacco Use Reduction Act was passed which sets a cap on the number of tobacco retailers in each supervisory district and prohibits new stores from locating within 500 feet of schools or within 500 feet of another existing tobacco retailer. In 2016, Philadelphia's Retailer Reduction Regulations were passed, setting a cap on the number of tobacco retailers allowed at one per 1,000 persons in each planning district and restricting any new retailer from locating within 500 feet of K-12 schools. In November 2013, New York City passed an ordinance that set a minimum price of \$10.50 for every pack of cigarettes sold in New York City, and prohibited the use of coupons or other promotional discounts to lower that price. In August 2017, New York City updated its comprehensive point-of-sale regulations, to, among other things, set a city-wide cap on retailer licenses at half of the current number in each district, add a licensing requirement for e-cigarettes, and raise the minimum price of a pack of cigarettes to \$13.00, effective June 1, 2018. Continued curtailment in the distribution of cigarettes could negatively impact sales volume, which could lead to reductions of payments under the MSA and could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

Smoking Cessation Products May Reduce Cigarette Sales Volumes and Adversely Affect Payments Under the MSA

Large pharmaceutical companies have developed and increasingly expanded their marketing of smoking cessation products. Companies such as GlaxoSmithKline, Johnson & Johnson, Novartis and Pfizer are well capitalized public companies that have entered this market and have the capability to fund significant investments in research and development and marketing of these products. Smoking cessation products can be obtained both in prescription and over-the-counter forms. From Nicorette gum in 1984, to nicotine patches, nicotine inhalers and tablets, as well as other non-pharmaceutical smoking cessation products, this market has evolved into a \$1 billion business in the U.S., according to some estimates. Studies have shown that these programs are effective, and that excise taxes and smoking restrictions drive additional expenditures to the smoking cessation market. On March 15, 2018, as part of the FDA's comprehensive plan for tobacco and nicotine regulation, the FDA announced that it is starting new work to re-evaluate and modernize its approach to the development and regulation of medicinal nicotine replacement products such as gums, patches and lozenges, and on August 3, 2018, the FDA released draft guidance aimed at supporting the development of novel, inhaled nicotine replacement therapies that could be submitted to the FDA for approval as new drugs, similar to current over-the-counter pharmaceutical nicotine replacement therapy products. Certain health insurance policies, including Medicaid and Medicare, cover various forms of smoking cessation treatments, making smoking cessation treatments more affordable for covered smokers. To the extent that existing smoking cessation products, new products or products used in combination become more effective and more widely available, or that more smokers use these products, sales volumes of cigarettes in the U.S. may decline, which could lead to reductions of payments under the MSA and could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Smoking Cessation Products."

The U.S. Cigarette Industry is Subject to Significant Legal, Regulatory, and Other Requirements That Could Adversely Affect the Businesses, Results of Operations or Financial Condition of Tobacco Product Manufacturers

The consumption of cigarettes in the U.S., and therefore the amounts payable under the MSA and the Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds, could be materially adversely affected by new or future legal requirements imposed by legislative or regulatory initiatives, including but not limited to those relating to health care reform, climate change and environmental matters affecting the PMs and their manufacturing practices or business operations, which could adversely affect the businesses, results of operations or financial condition of the PMs.

The Availability of Counterfeit Cigarettes Could Adversely Affect Payments by the PMs Under the MSA

Sales of counterfeit cigarettes in the U.S. could adversely impact sales by the PMs of the brands that are counterfeited and potentially damage the value and reputation of those brands. Smokers who mistake counterfeit cigarettes for cigarettes of the PMs may attribute quality and taste deficiencies in the counterfeit product to the actual branded products brands and discontinue purchasing such brands. Most significantly, the availability of counterfeit cigarettes together with substantial increases in excise taxes and other potential price increases of branded products could result in increased demand for counterfeit products that could have a material adverse effect on the sales volume of the PMs, resulting in lower payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

General Economic and Other Conditions May Adversely Affect Consumption of Cigarettes and the Ability of the PMs to Continue to Operate, Reducing Their Sales of Cigarettes and Payments Under the MSA

The volume of cigarette sales in the U.S. is adversely affected by general economic downturns as smokers tend to reduce expenditures on cigarettes, especially premium brands, in times of economic hardship. For example, according to the Tobacco Consumption Report, there is a correlation between an increase in the price of gasoline and a reduction in tobacco consumption. In addition, consumers may become more price-sensitive, which may result in some consumers switching to lower priced, deep discount NPM brands, or counterfeit brands, or travelling to purchase untaxed NPM cigarettes on Native American reservations. Reductions in cigarette consumption or changes in consumption habits to NPM cigarettes could lead to reductions of payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

The ability of the PMs to continue their operations selling cigarettes in the U.S. generally is dependent on the health of the overall economy and their ability to access the capital markets on favorable terms. In addition, the ability of the PMs to continue their operations manufacturing cigarettes is dependent on, among other things, their production facilities, shifts in crops, government mandated prices, economic trade sanctions, geopolitical instability and production control programs. To the extent that overall economic or other conditions or constrained capital access materially adversely impacts their operations, the PMs may manufacture and sell fewer cigarettes, potentially resulting in reduced payments under the MSA and reduced Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds.

If Litigation Challenging the MSA, the Qualifying Statutes and Related Legislation Were Successful, Payments Under the MSA Might be Suspended or Terminated

Certain parties, including smokers, smokers' rights organizations, consumer groups, cigarette manufacturers, cigarette wholesalers, cigarette importers, cigarette distributors, Native American tribes, taxpayers, taxpayers' groups and other parties have filed actions against some, and in certain cases all, of the signatories to the MSA, alleging, among other things, that the MSA and related legislation including the Settling States' Qualifying Statutes, Allocable Share Release Amendments and Complementary Legislation (as each term is defined herein) as well as other legislation such as "Contraband Statutes" are void or unenforceable under certain provisions of law, such as the U.S. Constitution, state constitutions, federal antitrust laws, federal civil rights laws, state consumer protection laws, bankruptcy laws, federal cigarette advertising and labeling laws, unfair competition laws, and the North American Free Trade Agreement ("NAFTA"). Certain of the lawsuits further sought, among other relief, an injunction against one or more of the Settling States from collecting any moneys under the MSA, an injunction barring the PMs from collecting cigarette price increases related to the MSA, a determination that the MSA is void or unenforceable, and an injunction against the enforcement of the Qualifying Statutes and the related legislation. In addition, class action lawsuits have been filed in several federal and state courts alleging that under the federal Medicaid law, any amount of tobacco settlement funds that the Settling States receive in excess of what they paid through the Medicaid program to treat tobacco related diseases should be paid directly to Medicaid recipients.

All of the judgments rendered to date on the merits have rejected challenges to the MSA, Qualifying Statutes and Complementary Legislation presented in the cases. Courts rendering those decisions include the U.S. Courts of Appeals for the Ninth Circuit, in *Sanders v. Brown*; the Second Circuit in *Freedom Holdings v. Cuomo* and *Grand River Enterprises Six Nations, Ltd. v. King*; the Tenth Circuit in *KT & G Corp. v. Edmondson*, and *Hise*

v. *Philip Morris Inc.*; the Eighth Circuit in *Grand River Enterprises v. Beebe*; the Third Circuit in *Mariana v. Fisher*, and *A.D. Bedell Wholesale Co. v. Philip Morris Inc.*; the Fourth Circuit in *Star Sci., Inc. v. Beales*; the Fifth Circuit in *Xcaliber Int'l Ltd. v. Caldwell* and *S&M Brands v. Caldwell*; the Sixth Circuit in *S&M Brands v. Cooper*, *S&M Brands, Inc. v. Summers*, *Tritent Inter'l Corp. v. Commonwealth of Kentucky* and *Vibo Corporation, Inc. d/b/a/ General Tobacco v. Conway, et al.*; and multiple lower courts. In addition, in January 2011, an international arbitration tribunal rejected claims brought against the United States challenging MSA-related legislation in various states under NAFTA.

The MSA, Qualifying Statutes and related state legislation may continue to be challenged in the future, on the theories described above or for other reasons that are not described herein. A determination by a court that the MSA, the NPM Adjustment Settlement, the Qualifying Statutes or related state legislation (including the 2013 amendment to the State's Qualifying Statute made in furtherance of the NPM Adjustment Settlement) is void or unenforceable could have a material adverse effect on the payments by the PMs under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. No assurance can be given that a court will not find the MSA, a Qualifying Statute, the NPM Adjustment Settlement, or related legislation to be unenforceable, unconstitutional, or void.

Although a determination that a Qualifying Statute is unconstitutional would have no effect on the enforceability of the MSA, such a determination could have a material adverse effect on payments to be made under the MSA and Sold County Tobacco Assets available to the Issuer if an NPM were to gain market share in the future and there occurred an impact on the market share of the PMs under the MSA. A determination that an Allocable Share Release Amendment is unenforceable would not constitute a breach of the MSA but could permit NPMs to exploit differences among states, and thereby potentially increase their market share at the expense of the PMs. A determination that the State's Complementary Legislation is unenforceable would not constitute a breach of the MSA or affect the enforceability of the State's Qualifying Statute; such a determination could, however, make enforcement of the State's Qualifying Statute against NPMs more difficult for the State. See "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT" and "LEGAL CONSIDERATIONS—MSA and Qualifying Statute Enforceability."

Litigation Seeking Monetary and Other Relief from Tobacco Industry Participants May Adversely Impact the Ability of the PMs to Continue to Make Payments Under the MSA

The tobacco industry has been the target of litigation for many years. Numerous legal actions, proceedings and claims arising out of the sale, distribution, manufacture, development, advertising, marketing and claimed health effects of cigarettes are pending against the PMs and it is likely that similar claims will continue to be filed for the foreseeable future. Both individual and class action lawsuits have been brought by or on behalf of smokers alleging various theories of recovery including that smoking has been injurious to their health, by non-smokers alleging harm from environmental tobacco smoke ("ETS"), also known as "secondhand smoke," and by the federal, state and local governments seeking recovery of expenditures relating to the adverse effects on the public health caused by smoking. The claimants have sought recovery on a variety of legal theories, including, among others, negligence, fraud, misrepresentation, strict liability in tort, design defect, breach of warranty, enterprise liability (including claims asserted under the Racketeer Influenced and Corrupt Organizations Act ("RICO")), civil conspiracy, intentional infliction of harm, injunctive relief, indemnity, restitution, unjust enrichment, public nuisance, unfair trade practices, claims based on antitrust laws and state consumer protection acts, and claims based on failure to warn of the harmful or addictive nature of tobacco products. Various forms of relief are sought, including compensatory and, where available, punitive damages in amounts ranging in some cases into the hundreds of millions or even billions of dollars. Claimants in some of the cases have sought treble damages, statutory damages, disgorgement of rights, equitable and injunctive relief and medical monitoring and smoking cessation programs, among other damages. It is possible that the outcome of these and similar cases, individually or in the aggregate, could result in bankruptcy or cessation of operations by one or more of the PMs. It is also possible that the PMs may be unable to post a surety bond in an amount sufficient to stay execution of a judgment in jurisdictions that require such bond pending an appeal on the merits of the case. Furthermore, even if the PMs are successful in defending some or all of the tobacco-related lawsuits against them, these types of cases are expensive to defend. The ultimate outcome of pending or future lawsuits is uncertain. Verdicts of substantial magnitude that are enforceable as to one or more PMs, if they occur, could encourage commencement of additional litigation, or could

negatively affect perceptions of potential triers of fact with respect to the tobacco industry, possibly to the detriment of the PMs' positions in pending litigation. A material increase in the number of pending claims could significantly increase defense costs and have a material adverse effect on the results of operations and financial condition of the PMs and could result in a PM insolvency. Adverse decisions in litigation against the tobacco companies could have an adverse impact on the industry overall. Any of the foregoing results could potentially lower the volume of cigarette sales and could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Civil Litigation" for more information regarding the litigation described below.

Engle Progeny

The case of *Engle v. R.J. Reynolds Tobacco Co., et al.* (Circuit Court, Dade County, Florida, filed May 5, 1994) was certified in 1996 as a class action on behalf of Florida residents, and survivors of Florida residents, who were injured or died from medical conditions allegedly caused by addiction to smoking and a multi-phase trial resulted in verdicts in favor of the class. During a three-phase trial, a Florida jury awarded compensatory damages to three individuals and approximately \$145 billion in punitive damages to the certified class. In 2006, although the Florida Supreme Court vacated the punitive damages award and determined that the case could not proceed further as a class action, it permitted members of the *Engle* class to file individual claims, including claims for punitive damages, and held that these individual plaintiffs are entitled to rely on a number of the jury's findings in favor of the plaintiffs in the first phase of the *Engle* trial, including that smoking cigarettes causes a number of diseases; that cigarettes are addictive or dependence-producing; and that the defendants were negligent, breached express and implied warranties, placed cigarettes on the market that were defective and unreasonably dangerous, and concealed or conspired to conceal the risks of smoking. In the wake of the Florida Supreme Court ruling, thousands of individuals filed separate lawsuits seeking to benefit from the *Engle* findings. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, as of April 22, 2019, Altria and/or Philip Morris were defendants in approximately 2,000 cases involving approximately 2,600 plaintiffs pending in various state and federal courts in Florida that were filed by members of the *Engle* class (the "***Engle Progeny Cases***") (although most federal cases were settled, as discussed herein).

At the beginning of the *Engle Progeny Cases* litigation, a central issue was the proper use of the preserved *Engle* findings. The tobacco manufacturers had argued that use of the *Engle* findings to establish individual elements of progeny claims (such as defect, negligence and concealment) was a violation of federal due process, but in 2013, both the Florida Supreme Court (in the *Douglas* case) and the Eleventh Circuit (in the *Duke and Walker* cases) rejected that argument, and the U.S. Supreme Court denied the tobacco manufacturers' petitions for writ of certiorari in all of those cases. As discussed herein, in May 2017, in the *Graham* case, the en banc Eleventh Circuit rejected the due process and implied preemption arguments of the tobacco manufacturer, holding that giving preclusive effect to the findings of negligence and strict liability by the *Engle* jury in individual *Engle Progeny Case* actions against the tobacco companies is not preempted by federal tobacco laws and does not deprive the tobacco companies of due process. Other issues with respect to the *Engle Progeny Cases* were decided or remain pending on appeal. It is not possible to predict the final outcomes of any of the *Engle Progeny Cases*, but such outcomes may materially adversely affect the operations of the defendants and thus payments under the MSA and the Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Civil Litigation—*Engle Progeny Cases*."

The DOJ Case

In August 2006, a final judgment and remedial order was entered in *United States of America v. Philip Morris USA, Inc., et al.* (U.S. District Court, District of Columbia, filed September 22, 1999) (the "**DOJ Case**") and in June 2010 the U.S. Supreme Court denied all petitions for review of the case. The district court based its final judgment and remedial order on the government's only remaining claims, which were based on the tobacco industry defendants' alleged violations of RICO. Although the verdict did not award monetary damages to the plaintiff U.S. government, the final judgment and remedial order imposed a number of requirements on the defendants. Such requirements include, but are not limited to, corrective statements by defendants related to the health effects of smoking. The remedial order also placed certain prohibitions on the manner in which defendants market their cigarette products and enjoined any use of "lights" or similar product descriptors. On November 27, 2012, the district court released the text of the corrective statements that the defendants must make. In January 2013,

defendants appealed to the U.S. Court of Appeals for the District of Columbia Circuit the district court's November 2012 ruling on the text of the corrective statements, claiming a violation of free speech rights. On June 2, 2014, the U.S. District Court for the District of Columbia approved a joint motion by the U.S. government and the defendant tobacco companies, pursuant to which, for specified time periods following the date when all appeals are exhausted, corrective statements would be disseminated in newspapers (print and online), on television, on the tobacco companies' websites, and on "onserts" affixed to cigarette packs. On February 8, 2016, the district court issued an order on the content of the corrective statements, in April and May 2016 the defendants filed notices of appeal to the U.S. Court of Appeals, including on the content of the corrective statements. In April 2017, the U.S. Court of Appeals reversed in part the district court's decision on the content of the corrective communications, striking certain content (the statement "Here is the Truth") and remanding to the district court the decision on how to revise certain other content. In June 2017, the U.S. District Court for the District of Columbia issued an order adopting modified corrective statements, featuring a preamble to the effect that a federal court has ordered the OPMs to make the specified statements, and featuring statements regarding the adverse health effects of smoking, the addictiveness of smoking and nicotine, the lack of significant health benefit from smoking "low tar," "light," "ultra light," "mild" and "natural" cigarettes, the manipulation of cigarette design and composition to ensure optimum nicotine delivery, and the adverse health effects of exposure to second hand smoke. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, a remaining issue pending on appeal is whether the corrective statements must be placed on point-of-sale displays.

According to an October 2017 court order, in November 2017 the OPMs began running court-mandated announcements containing the agreed-upon corrective statements. Television announcements are between 30 and 45 seconds long and run in prime time five days a week for 52 weeks. Full-page print ads appeared in at least 45 newspapers and ran on five weekends spread over approximately four months, and also appeared on the newspapers' websites. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, the parties reached agreement in April 2018 on the implementation details of the corrective statements remedy for "onserts" affixed to cigarette packs and for company-owned websites and, under the agreement, the corrective statements began appearing on websites in the second quarter of 2018 and the onserts began appearing in the fourth quarter of 2018. Altria stated in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that in the second quarter of 2014, Altria and Philip Morris recorded provisions totaling \$31 million for the estimated costs of implementing the corrective communications remedy. It is possible that the district court's order, including the prohibitions on the use of the descriptors relating to low tar cigarettes and the stark text required in the corrective statements, will negatively affect the PMs' sales of and profits from cigarettes, as well as result in significant compliance costs, which could materially adversely affect their payments under the MSA, which in turn could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Civil Litigation—*Health-Care Cost Recovery Cases.*"

Non-Preemption of Claims

In December 2008, the U.S. Supreme Court in a purported "lights" class action, *Good v. Altria Group, Inc.*, issued a decision that neither the Federal Cigarette Labeling and Advertising Act nor the Federal Trade Commission's ("FTC") regulation of cigarettes' tar and nicotine disclosures preempts (or bars) some of plaintiffs' claims. The decision also more broadly addresses the scope of preemption based on the Federal Cigarette Labeling and Advertising Act, and could significantly limit cigarette manufacturers' arguments that certain of plaintiffs' other claims in smoking and health litigation, including claims based on the alleged concealment of information with respect to the hazards of smoking, are preempted. In addition, the Supreme Court's ruling could encourage litigation against cigarette manufacturers regarding the sale of cigarettes labeled as "lights" or "low tar," and it may limit cigarette manufacturers' ability to defend such claims with regard to the use of these descriptors prior to the FDA's ban thereof in June 2010. See "CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Civil Litigation—*Class Action Cases and Aggregated Claims.*"

The PMs Have Substantial Payment Obligations Under Litigation Settlement Agreements Which, Together With Their Other Litigation Liabilities, May Adversely Affect the Ability of the PMs to Continue Operations in the Future

In 1998, the OPMs entered into the MSA with 46 states and 6 other U.S. jurisdictions to settle asserted and unasserted health care cost recovery and other claims. Certain U.S. tobacco product manufacturers had previously settled similar claims brought by Mississippi, Florida, Texas and Minnesota (the “**Previously Settled State Settlements**” and, together with the MSA, are referred to as the “**State Settlement Agreements**”).

Under the State Settlement Agreements, the PMs are obligated to pay billions of dollars each year. Annual payments under the State Settlement Agreements are required to be paid in perpetuity and are based, among other things, on domestic market share and unit volume of domestic shipments. With respect to the MSA, payments are based on data from the year preceding the year in which payment is due, and, with respect to the Previously Settled State Settlements, payments are based on data from the year in which payment is due. If the volume of cigarette sales by the PMs were materially reduced, these payment obligations, together with PMs’ other litigation liabilities, could materially adversely affect the business operations and financial condition of the PMs and potentially the ability of PMs to make payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT.”

Risks Relating to the Tobacco Consumption Report

The projections developed using the Sold County Tobacco Assets Projection Methodology and Assumptions and described in “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS” are based in part upon the tobacco consumption forecast contained in the Tobacco Consumption Report. No assurance can be given that actual future consumption will be consistent with that which is projected in the Tobacco Consumption Report. See “SUMMARY OF THE TOBACCO CONSUMPTION REPORT.” For a copy of the Tobacco Consumption Report, see APPENDIX A — “TOBACCO CONSUMPTION REPORT.”

Other Risks Relating to the MSA and Related Statutes

Severability

Most of the major provisions of the MSA are not severable. If a court materially modifies, renders unenforceable or finds unlawful any non-severable provision, the attorneys general of the Settling States and the OPMs are required by the MSA to attempt to negotiate substitute terms. If, however, any OPM does not agree to the substitute terms, the MSA terminates in all Settling States affected by the court’s ruling. Even if substitute terms are agreed upon, payments under such terms may be less than payments under the MSA or otherwise could be made according to or subject to different terms and conditions, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full. See “—If Litigation Challenging the MSA, the Qualifying Statutes and Related Legislation Were Successful, Payments under the MSA Might be Suspended or Terminated” and “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Severability.”

Amendments, Waivers and Termination

As a settlement agreement between the PMs and the Settling States, the MSA is subject to amendment in accordance with its terms, and may be terminated upon consent of the parties thereto. Parties to the MSA, including the State, may waive the performance provisions of the MSA. The Issuer is not a party to the MSA; accordingly, the Issuer has no right to challenge any such amendment, waiver or termination. While the economic interests of the State and the holders of the Series 2019 Bonds are expected to be the same in many circumstances, no assurance can be given that such an amendment, waiver or termination of the MSA would not have a material adverse effect on the Issuer's ability to make payments to the holders of the Series 2019 Bonds. See "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Amendments and Waivers."

Reliance on State Enforcement of the MSA; State Impairment

The State may not convey and has not conveyed to the County, the Corporation, the Issuer or the Bondholders any right to enforce the terms of the MSA. Pursuant to its terms, the MSA, as it relates to the State, can only be enforced by the State. Although the State is entitled under the MOU to 50% of the State's allocable share of each Annual Payment under the MSA, no assurance can be given that the State will enforce any particular provision of the MSA. Failure to do so may have a material adverse effect on the Bondholders. It is possible that the State could attempt to claim some or all of the TSRs for itself or otherwise interfere with the security for the Series 2019 Bonds. In that event, the Bondholders, the Indenture Trustee, the Issuer, the Corporation or the County may assert claims based on contractual, fiduciary or constitutional rights, but no prediction can be made as to the disposition of such claims. See "LEGAL CONSIDERATIONS."

Amendment to the State's Qualifying Statute

The MSA provides that if a state adopts the Model Statute or a Qualifying Statute but then repeals it or amends it in such fashion that it is no longer a Qualifying Statute, then such state will no longer be entitled to any protection from the NPM Adjustment. The State amended its Qualifying Statute in 2013 in furtherance of the NPM Adjustment Settlement and NPM Adjustment Stipulated Partial Settlement and Award, and the State received letters from counsels to the OPMs and certain SPMs to the effect that such amendment does not affect the status of the State's Qualifying Statute as a Qualifying Statute under the MSA. See "STATE LAWS RELATED TO THE MSA—California Qualifying Statute." No assurance can be provided, however, that a PM would not assert that, or a court or arbitrator would not determine that, the State's Qualifying Statute as so amended would not continue to constitute a Qualifying Statute. Should it be determined that any amendments to the State's Qualifying Statute cause it to no longer be a Qualifying Statute, then the State would no longer be entitled to any protection from the NPM Adjustment, and there could be substantial reductions in the amount of Sold County Tobacco Assets available to the Issuer to make payments on the Series 2019 Bonds. See "LEGAL CONSIDERATIONS—MSA and Qualifying Statute Enforceability."

Bankruptcy of a PM May Delay, Reduce or Eliminate Payments Under the MSA

The enforceability of the rights and remedies of the Issuer, the Indenture Trustee and the holders of the Series 2019 Bonds, and of the obligations of a PM under the MSA are subject to Title 11 of the United States Code (the "**Bankruptcy Code**") and to other applicable insolvency or similar laws. If one or more PMs were to become a debtor in a case under the Bankruptcy Code, there could be delays or reductions in or elimination of payments under the MSA by the PMs in bankruptcy, and the annual Sold County Tobacco Assets received by the Issuer could be delayed, reduced, or eliminated.

In the event of the bankruptcy of a PM, unless approval of the bankruptcy court is obtained, the automatic stay provisions of the Bankruptcy Code could prevent any action by the State, the Issuer, the Indenture Trustee or the holders or the beneficial owners of the Series 2019 Bonds to collect any tobacco settlement payments or any other amounts owing by the bankrupt PM. In addition, even if the bankrupt PM wanted to continue paying the tobacco settlement payments, it could be prohibited as a matter of law from making such payments. In particular, if it were to be determined that the MSA was not an "executory contract" under the Bankruptcy Code, then the PM may be unable to make further payments of tobacco settlement payments. If the MSA is determined in a bankruptcy case to be an "executory contract" under the Bankruptcy Code, the bankrupt PM could seek court approval to reject the MSA and stop making payments under it. No assurance can be given as to whether a court will find that the MSA is or is not an executory contract.

Furthermore, payments previously made to the holders or beneficial owners of the Series 2019 Bonds could be avoided as preferential payments, so that such holders or beneficial owners would be required to return such payments to the bankrupt PM. Also, the bankrupt PM may have the power to alter the terms of its payment obligations under the MSA without the consent, and even over the objection of the State, the Issuer, the Indenture Trustee or the holders and beneficial owners of the Series 2019 Bonds. Finally, while there are provisions of the MSA purporting to deal with the situation when a PM goes into bankruptcy (including provisions regarding the termination of that PM's obligations) (see "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Termination of MSA"), such provisions may be unenforceable. NAAG has stated that it actively monitors any bankruptcy related activity of the PMs with the goals of preventing the debtors from using bankruptcy law to avoid their MSA payment obligations to the Settling States and ensuring that Settling States can continue to perform their regulatory duties despite the bankruptcy filing, but there can be no assurance that the actions of NAAG will be successful. There may be other possible effects of a bankruptcy of a PM that could result in delays and/or reductions in, or elimination of, tobacco settlement payments under the MSA. Regardless of any specific adverse determination in a PM bankruptcy proceeding, the fact of a PM bankruptcy proceeding could have a material adverse effect on the timing of receipt, amount and value of the Sold County Tobacco Assets.

Failures by PMs to Make Payments Under the MSA Could be Coupled with an Inability on the Part of the Settling States to Enforce and Collect Defaulted Payments

A PM could discontinue making required payments under the MSA for any reason. Any attempts to enforce payments under the MSA from a PM in breach could be costly and time consuming as well as likely to include litigation. For example, Vibo Corporation, Inc., d/b/a General Tobacco ("General Tobacco") ceased production of cigarettes in 2010 and has defaulted upon certain of its MSA payments. General Tobacco has stated that it will be unable to make any back payments it owes under the MSA. Two Settling States brought suit on behalf of all of the Settling States seeking full payment by General Tobacco of its MSA obligations. The ability of the Settling States to enforce and collect such payments in instances such as this is limited by the ability of the defaulting PM to meet its obligations and may be costly. Failure by other PMs to make payments could be coupled with an inability on the part of the Settling States to enforce and collect defaulted payments under the MSA, which could materially adversely affect the amount and/or timing of the Sold County Tobacco Assets and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

Series 2019 Bonds Secured Solely by the Collateral

The Series 2019 Bonds are limited obligations of the Issuer, payable from and secured solely by Revenues and the other Collateral (herein defined) pledged under the Indenture. The Bondholders have no recourse to other assets of the Issuer, including, but not limited to, any assets pledged to secure payment of any other debt obligation of the Issuer. If, notwithstanding the limitation on recourse described in the preceding sentence, any Bondholders are deemed to have an interest in any asset of the Issuer pledged to the payment of other debt obligations of the Issuer, the Bondholders' interest in such asset shall be subordinate to the claims and rights of the holders of such other debt obligations and the Indenture will constitute a subordination agreement for purposes of Section 510(a) of the U.S. Bankruptcy Code.

The Series 2019 Bonds do not constitute a charge against the general credit of the Issuer or any of its Local Agencies, including the County, and under no circumstances shall the Issuer or any Local Agency, including the County, be obligated to pay the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds, except from the Collateral pledged therefor under the Indenture. The credit of neither the State, nor any public agency of the State (other than the Issuer), nor any Local Agency of the Issuer, including the County, is pledged to the payment of the principal of or redemption premiums, if any, or interest on the Series 2019 Bonds. The Series 2019 Bonds do not constitute a debt, liability or obligation of the State or any public agency of the State (other than the Issuer) or any Local Agency of the Issuer, including the County. The County is under no obligation to make payments of the principal of, redemption premiums, if any, or interest on the Series 2019 Bonds in the event that Revenues are insufficient for the payment thereof.

Uncertainty as to Timing of Turbo Redemptions

No assurance can be given as to the timing of redemption of the Series 2019 Bonds. A certain level of payments due under the MSA has been forecast based on various assumptions, including, among others, levels of

domestic cigarette consumption as set forth in the Tobacco Consumption Report. These assumptions, which were used to provide expectations of Turbo Redemptions of the Series 2019 Bonds from Collections, are discussed in “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS.” No assurance can be given that these assumptions will be realized. Actual results could and likely will vary from such assumptions. Such variance could be material. Any material reduction in Sold County Tobacco Assets or earnings on the Pledged Accounts would impair the Collections available to make Turbo Redemptions of the Series 2019 Bonds and extend the average lives of the Series 2019 Bonds.

Owners of the Series 2019 Bonds bear the reinvestment risk from faster than expected amortization as well as the extension risk from slower than expected amortization.

Limited Remedies

The Indenture Trustee is limited under the terms of the Loan Agreement and the Purchase and Sale Agreement to enforcing the terms of such agreements and to receiving the Revenues and applying them in accordance with the Indenture. The Indenture Trustee cannot sell or foreclose on the Sold County Tobacco Assets or its rights under the Loan Agreement or the Purchase and Sale Agreement. The County, the Corporation and the Issuer have not made any representation or warranty that the MSA is enforceable. The MOU provides by its terms that the distribution of tobacco-related recoveries is not subject to alteration by legislative, judicial or executive action at any level and the County has made representations as to the enforceability of the MOU and the ARIMOU. However, such agreements cannot be enforced directly by the Corporation or the Issuer and the County has agreed to use best reasonable efforts to enforce the MOU and the ARIMOU. Remedies under the Loan Agreement and the Purchase and Sale Agreement do not include the repurchase by the County of the Sold County Tobacco Assets under any circumstances, including unenforceability of the MSA or breach of any representation or warranty. There is no direct right of enforcement by anyone other than the State against the PMs as obligors to make the TSR payments needed to make payments with respect to the Series 2019 Bonds.

Limited Liquidity of the Series 2019 Bonds; Price Volatility

There is currently a limited secondary market for securities such as the Series 2019 Bonds. The Underwriters are under no obligation to make a secondary market for the Series 2019 Bonds. There can be no assurance that a secondary market for the Series 2019 Bonds will develop, or if a secondary market does develop, that it will provide holders of the Series 2019 Bonds with liquidity or that it will continue for the life of the Series 2019 Bonds. Tobacco settlement revenue bonds generally have also exhibited greater price volatility than traditional municipal bonds. Any purchaser of the Series 2019 Bonds must be prepared to hold such securities for an indefinite period of time or until redemption or final payment of such securities.

Potential Payment Adjustments for Population Changes Under the MOU and the ARIMOU

The MOU provides that the amount of TSRs payable are subject to adjustments for population changes. The amount of the TSRs distributed to Participating Jurisdictions, including the County, pursuant to the MOU and the ARIMOU is allocated on a per capita basis, calculated using the then most current Official United States Decennial Census figures, which are currently updated every ten years. Based on the 2010 Official United States Decennial Census, approximately 5.878% of the residents of the State resided in the County. Pursuant to the MOU and the ARIMOU, the County is therefore entitled to an equivalent percentage of the 45% share of the TSRs allocable to the Participating Jurisdictions that are counties. There can be no assurance that future Official United States Decennial Census reports will not conclude that the County represents a smaller relative percentage of the overall population of the State than in 2010, or that the TSRs payable to the County will not decline. Subsequent adjustments are expected to occur at subsequent ten-year intervals following each Official United States Decennial Census, and there can be no assurance that the percentage of TSRs payable to the County will not materially decline following such adjustments. In addition, there can be no assurance that the frequency of such Official United States Decennial Census reports will not change, or that the methodology utilized by the United States in performing the Official United States Decennial Census will not change, or that any such change in methodology would not result in a determination that the County represents a smaller relative percentage of the overall State population than reported in any prior Official United States Decennial Census.

LEGAL CONSIDERATIONS

The following discussion summarizes some, but not all, of the possible legal issues that could adversely affect the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full, and could have an adverse effect on the liquidity and/or market value of the Series 2019 Bonds. The discussion does not address every possible legal challenge that could result in a decision that would cause the Sold County Tobacco Assets to be reduced or eliminated. Any reference in the discussion to an opinion is an incomplete summary of such opinion and is qualified in its entirety by reference to the actual opinion.

Bankruptcy of a PM

The enforceability of the rights and remedies of the Issuer, the Indenture Trustee and the holders of the Series 2019 Bonds and of the obligations of a PM under the MSA are subject to the Bankruptcy Code and to other applicable insolvency or similar laws. See “RISK FACTORS—Bankruptcy of a PM May Delay, Reduce or Eliminate Payments Under the MSA” for a description of risks arising from the bankruptcy of a PM, including, without limitation, the automatic stay provisions of the Bankruptcy Code, “executory contracts,” preferential payments, alteration of the terms of payment obligations, and other factors.

Recharacterization of Transfer of Sold County Tobacco Assets Could Void Transfer

As a matter of California law, the County does not have the authority to borrow money secured by the Sold County Tobacco Assets. Thus, if the transfer from the County to the Corporation is not a sale of the Sold County Tobacco Assets, but is instead a borrowing by the County secured by the Sold County Tobacco Assets, the transfer of the Sold County Tobacco Assets to the Corporation may be void. The County and the Corporation have taken steps to structure the transfer of the Sold County Tobacco Assets to the Corporation as an absolute sale and not as the grant of a security interest in the Sold County Tobacco Assets to secure a borrowing by the County. Nonetheless, no assurance can be given that a court would not find that the transfer of the Sold County Tobacco Assets to the Corporation is a secured borrowing. Because neither the Corporation nor the Issuer has any other funds with which to make payments on the Series 2019 Bonds, if there were such a finding, the Bondholders could suffer a loss of their entire investment.

Effect of Bankruptcy of the County on Sold County Tobacco Assets

Because the County is a governmental entity, it cannot be the subject of an involuntary bankruptcy case under the Bankruptcy Code. It can become a debtor only in a voluntary case.

The County and the Corporation have taken steps to structure the transfer of the Sold County Tobacco Assets to the Corporation as an absolute sale and not as the grant of a security interest in the Sold County Tobacco Assets to secure a borrowing by the County. If the County were to become a debtor in a bankruptcy case, and a party in interest (including the County itself) were to take the position that the transfer of the Sold County Tobacco Assets to the Corporation should be recharacterized as the grant of a security interest in the Sold County Tobacco Assets, then delays in payments on the Series 2019 Bonds could result. If a court were to adopt such position, then delays or reductions or elimination of payments on the Series 2019 Bonds could result. Losses suffered by Bondholders could be even more severe because, under California state law, the County does not have the authority to borrow money secured by the Sold County Tobacco Assets, and thus, if the transfer from the County to the Corporation is recharacterized as a borrowing, the transfer of the Sold County Tobacco Assets to the Corporation may be void. Because neither the Corporation nor the Issuer has any other funds with which to make payments on the Series 2019 Bonds, the Bondholders and the beneficial owners of the Bonds could suffer a loss of their entire investment in such circumstances.

The County, the Corporation, and the Issuer have taken steps to minimize the risk that in the event the County were to become the debtor in a bankruptcy case, a court would order that the assets and liabilities of the Corporation or the Issuer be substantively consolidated with those of the County. The Corporation is a separate, special purpose not-for-profit corporation, the organizational documents of which provide that it shall not commence a voluntary bankruptcy case without the unanimous affirmative vote of all of its directors, although this restriction may not be enforceable. The Issuer is a separate, special purpose joint powers authority, the organizational documents of which provide that it shall not commence a voluntary bankruptcy case without the unanimous

affirmative vote of all of its directors, although this restriction may not be enforceable. If a party in interest (including the County itself) were to take the position that the assets and liabilities of the Corporation or the Issuer should be substantively consolidated with those of the County, delays in payments on the Series 2019 Bonds could result. If a court were to adopt such position, then delays or reductions or elimination of payments on the Series 2019 Bonds could result.

Actions could be taken in a bankruptcy of the County which would adversely affect the exclusion of interest on the Series 2019 Bonds from gross income for federal income tax purposes. There may be other possible effects of the bankruptcy of the County that could result in delays or reductions or elimination of payments on the Series 2019 Bonds.

Regardless of any specific adverse determinations in a County bankruptcy proceeding, the fact of a County bankruptcy proceeding could have an adverse effect on the liquidity and value of the Series 2019 Bonds.

MSA and Qualifying Statute Enforceability

Certain parties have filed lawsuits against some, and in certain cases all, of the signatories to the MSA, alleging, among other things, that the MSA, Qualifying Statutes and Complementary Legislation violate and are void or unenforceable under certain provisions of law. See “RISK FACTORS—If Litigation Challenging the MSA, the Qualifying Statutes and Related Legislation Were Successful, Payments Under the MSA Might be Suspended or Terminated.”

Bond Counsel will render an opinion to the Issuer on the date of delivery of the Series 2019 Bonds, subject to all the facts, assumptions and qualifications set forth therein, that the MSA is a valid and binding agreement of the State, enforceable against the State in accordance with its terms and that the State’s Qualifying Statute has been duly enacted by the State and is in full force and effect.

The opinion as to the enforceability of the MSA is subject to the effect of bankruptcy, insolvency, and other laws affecting creditors’ rights or remedies and general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

See “RISK FACTORS—Payment Decreases Under the Terms of the MSA—*NPM Adjustment*” and “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—*Amendment to the State’s Qualifying Statute*.”

Limitations on Certain Opinions of Counsel

A court’s decision regarding the matters upon which a lawyer is opining would be based on such court’s own analysis and interpretation of the factual evidence before it and of applicable legal principles. Thus, if a court reached a result different from that expressed in an opinion, such as that the MSA is void or voidable or that the State’s Qualifying Statute is unenforceable, it would not necessarily constitute reversible error or be inconsistent with that opinion. An opinion of counsel is not a prediction of what a particular court (including any appellate court) that reached the issue on the merits would hold, but, instead, is the opinion of such counsel as to the proper result to be reached by a court applying existing legal rules to the facts as properly found after appropriate briefing and argument and, in addition, is not a guarantee, warranty or representation, but rather reflects the informed professional judgment of such counsel as to specific questions of law. Opinions of counsel are not binding on any court or party to a court proceeding. The descriptions of the opinions set forth herein are summaries, do not purport to be complete and are qualified in their entirety by the opinions themselves.

Enforcement of Rights to Sold County Tobacco Assets

It is possible that the State could in the future attempt to claim some or all of the TSRs for itself, or otherwise interfere with the security for the Series 2019 Bonds. In that event, the Bondholders, the Indenture Trustee, the Issuer, the Corporation, or the County may assert claims based on contractual, fiduciary, or constitutional rights, but no prediction can be made as to the disposition of such claims.

Contractual Remedies

Under California law, settlements are treated as contracts and may be enforced according to their terms. The MOU is a court-approved settlement that establishes the County's right to receive the TSRs and to bring suit against the State to enforce its right to receive the TSRs. The Purchase and Sale Agreement obligates the County to take all necessary action to protect the Corporation's interest in the Sold County Tobacco Assets. Thus, if the State violates the provisions of the MOU so as to impair the County's right to the Sold County Tobacco Assets, the Indenture Trustee, as assignee of the Corporation rights under the Purchase and Sale Agreement, could seek to compel the County to enforce its payment rights under the MOU. Such enforcement costs will be paid from the Operating Account. As interested parties, the Corporation on its own behalf and the Indenture Trustee on behalf of the Bondholders could also seek to enforce the County's rights under the MOU, although, since they are not parties to the MOU they may not have enforceable rights to do so.

Fiduciary Relationship Remedies

As the lead California plaintiff in the class action lawsuit underlying the MOU, the State stands in a relationship of faith and trust with the other class members, including the County. Among other fiduciary obligations, the State as lead plaintiff bears a duty to protect faithfully the settlement interests of the other class members. Consequently, action by the State, either unilaterally or by agreement with the OPMs, to amend the MOU, or otherwise impair the County's rights to the Sold County Tobacco Assets without its consent, may constitute a breach of the State's fiduciary duties, but it is likely that the State would deny such a breach and no prediction can be made as to the outcome of such a claim.

Constitutional Claims

The Bondholders are entitled to the benefit of the prohibitions in the United States Constitution's Contract Clause against any state's impairment of the obligation of contracts. The State has entered into the MOU and the ARIMOU allocating the State's share of the benefits of the MSA among itself and Local Agencies, including the County. The Sold County Tobacco Assets and money derived therefrom are the principal source of payment for the Series 2019 Bonds.

Based on the U.S. Supreme Court's standard of review for Contract Clause challenges in *Energy Reserves Group, Inc. v. Kansas Power & Light Co.*, the State must justify the exercise of its inherent police power to safeguard the vital interests of its people before the State may alter the MSA, the MOU or the financing arrangements in a manner that would substantially impair the rights of the Bondholders to be paid from the Sold County Tobacco Assets. However, to justify the enactment by the State of legislation that substantially impairs the contractual rights of the Bondholders to be paid from the Collateral, the State must demonstrate a significant and legitimate public purpose, such as the remedying of a broad and general social or economic problem. In the event that the State demonstrates a significant and legitimate public purpose for such legislation, the State must also show that the impairment of the Bondholders' rights are based upon reasonable conditions and are of a character appropriate to the public purpose justifying the legislation's adoption.

Finally, the Bondholders may also have constitutional claims under the Due Process Clauses of the United States and State Constitutions.

No Assurance As to the Outcome of Litigation or Arbitration Proceedings

With respect to all matters of litigation or arbitration proceedings mentioned herein that have been brought and may in the future be brought against the PMs, or involving the enforceability or constitutionality of the MSA, the NPM Adjustment Settlement and NPM Adjustment Settlement Stipulated Partial Settlement and Award, and/or the State's related legislation, Qualifying Statute or the enforcement of the right to the TSRs or otherwise filed in connection with the tobacco industry, the outcome of such litigation or arbitration proceedings, in general, cannot be predicted with certainty and depends, among other things, on (i) the issues being appropriately presented and argued before the courts (including the applicable appellate courts) and arbitration panels and (ii) the courts or panels, having been presented with such issues, correctly applying applicable legal principles in reaching appropriate decisions regarding the merits. In addition, courts and panels may, in their exercise of equitable jurisdiction, reach judgments based not upon the legal merits but upon a balancing of the equities among the parties. Accordingly, no assurance can be given as to the outcome of any such litigation or arbitration and any such adverse outcome could

materially adversely affect the amount and/or timing of the TSRs and the ability of the Issuer to pay debt service on all or a portion of the Series 2019 Bonds on a timely basis or in full.

SUMMARY OF THE MASTER SETTLEMENT AGREEMENT

The following is a brief summary of certain provisions of the MSA and related information. This summary is not complete and is subject to, and qualified in its entirety by reference to, the MSA as amended. A copy of the MSA in its original form is attached hereto as APPENDIX B. Several amendments have been made to the MSA which are not included in APPENDIX B. Except for those amendments pursuant to which certain tobacco companies became SPMs, such amendments involve technical and administrative provisions not material to the summary below. In addition, the following includes a brief summary of certain provisions of the NPM Adjustment Settlement. See “RISK FACTORS” and “LEGAL CONSIDERATIONS” herein for a discussion of certain risks related to the MSA and the NPM Adjustment Settlement. See also APPENDIX C – “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT” for a copy of the NPM Adjustment Settlement Agreement.

General

The MSA is an industry-wide settlement of litigation between the Settling States (including the State) and the four original OPMs that was entered into between the attorneys general of the Settling States and the original OPMs on November 23, 1998. The MSA provides for other tobacco companies (the “SPMs”) to become parties to the MSA. The OPMs together with the SPMs are referred to as the “PMs.” The settlement represents the resolution of a large potential financial liability of the PMs for smoking-related injuries, the costs of which have been borne and will likely continue to be borne by states. Pursuant to the MSA, the Settling States agreed to settle all their past, present and future smoking-related claims against the PMs in exchange for agreements and undertakings by the PMs concerning a number of issues. These issues include, among others, making payments to the Settling States, abiding by more stringent advertising restrictions and funding educational programs, all in accordance with the terms and conditions set forth in the MSA. Distributors of PMs’ products are also covered by the settlement of such claims to the same extent as the PMs.

Parties to the MSA

The Settling States are all of the states, territories and the District of Columbia, except for the four states (Florida, Minnesota, Mississippi and Texas) that separately settled with the original OPMs prior to the adoption of the MSA (the “Previously Settled States”). According to NAAG, the following PMs are parties to the MSA (as of February 22, 2019, NAAG’s most recent reference date):

OPMs		SPMs
Philip Morris USA Inc. (formerly Philip Morris Incorporated)	Bekenton, S.A. ⁽¹⁾	Liggett Group LLC
R.J. Reynolds Tobacco Company (formerly R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation (2004 merger) and Lorillard Tobacco Company (2015 merger))	Canary Islands Cigar Co.	Mac Baren Tobacco Company A/S
	Caribbean-American Tobacco Corp. (CATCORP)	Monte Paz (Compania Industrial de Tabacos Monte Paz S.A.)
	The Chancellor Tobacco Company, UK Ltd.	NASCO Products, LLC ⁽⁴⁾
	Commonwealth Brands, Inc.	OOO Tabaksfacrik Reemtsma Wolga (Russia)
	Daughters & Ryan, Inc.	P.T. Djarum
	M/s. Dhanraj International ⁽¹⁾	Pacific Stanford Manufacturing Corporation
	Eastern Company S.A.E.	Peter Stokkebye Tobaksfabrik A/S
	Ets L Lacroix Fils NV S.A. (Belgium)	Planta Tabak-manufaktur GmbH & Co.
	Farmers Tobacco Company of Cynthiana, Inc.	Poschl Tabak GmbH & Co. KG
	General Jack's Incorporated	Premier Manufacturing Incorporated
	General Tobacco (Vibo Corporation d/b/a General Tobacco) ⁽²⁾	Reemtsma Cigarettenfabriken GmbH (Reemtsma)
	House of Prince A/S	Santa Fe Natural Tobacco Company, Inc.
	Imperial Tobacco Limited/ITL (USA) Limited	Scandinavian Tobacco Group Lane Ltd. (formerly Lane Limited and Tobacco Exporters International (USA) Ltd.)
	Imperial Tobacco Limited/ITL (UK)	Sherman's 1400 Broadway N.Y.C., LLC ⁽⁵⁾
	Imperial Tobacco Mullingar (Ireland)	Societe National d'Exploitation Industrielle des Tabacs et Allumettes (SEITA)
	Imperial Tobacco Polska S.A. (Poland)	Tabacalera del Este, S.A. (TABESA)
	Imperial Tobacco Production Ukraine	Top Tobacco, LP
	Imperial Tobacco Sigara ve Tutunculuk Sanayi Ve Ticaret S.A. (Turkey)	U.S. Flue-Cured Tobacco Growers, Inc.
	International Tobacco Group (Las Vegas), Inc.	Van Nelle Tabak Nederland B.V. (Netherlands)
	ITG Brands, LLC (formerly known as Lignum-2, LLC) ⁽³⁾	Vector Tobacco Inc. (formerly Vector Tobacco Inc. and Medallion Company, Inc.)
	Japan Tobacco International USA, Inc.	Virginia Carolina Corporation, Inc.
	King Maker Marketing	Von Eicken Group
	Konci Group (USA) Inc. (formerly known as Konci G&D Management Group (USA) Inc.)	Wind River Tobacco Company, LLC
	Kretek International	VIP Tobacco USA, LTD. (formerly Winner Sales Company)
	Liberty Brands, LLC ⁽¹⁾	ZNF International, LLC

⁽¹⁾ Has filed for bankruptcy relief. There may be other PMs that have filed for bankruptcy relief, of which the Issuer is not aware. NAAG reports that other tobacco manufacturers that had been SPMs are no longer SPMs due to dissolution from bankruptcy or otherwise.

⁽²⁾ Ceased production of cigarettes and other tobacco products.

⁽³⁾ OPM with respect to those cigarette brands purchased from Reynolds Tobacco and Lorillard.

⁽⁴⁾ Acquired by 22nd Century Group, Inc. in August 2014, with 22nd Century Group, Inc. and its subsidiaries becoming signatories to an adherence agreement to the MSA, according to news reports.

⁽⁵⁾ Altria acquired Sherman Group Holdings, LLC and its subsidiaries in January 2017.

The MSA restricts PMs from transferring their tobacco product brands, cigarette product formulas and cigarette businesses (unless they are being transferred exclusively for use outside the United States) to any entity that is not a PM under the MSA, unless the transferee agrees to assume the obligations of the transferring PM under the MSA related to such brands, formulas or businesses. The MSA expressly provides that the payment obligations of each PM are not the obligation or responsibility of any affiliate of such PM or any other PM and, further, that the remedies, penalties and sanctions that may be imposed or assessed in connection with a breach or violation of the MSA will only apply to the PMs and not against any other person or entity. Obligations of the SPMs, to the extent that they differ from the obligations of the OPMs, are described below under “—Subsequent Participating Manufacturers.”

Scope of Release

Under the MSA, the PMs and the other “Released Parties” (defined below) are released from:

- claims based on past conduct, acts or omissions (including any future damages arising therefrom) in any way relating to the use, sale, distribution, manufacture, development, advertising, marketing or health effects of, or exposure to, or research statements or warnings regarding, tobacco products; and
- monetary claims based on future conduct, acts or omissions in any way relating to the use of or exposure to tobacco products manufactured in the ordinary course of business, including future claims for reimbursement of healthcare costs.

This release is binding upon each Settling State and any of its past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions. The MSA is further stated to be binding on the following persons, to the full extent of the power of the signatories to the MSA to release past, present and future claims on their behalf: (i) any Settling State’s subdivisions (political or otherwise, including, but not limited to, municipalities, counties, parishes, villages, unincorporated districts and hospital districts), public entities, public instrumentalities and public educational institutions; and (ii) persons or entities acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or any other capacity, whether or not any of them participate in the MSA (a) to the extent that any such person or entity is seeking relief on behalf of or generally applicable to the general public in such Settling State or the people of such Settling State, as opposed solely to private or individual relief for separate and distinct injuries, or (b) to the extent that any such entity (as opposed to an individual) is seeking recovery of healthcare expenses (other than premium or capitation payments for the benefit of present or retired state employees) paid or reimbursed, directly or indirectly, by a Settling State. All such persons or entities are referred to collectively in the MSA as “**Releasing Parties.**”

To the extent that the attorney general of a Settling State does not have the power or authority to bind any of the Releasing Parties in such state, the release of claims contemplated by the MSA may be ineffective as to the Releasing Parties and any amounts that become payable by the PMs on account of their claims, whether by way of settlement, stipulated judgment or litigated judgment, will trigger the Litigating Releasing Parties Offset. See “—Adjustments to Payments.”

The release inures to the benefit of all PMs and their past, present and future affiliates, and the respective divisions, officers, directors, employees, representatives, insurers, lenders, underwriters, tobacco-related organizations, trade associations, suppliers, agents, auditors, advertising agencies, public relations entities, attorneys, retailers and distributors of any PM or any such affiliate (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing). They are referred to in the MSA individually as a “**Released Party**” and collectively as the “**Released Parties.**” However, the term “Released Parties” does not include any person or entity (including, but not limited to, an affiliate) that is an NPM at any time after the MSA execution date, unless such person or entity becomes a PM.

Overview of Payments by the Participating Manufacturers; MSA Escrow Agent

The MSA requires that the PMs make several types of payments, including Initial Payments, Annual Payments and Strategic Contribution Payments, as discussed below.* These payments (with the exception of the upfront Initial Payment) are subject to various adjustments and offsets, some of which could be material. See “—Adjustments to Payments” and “—Subsequent Participating Manufacturers” below. SPMs were not required to make Initial Payments. The OPMs have made all of the Initial Payments. Thus far, most of the PMs[†] have made the Annual Payments due in 2000 through, and including, 2018, and Strategic Contribution Payments due in 2008 through, and including, 2017, which was the last year in which such Strategic Contribution Payments were due (subject, in each case, to certain withholdings and payments into the DPA, including as described in “—NPM Adjustment Claims and NPM Adjustment Settlement”). See “—Payments Made to Date” below.

Payments required to be made by the OPMs are calculated annually based on actual domestic shipments of cigarettes in the prior calendar year by reference to the OPMs’ domestic shipment of cigarettes in 1997, with consideration under certain circumstances for the profitability of each OPM. Payments to be made by the SPMs are recalculated each year based on the Market Share of each individual SPM in relation to the Market Share of the OPMs. For SPMs that became signatories to the MSA within 90 days of its execution, payments are recalculated each year based on the Market Share less the Base Share of such SPM in relation to the Market Share of the OPMs. See “—Subsequent Participating Manufacturers” below. Pursuant to an escrow agreement (the “**MSA Escrow Agreement**”) established in conjunction with the MSA, Annual Payments are to be made to Citibank, N.A., as escrow agent (the “**MSA Escrow Agent**”), which in turn will disburse the funds to the parties entitled thereto.

Beginning with the payments due in the year 2000, PricewaterhouseCoopers LLP, the independent auditor under the MSA (the “**MSA Auditor**”) has, among other things, calculated and determined the amount of all payments owed pursuant to the MSA, the adjustments, reductions and offsets thereto (and all resulting carry-forwards, if any) and the allocation of such payments, adjustments, reductions, offsets and carry-forwards among the PMs and among the Settling States. This information is not publicly available and the MSA Auditor has agreed to maintain the confidentiality of all such information, except that the MSA Auditor may provide such information to PMs and the Settling States as set forth in the MSA.

Initial Payments

Initial Payments were made only by the OPMs. In December 1998, the OPMs collectively made an upfront Initial Payment of \$2.40 billion. The 2000 Initial Payment, which had a scheduled base amount of approximately \$2.47 billion, was paid in December 1999 in the approximate amount of \$2.13 billion due to various adjustments. The 2001 Initial Payment, which had a scheduled base amount of approximately \$2.55 billion, was paid in December 2000 in the approximate amount of \$2.04 billion after taking into account various adjustments and an earlier overpayment. The 2002 Initial Payment, which had a scheduled base amount of approximately \$2.62 billion, was paid in December 2001, in the approximate amount of \$1.89 billion after taking into account various adjustments and a deposit made to the DPA. Approximately \$204 million, which was substantially all of the money previously deposited in the DPA for payment to the Settling States, was distributed to the Settling States with the Annual Payment due April 15, 2002. The 2003 Initial Payment, which had a scheduled base amount of approximately \$2.7 billion, was paid in December 2002 and January 2003, in the approximate amount of \$2.14 billion after taking into account various adjustments. No Initial Payments were due after the 2003 Initial Payment.

* Other payments that are required to be made by the PMs, such as payments of attorneys’ fees and payments to a national foundation established pursuant to the MSA, are not allocated to the Settling States and are not available to the holders of the Bonds, and consequently are not discussed herein.

[†] Vibo Corporation, Inc., d/b/a General Tobacco, ceased production of cigarettes in 2010 and has defaulted upon certain of its MSA payments. General Tobacco has stated that it will be unable to make any back payments it owes under the MSA.

Annual Payments

The OPMs and the other PMs are required to make Annual Payments on each April 15 in perpetuity. Most of the PMs made the Annual Payments due April 15 in each of the years 2000 through 2019. The MSA sets forth the following table of scheduled base amounts of Annual Payments:

Base Amounts of Annual Payments⁽¹⁾

<u>Payment Year</u>	<u>Base Amount</u>	<u>Payment Year</u>	<u>Base Amount</u>
2000	\$4,500,000,000	2010	\$8,139,000,000
2001	5,000,000,000	2011	8,139,000,000
2002	6,500,000,000	2012	8,139,000,000
2003	6,500,000,000	2013	8,139,000,000
2004	8,000,000,000	2014	8,139,000,000
2005	8,000,000,000	2015	8,139,000,000
2006	8,000,000,000	2016	8,139,000,000
2007	8,000,000,000	2017	8,139,000,000
2008	8,139,000,000	Thereafter	9,000,000,000
2009	8,139,000,000		

⁽¹⁾ The Annual Payments from 2000 through 2019 have been made. Adjustments to Annual Payments for a given year may impact Annual Payments due in subsequent years. This table reflects base amounts of Annual Payments only, and does not reflect adjustments. Actual payments received have been substantially lower than the base amounts due to the application of adjustments. See “—Payments Made to Date” below.

The respective portion of each base amount applicable to each OPM is calculated by multiplying the base amount by the OPM’s Relative Market Share (defined below) during the preceding calendar year. The base annual payments in the above table will be increased by at least the minimum 3% Inflation Adjustment, adjusted by the Volume Adjustment, reduced by the Previously Settled States Reduction, and further adjusted by the other adjustments described below. Each SPM has Annual Payment obligations under the MSA (separate from the payment obligations of the OPMs) according to its market share. However, any SPM that became a party to the MSA within 90 days after it became effective pays only if its market share exceeds the higher of its 1998 market share or 125% of its 1997 market share (such higher share, the “**Base Share**”).

“**Relative Market Share**” is defined as an OPM’s percentage share of the number of cigarettes shipped by all OPMs in or to the 50 states, the District of Columbia and Puerto Rico (defined hereafter as the “**United States**”), as measured by the OPM’s reports of shipments to Management Science Associates, Inc. (“**MSAI**”) (or any successor acceptable to all the OPMs and a majority of the attorneys general of the Settling States who are also members of the NAAG executive committee). The term “**cigarette**” is defined in the MSA to mean any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, contains tobacco and is likely to be offered to, or purchased by, consumers as a cigarette and includes “roll-your-own” tobacco.

The base amounts shown in the table above are subject to the following adjustments applied in the following order:

- the Inflation Adjustment,
- the Volume Adjustment,
- the Previously Settled States Reduction,
- the Non-Settling States Reduction,
- the NPM Adjustment,
- the Offset for Miscalculated or Disputed Payments,
- the Litigating Releasing Parties Offset, and
- the Offset for Claims-Over.

Application of these adjustments resulted in a material reduction of the TSRs under the MSA from the scheduled base amounts for the years 2000 through 2018, as discussed below under the caption “—Payments Made to Date.”

Strategic Contribution Payments

The OPMs were required to make Strategic Contribution Payments on April 15 of each year from 2008 through 2017. Most of the PMs made the Strategic Contribution Payments due April 15 in each of the years 2008 through 2017. The base amount of each Strategic Contribution Payment was \$861 million. The respective portion of the base amount applicable to each OPM was calculated by multiplying the base amount by the OPM’s Relative Market Share during the preceding calendar year. The SPMs were required to make Strategic Contribution Payments if their Market Share increased above their respective Base Shares. See “—Subsequent Participating Manufacturers” below.

The base amounts of the Strategic Contribution Payments were subject to the adjustments as described in “—Annual Payments” above, except for the Previously Settled States Reduction, which was not applicable to Strategic Contribution Payments. Application of the adjustments resulted in a material reduction of the Strategic Contribution Payments due to the State under the MSA from the scheduled base amount for the years 2000 through 2017, as discussed below under the caption “—Payments Made to Date.” No Strategic Contribution Payments are due after the 2017 Strategic Contribution Payment.

Adjustments to Payments

The base amounts of the Annual Payments are subject to certain adjustments to be applied sequentially and in accordance with formulas contained in the MSA.

Inflation Adjustment

The base amounts of the Annual Payments are increased each year to account for inflation. The increase in each year will be 3% or a percentage equal to the percentage increase in the Consumer Price Index (the “**CPI**”) (or such other similar measures as may be agreed to by the Settling States and the PMs) for the preceding year, whichever is greater (the “**Inflation Adjustment**”). The inflation adjustment percentages are compounded annually on a cumulative basis beginning in 1999 and were first applied in 2000.

Volume Adjustment

Each of the Annual Payments is increased or decreased by an adjustment which accounts for fluctuations in the number of cigarettes shipped by the OPMs in or to the United States (the “**Volume Adjustment**”).

If the aggregate number of cigarettes shipped in or to the United States by the OPMs in any given year (the “**Actual Volume**”) is greater than 475,656,000,000 cigarettes (the “**Base Volume**”), the base amount allocable to the OPMs is adjusted to equal the base amount (after application of the Inflation Adjustment) multiplied by a ratio, the numerator of which is the Actual Volume and the denominator of which is the Base Volume.

If the Actual Volume in a given year is less than the Base Volume, the base amount due from the OPMs (after application of the Inflation Adjustment) is decreased by 98% of the percentage by which the Actual Volume is less than the Base Volume, multiplied by such base amount. If, however, the aggregate operating income of the OPMs from sales of cigarettes in the United States during the year (the “**Actual Operating Income**”) is greater than \$7,195,340,000, as adjusted for inflation in accordance with the Inflation Adjustment (the “**Base Operating Income**”), all or a portion of the volume reduction is added back (the “**Income Adjustment**”). The amount by which the Actual Operating Income of the OPMs exceeds the Base Operating Income is multiplied by the percentage of the allocable shares under the MSA represented by Settling States in which State-Specific Finality (as defined in the MSA) has been reached and divided by four, then added to the payment due. However, in no case will the amount added back due to the increase in operating income exceed the amount deducted due to the decrease in domestic volume. Any add-back due to an increase in Actual Operating Income will be allocated among the OPMs on a Pro Rata basis in accordance with their respective increases in Actual Operating Income over 1997 Base Operating Income.

Certain PMs and Settling States were in dispute regarding whether the “roll-your-own” tobacco conversion for OPMs of 0.0325 ounces for one individual cigarette should continue to be used for purposes of calculating the downward Volume Adjustments to the MSA payments (as Settling States contended), or, rather, a 0.09 ounce conversion (as PMs contended). Forty-three jurisdictions entered into arbitration, and in an award dated January 21, 2013, the arbitration panel held that the MSA Auditor is to use the 0.0325 ounce conversion method for OPMs for purposes of roll-your-own tobacco. The State was not a party to this arbitration proceeding.

Previously Settled States Reduction

The base amounts of the Annual Payments (as adjusted by the Inflation Adjustment and the Volume Adjustment, if any) are subject to a reduction reflecting the four states that had settled with the OPMs prior to the adoption of the MSA (Mississippi, Florida, Texas and Minnesota) (the “**Previously Settled States Reduction**”). The Previously Settled States Reduction reduces by 12.4500000% each applicable payment on or before December 31, 2007, by 12.2373756% each applicable payment between January 1, 2008 and December 31, 2017, and by 11.0666667% each applicable payment on or after January 1, 2018. The SPMs are not entitled to any reduction pursuant to the Previously Settled States Reduction.

PSS Credit Amendment. Most of the Settling States have executed documentation approving an amendment to the MSA that would allow SPMs to elect to receive a reduction in their MSA payments in an amount equal to a percentage (100% or a lesser percentage, depending on the SPM’s election and the number of years the amendment has been in effect) of the fees paid to Previously Settled States pursuant to state legislation in the Previously Settled States requiring tobacco product manufacturers that did not sign onto the Previously Settled State Settlements to pay a fee to such Previously Settled States (the “**PSS Credit Amendment**”). The PSS Credit Amendment would also provide for certain increases in the electing SPMs’ MSA payments. Three Previously Settled States impose a fee on tobacco product manufacturers that did not sign onto the applicable state’s Previously Settled State Settlement (\$0.50 per pack of 20 cigarettes in Minnesota, \$0.27, adjusted for inflation, per pack of 20 cigarettes in Mississippi, and \$0.55 per pack of 20 cigarettes in Texas; see “CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY—Regulatory Issues—Excise Taxes” for a discussion of litigation relating to the Texas fee). The PSS Credit Amendment is not currently in effect, because by its terms it will only take effect if and when all Settling States having aggregate Allocable Shares equal to at least 99.937049% (the equivalent of the aggregate Allocable Share of the 46 states that are Settling States), and all OPMs and Commonwealth Brands, Inc., have executed the PSS Credit Amendment. To the knowledge of the Issuer, the State has not yet executed documentation approving the PSS Credit Amendment, as further described under “—NPM Adjustment Claims and NPM Adjustment Settlement—NPM Adjustment Settlement and Award” below. No assurance can be given as to if or when the PSS Credit Amendment will take effect. Further, no assurance can be given as to whether the PSS Credit Amendment, if and when it takes effect, will reduce the amount of Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds. See “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—Amendments, Waivers and Termination” and “—Reliance on State Enforcement of the MSA; State Impairment.”

Non-Settling States Reduction

In the event that the MSA terminates as to any Settling State, the remaining Annual Payments, if any, due from the PMs shall be reduced to account for the absence of such state. This adjustment has no effect on the amounts to be collected by states which remain a party to the MSA, and the reduction is therefore not detailed.

Non-Participating Manufacturers Adjustment

The “**NPM Adjustment**” under the MSA is based upon market share increases, measured by domestic sales of cigarettes by NPMs, and operates to reduce the payments of the PMs under the MSA in the event that the PMs incur losses in market share to NPMs during a calendar year as a result of the MSA.

Under the MSA, three conditions must be met in order to trigger an NPM Adjustment: (1) the aggregate market share of the PMs in any year must fall more than 2% below the aggregate market share held by those same PMs in 1997, (2) a nationally recognized firm of economic consultants must determine that the disadvantages experienced as a result of the provisions of the MSA were a significant factor contributing to the market share loss for the year in question, and (3) the Settling States in question must be proven to not have diligently enforced their

Model Statutes. Once a significant factor determination in favor of the PMs for a particular year has been made by an economic consulting firm, or the states' agreement not to contest that the disadvantages of the MSA were a significant factor contributing to the PMs' collective loss of market share in a particular year has become effective (as occurred with respect to certain years discussed below under "*—NPM Adjustment Settlement Non-Signatories' Ongoing NPM Adjustment Claims*"), a PM has the right under the MSA to pay the disputed amount of the NPM Adjustment for that year into the DPA or withhold it altogether. The NPM Adjustment, after conclusion of the applicable arbitration regarding diligent enforcement for the relevant sales year, is applied to the subsequent year's Annual Payment and the decrease in total funds available as a result of the NPM Adjustment is then allocated on a Pro Rata basis among those Settling States that have been found (i) to not diligently enforce their Qualifying Statutes, or (ii) to have enacted the Model Statute or a Qualifying Statute that is declared invalid or unenforceable by a court of competent jurisdiction.

The 1997 market share percentage for the PMs, less 2%, is defined in the MSA as the "Base Aggregate Participating Manufacturer Market Share." If the PMs' actual aggregate market share is between 0% and 16 2/3% less than the Base Aggregate Participating Manufacturer Market Share, the amounts paid by the PMs would be decreased by three times the percentage decrease in the PMs' actual aggregate market share. If, however, the aggregate market share loss from the Base Aggregate Participating Manufacturer Market Share is greater than 16 2/3%, the NPM Adjustment will be calculated as follows:

$$\begin{aligned} \text{NPM Adjustment} &= 50\% + \\ &[50\% / (\text{Base Aggregate Participating Manufacturer Market Share} - 16\frac{2}{3}\%)] \\ &\times [\text{market share loss} - 16\frac{2}{3}\%] \end{aligned}$$

Regardless of how the NPM Adjustment is calculated, it is always subtracted from, and may not exceed, the total Annual Payments due from the PMs in any given year. The NPM Adjustment for any given year for a specific state cannot exceed the amount of Annual Payments due to such state. The NPM Adjustment does not apply at all if the number of cigarettes shipped in or to the United States in the year prior to the year in which the payment is due by all manufacturers that were PMs prior to December 7, 1998 exceeds the number of cigarettes shipped in or to the United States by all such PMs in 1997.

The NPM Adjustment is also state-specific in that a Settling State may avoid or mitigate the effects of an NPM Adjustment by enacting and diligently enforcing the Model Statute or a Qualifying Statute. Any Settling State that adopts and diligently enforces the Model Statute or a Qualifying Statute is exempt from the NPM Adjustment. The decrease in total funds available due to the NPM Adjustment is allocated on a Pro Rata basis among those Settling States that either (i) did not enact and diligently enforce the Model Statute or Qualifying Statute, or (ii) enacted the Model Statute or a Qualifying Statute that is declared invalid or unenforceable by a court of competent jurisdiction. The practical effect of a decision by a PM to claim an NPM Adjustment for a given year and pay its portion of the amount of such claimed NPM Adjustment into the DPA, or withhold payment of such amount, would be to reduce the payments to all Settling States on a pro rata basis until a resolution is reached regarding the diligent enforcement dispute for all Settling States for such year, or until a settlement is reached for some or all such disputes for such year (such as in the NPM Adjustment Settlement discussed below). If the PMs make a claim for an NPM Adjustment for any particular year and a state is determined to be one of a few states (or the only state) not to have diligently enforced its Model Statute or Qualifying Statute in such year, the amount of the NPM Adjustment applied to such state in the year following such determination could be as great as the amount of Annual Payments that could otherwise have been received by such state in such year.

If a Settling State enacts and diligently enforces a Qualifying Statute that is the Model Statute but it is declared invalid or unenforceable by a court of competent jurisdiction, the NPM Adjustment for any given year will not exceed 65% of the amount of such state's allocated payment for the subsequent year. If a Qualifying Statute that is not the Model Statute is held invalid or unenforceable, however, such state is not entitled to any protection from the NPM Adjustment. Moreover, if a state adopts the Model Statute or a Qualifying Statute but then repeals it or amends it in such fashion that it is no longer a Qualifying Statute, then such state will no longer be entitled to any protection from the NPM Adjustment. At all times, a state's protection from the NPM Adjustment is conditioned upon the diligent enforcement of its Model Statute or Qualifying Statute, as the case may be. See "RISK FACTORS—Payment Decreases Under the Terms of the MSA" above and "SUMMARY OF THE MASTER

SETTLEMENT AGREEMENT—MSA Provisions Relating to Model/Qualifying Statutes” below. See also “—Most Favored Nation Provisions.”

For a discussion of the terms of the NPM Adjustment Settlement, which the State joined and which settled claims related to the 2003 through 2015 NPM Adjustments and set forth a methodology for determining subsequent NPM Adjustments, and matters related thereto, and for a discussion of the terms of the 2016 and 2017 NPM Adjustments Settlement Agreement, which the State joined and which settled claims related to the 2016 and 2017 NPM Adjustments, and matters related thereto, see “—NPM Adjustment Claims and NPM Adjustment Settlement” below.

Offset for Miscalculated or Disputed Payments

If information becomes available to the MSA Auditor not later than four years after the scheduled due date of any payment due pursuant to the MSA showing an underpayment or overpayment by a PM, the MSA Auditor will recalculate the payment and make provisions for rectifying the error (the “**Offset for Miscalculated or Disputed Payments**”). There are no time limits specified for recalculations although the MSA Auditor is required to determine amounts promptly. Disputes as to determinations by the MSA Auditor may be submitted to binding arbitration governed by the Federal Arbitration Act. In the event that mispayments have been made, they will be corrected through payments with interest (in the event of underpayments) or withholdings with interest (in the event of overpayments). Interest will be at the prime rate, except where a party fails to pay undisputed amounts or fails to provide necessary information readily available to it, in which case a penalty rate of prime plus 3% applies. If a PM disputes any required payment, it must determine whether any portion of the payment is undisputed and pay that amount for disbursement to the Settling States. The disputed portion may be paid into the DPA pending resolution of the dispute, or may be withheld. Failure to pay such disputed amounts into the DPA can result in liability for interest at the penalty rate if the disputed amount was in fact properly due and owing. See “RISK FACTORS—Payment Decreases Under the Terms of the MSA.”

Litigating Releasing Parties Offset

If any Releasing Party initiates litigation against a PM for any of the claims released in the MSA, the PM may be entitled to an offset against such PM’s payment obligation under the MSA (the “**Litigating Releasing Parties Offset**”). A defendant PM may offset dollar-for-dollar any amount paid in settlement, stipulated judgment or litigated judgment against the amount to be collected by the applicable Settling State under the MSA only if the PM has taken all ordinary and reasonable measures to defend that action fully and only if any settlement or stipulated judgment was consented to by the state attorney general. The Litigating Releasing Parties Offset is state-specific. Any reduction in MSA payments as a result of the Litigating Releasing Parties Offset would apply only to the Settling State of the Releasing Party.

Offset for Claims-Over

If a Releasing Party pursues and collects on a released claim against an NPM or a retailer, supplier or distributor arising from the sale or distribution of tobacco products of any NPM or the supply of component parts of tobacco products to any NPM (collectively, the “**Non-Released Parties**”), and the Non-Released Party in turn successfully pursues a claim for contribution or indemnification against a Released Party (as defined herein), the Releasing Party must (i) reduce or credit against any judgment or settlement such Releasing Party obtains against the Non-Released Party the full amount of any judgment or settlement such Non-Released Party may obtain against the Released Party, and (ii) obtain from such Non-Released Party for the benefit of such Released Party a satisfaction in full of such Non-Released Party’s judgment or settlement against the Released Party. In the event that such reduction or satisfaction in full does not fully relieve the Released Party of its duty to pay to the Non-Released Party, the PM is entitled to a dollar-for-dollar offset from its payment to the applicable Settling State (the “**Offset for Claims-Over**”). For purposes of the Offset for Claims-Over, any person or entity that is enumerated in the definition of Releasing Party set forth above is treated as a Releasing Party without regard to whether the applicable attorney general had the power to release claims of such person or entity. The Offset for Claims-Over is state-specific and would apply only to MSA payments owed to the Settling State of the Releasing Party.

Subsequent Participating Manufacturers

SPMs are obligated to make Annual Payments, which are made at the same times as the corresponding payments to be made by OPMs. Such payments for SPMs are calculated differently, however, from such payments for OPMs. Each SPM's payment obligation is determined according to its market share if, and only if, its "**Market Share**" (defined in the MSA to mean a manufacturer's share, expressed as a percentage, of the total number of cigarettes sold in the United States in a given year, as measured by excise taxes (or similar taxes, in the case of Puerto Rico)), for the year preceding the payment exceeds its Base Share. If an SPM executes the MSA after February 22, 1999 (*i.e.*, 90 days after the effective date of the MSA), its Base Share, is deemed to be zero. Fourteen of the current 52 SPMs signed the MSA on or before the February 22, 1999 deadline, according to NAAG.

For each Annual Payment, each SPM is required to pay an amount equal to the base amount of the Annual Payment owed by the OPMs, collectively, adjusted for the Volume Adjustment described above but prior to any other adjustments, reductions or offsets, multiplied by (i) the difference between that SPM's Market Share for the preceding year and its Base Share, divided by (ii) the aggregate Market Share of the OPMs for the preceding year. Other than the application of the Volume Adjustment, payments by the SPMs are also subject to the same adjustments (including the Inflation Adjustment), reductions and offsets as are the payments made by the OPMs, with the exception of the Previously Settled States Reduction.

Because the Annual Payments to be made by the SPMs are calculated in a manner different from the calculations for Annual Payments to be made by the OPMs, a change in market share between the OPMs and the SPMs could cause the amount of Annual Payments required to be made by the PMs in the aggregate to be greater or less than the amount that would be payable if their market share remained the same. In certain circumstances, an increase in the market share of the SPMs could increase the aggregate amount of Annual Payments because the Annual Payments to be made by the SPMs are not adjusted for the Previously Settled States Reduction. However, in other circumstances, an increase in the market share of the SPMs could decrease the aggregate amount of Annual Payments because the SPMs are not required to make any Annual Payments unless their market share increases above their Base Share, or because of the manner in which the Inflation Adjustment is applied to each SPM's payments.

Certain PMs and Settling States were in dispute regarding whether the payment obligations of one SPM (Liggett Group LLC) should continue to be determined based on the "net" number of cigarettes on which federal excise tax is paid (as Settling States contended), or, rather, an "adjusted gross" number of cigarettes (as PMs contended). Forty-three jurisdictions entered into arbitration, and in an award dated January 21, 2013, the arbitration panel held that the MSA Auditor is to use the market share for Liggett Group LLC on a net basis, but increase that calculation by a specified factor to avoid unfairness given the gross basis used for Liggett Group LLC in the MSA Auditor's March 30, 2000 calculation. The State was not a party to this arbitration proceeding.

Payments Made to Date

As required, the OPMs made all of the Initial Payments due in the years 1998 to 2003 (the last year such payments were due), and most PMs made the Strategic Contribution Payments due in the years 2008 to 2017 (the last year such payments were due). Most PMs have made Annual Payments each year since 2000, the first year that Annual Payments were due. The California Escrow Agent has disbursed to the Issuer its allocable portions thereof and certain other amounts under the MSA, the MOU and the ARIMOU. Under the MSA, the computation of Annual Payments by the MSA Auditor is confidential and may not be used for purposes other than those stated in the MSA. The County's and the Issuer's sole sources of information regarding the computation and amount of such payments are the reports and accountings furnished to them by the State.

The following table sets forth for each of the preceding 10 years the base amount of Annual Payments and Strategic Contribution Payments allocable to the County pursuant to the MSA, as modified by the MOU and the ARIMOU, and the amounts actually received in such year, as described below. The amounts actually received may reflect adjustments attributable to prior years' payments. The "Base Payment Allocable to the County" presented in the table below includes both the Sold County Tobacco Assets and the Unsold County Tobacco Assets. The "Actual Receipts of TSRs" presented in the table below include only the Sold County Tobacco Assets.

Year ⁽¹⁾	Base Payment Allocable to the County ⁽²⁾⁽⁴⁾	Actual Receipts of TSRs ⁽³⁾⁽⁴⁾
2010 Annual Payment and Strategic Contribution Payment	\$22.24 million	\$15.65 million
2011 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$19.08 million
2012 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$19.46 million
2013 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$29.33 million
2014 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$19.28 million
2015 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$19.09 million
2016 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$18.87 million
2017 Annual Payment and Strategic Contribution Payment	\$28.66 million	\$19.41 million
2018 Annual Payment	\$30.38 million	\$23.17 million
2019 Annual Payment	\$30.38 million	\$22.46 million

⁽¹⁾ Annual Payments are, and Strategic Contribution Payments were, due from the PMs on April 15 of the applicable calendar year (payment year) pursuant to the MSA. Actual receipts are listed as of June 30 of each year.

⁽²⁾ Rounded. The County's allocable portion of base payments as represented in this table consists of the State's 12.7639554% share of Annual Payments under the MSA, and the State's 5.1730408% share of Strategic Contribution Payments under the MSA, in each case multiplied by (i) for 2010, the County's 2.053116% share pursuant to the MOU and the ARIMOU based upon County and State populations of 1,545,387 and 33,871,648, respectively, according to the 2000 Official United States Decennial Census and (ii) for 2011 through 2019, the County's 2.644923% share pursuant to the MOU and the ARIMOU based upon County and State populations of 2,189,641 and 37,253,956, respectively, according to the 2010 Official United States Decennial Census.

⁽³⁾ Rounded. Reflects adjustments. Amounts are set forth to the best of the County's and the Issuer's knowledge. For fiscal years ending June 30, 2013 onward, reflects the NPM Adjustment Settlement (including a release from the DPA in 2013), as discussed herein. Any adjustment is reflected in the period in which it was actually made.

⁽⁴⁾ This table reflects the base payments allocable to the County pursuant to the MSA, the MOU and the ARIMOU and the actual receipts of the TSRs by the County. A portion of such amounts (the first \$10.0 million) constitute Unsold County Tobacco Assets and were not available for payment of the Bonds.

The terms of the MSA relating to such payments and various adjustments thereto are described above under the captions "—Annual Payments," "—Strategic Contribution Payments" and "—Adjustments to Payments." One or more of the PMs are disputing or have disputed the calculations of some of the Annual Payments for the years 2000 through 2018 and Strategic Contribution Payments for the years 2008 through 2017, as described further herein. In addition, subsequent revisions in the information delivered to the MSA Auditor (on which the MSA Auditor's calculations of Annual Payments are based) have in the past and may in the future result in a recalculation of the payments shown above. Such revisions may also result in routine recalculation of future payments. No assurance can be given as to the magnitude of any such recalculation and such recalculation could trigger the Offset for Miscalculated or Disputed Payments.

Most Favored Nation Provisions

In the event that any non-foreign governmental entity other than the federal government should reach a settlement of released claims with PMs that provides more favorable terms to the governmental entity than does the MSA to the Settling States, the terms of the MSA will be modified to match those of the more favorable settlement. Only the non-economic terms may be considered for comparison.

In the event that any Settling State should reach a settlement of released claims with NPMs that provides more favorable terms to the NPMs than the MSA does to the PMs, or relieves in any respect the obligation of any PM to make payments under the MSA, the terms of the MSA will be deemed modified to match the NPM settlement or such payment terms, but only with respect to the particular Settling State. In no event will the adjustments discussed in this paragraph modify the MSA with regard to other Settling States. See “RISK FACTORS—Payment Decreases Under the Terms of the MSA.”

Disbursement of Funds from Escrow

The MSA Auditor makes all calculations necessary to determine the amounts to be paid by each PM, as well as the amounts to be disbursed to each of the Settling States. Not less than 40 days prior to the date on which any payment is due, the MSA Auditor must provide copies of the disbursement calculations to all parties to the MSA, who must within 30 days prior to the date on which such payment is due advise the other parties if it questions or challenges the calculations. The final calculation is due from the MSA Auditor not less than 15 days prior to the payment due date. The calculation is subject to further adjustments if previously missing information is received. In the event of a challenge to the calculations, the non-challenged part of a payment shall be processed in the normal course. Challenges will be submitted to binding arbitration. The information provided by the MSA Auditor to the State with respect to calculations of amounts to be paid by PMs is confidential under the terms of the MSA and may not be disclosed to the Issuer or the Owners.

Disbursement of the funds by the MSA Escrow Agent from the escrow accounts shall occur within ten business days of receipt of the particular funds. The MSA Escrow Agent will disburse the funds due to, or as directed by, each Settling State in accordance with instructions received from that state.

Advertising and Marketing Restrictions; Educational Programs

The MSA prohibits the PMs from certain advertising, marketing and other activities that may promote the sale of cigarettes and smokeless tobacco products (“**Tobacco Products**”). Under the MSA, the PMs are generally prohibited from targeting persons under 18 years of age within the Settling States in the advertising, promotion or marketing of Tobacco Products and from taking any action to initiate, maintain or increase smoking by underage persons within the Settling States. Specifically, the PMs may not: (i) use any cartoon characters in advertising, promoting, packaging or labeling Tobacco Products; (ii) distribute any free samples of Tobacco Products except in a restricted facility where the operator thereof is able to ensure that no underage persons are present; or (iii) provide to any underage person any item in exchange for the purchase of Tobacco Products or for the furnishing of proofs-of-purchase coupons. The PMs are also prohibited from placing any new outdoor and transit advertising, and are committed to remove any existing outdoor and transit advertising for Tobacco Products in the Settling States. Other examples of prohibited activities include, subject to limited exceptions: (i) the sponsorship of any athletic, musical, artistic or other social or cultural event in exchange for the use of tobacco brand names as part of the event; (ii) the making of payments to anyone to use, display, make reference to or use as a prop any Tobacco Product or item bearing a tobacco brand name in any motion picture, television show, theatrical production, music performance, commercial film or video game; and (iii) the sale or distribution in the Settling States of any non-tobacco items containing tobacco brand names or selling messages.

In addition, the OPMs have agreed under the MSA to provide funding for the organization and operation of a charitable foundation (the “**Foundation**”) and educational programs to be operated within the Foundation. The main purpose of the Foundation is to support programs to reduce the use of Tobacco Products by underage persons and to prevent diseases associated with the use of Tobacco Products. Each OPM may be required to pay its Relative Market Share of \$300,000,000 on April 15 of each year on and after 2004 (as may be adjusted) in perpetuity if, during the year preceding the year when payment is due, the sum of the Market Shares of the OPMs equals or exceeds 99.05%.

Remedies Upon the Failure of a PM to Make a Payment

Each PM is obligated to pay when due the undisputed portions of the total amount calculated as due from it by the MSA Auditor’s final calculation. Failure to pay such portion shall render the PM liable for interest thereon from the date such payment is due to (but not including) the date paid at the prime rate published from time to time by *The Wall Street Journal* or, in the event *The Wall Street Journal* is no longer published or no longer publishes

such rate, an equivalent successor reference rate determined by the MSA Auditor, plus three percentage points. In addition, any Settling State may bring an action in court to enforce the terms of the MSA. Before initiating such proceeding, the Settling State is required to provide thirty (30) days' written notice to the attorney general of each Settling State, to NAAG and to each PM of its intent to initiate proceedings.

Termination of MSA

The MSA is terminated as to a Settling State if (i) the MSA or consent decree in that jurisdiction is disapproved by a court and the time for an appeal has expired, the appeal is dismissed or the disapproval is affirmed, or (ii) the representations and warranties of the attorney general of that jurisdiction relating to the ability to release claims are breached or not effectively given. In addition, in the event that a PM enters bankruptcy and fails to perform its financial obligations under the MSA, the Settling States, by vote of at least 75% of the Settling States, both in terms of number and of entitlement to the proceeds of the MSA, may terminate certain financial obligations of that particular manufacturer under the MSA, although this provision may not be enforceable. See "RISK FACTORS—Bankruptcy of a PM May Delay, Reduce or Eliminate Payments Under the MSA."

The MSA provides that if it is terminated, then the statute of limitations with respect to released claims will be tolled from the date the Settling State signed the MSA until the later of the time permitted by applicable law or one year from the date of termination and the parties will jointly move for the reinstatement of the claims and actions dismissed pursuant to the MSA. The parties will return to the positions they were in prior to the execution of the MSA.

Severability

By its terms, most of the major provisions of the MSA are not severable from its other terms. If a court materially modifies, renders unenforceable or finds unlawful any non-severable provision, the attorneys general of the Settling States and the OPMs are to attempt to negotiate substitute terms. If any OPM does not agree to the substitute terms, the MSA terminates in all Settling States affected by the court's ruling.

Amendments and Waivers

The MSA may be amended by all of the PMs affected by the amendment and by all of the Settling States affected by the amendment. The terms of any amendment will not be enforceable against any PM or Settling State which is not a party to the amendment. Any waiver will be effective only against the parties to such waiver and only with respect to the breach specifically waived.

MSA Provisions Relating to Model/Qualifying Statutes

General

The MSA sets forth the schedule and calculation of payments to be made by OPMs to the Settling States. As described above, the Annual Payments are subject to, among other adjustments and reductions, the NPM Adjustment, which may reduce the amount of money that a Settling State receives pursuant to the MSA. The NPM Adjustment will reduce payments of a PM if such PM experiences certain losses of market share in the United States in a particular year as a result of participation in the MSA and any of the Settling States fail to prove that they have diligently enforced their Qualifying Statutes in such year.

Settling States may eliminate or mitigate the effect of the NPM Adjustment by taking certain actions, including the adoption and diligent enforcement of a statute, law, regulation or rule (a "**Qualifying Statute**" or "**Escrow Statute**") which eliminates the cost disadvantages that PMs experience in relation to NPMs as a result of the provisions of the MSA. "Qualifying Statute," as defined in Section IX(d)(2)(E) of the MSA, means a statute, regulation, law, and/or rule adopted by a Settling State that "effectively and fully neutralizes the cost disadvantages that PMs experience vis-à-vis NPMs within such Settling State as a result of the provisions of the MSA." Exhibit T to the MSA sets forth a model form of Qualifying Statute (a "**Model Statute**") that will qualify as a Qualifying Statute so long as the statute is enacted without modification or addition (except for particularized state procedural or technical requirements) and is not enacted in conjunction with any other legislative or regulatory proposal. The State has enacted the Model Statute, which is a Qualifying Statute. The MSA also provides a procedure by which a Settling State may enact a statute that is not the Model Statute and receive a determination from a nationally

recognized firm of economic consultants that such statute is a Qualifying Statute. See “RISK FACTORS—Payment Decreases under the Terms of the MSA” and “RISK FACTORS—If Litigation Challenging the MSA, the Qualifying Statutes and Related Legislation Were Successful, Payments under the MSA Might be Suspended or Terminated.”

If a Settling State continuously has a Qualifying Statute in full force and effect and diligently enforces the provisions of such statute, the MSA states that the payments allocated to such Settling State will not be subject to a reduction due to the NPM Adjustment. Furthermore, the MSA dictates that the aggregate amount of the NPM Adjustment is to be allocated, in a Pro Rata manner, among all Settling States that do not adopt and diligently enforce a Qualifying Statute. In addition, if the NPM Adjustment allocated to a particular Settling State exceeds its allocated payment that excess is to be reallocated equally among the remaining Settling States that have not adopted and diligently enforced a Qualifying Statute. Thus, Settling States that do not adopt and diligently enforce a Qualifying Statute will receive reduced allocated payments if an NPM Adjustment is in effect. The MSA provides an economic incentive for most states to adopt and diligently enforce a Qualifying Statute.

The MSA provides that if a Settling State enacts a Qualifying Statute that is the Model Statute and uses its best efforts to keep the Model Statute in effect, but a court invalidates the statute, then, although that state remains subject to the NPM Adjustment, the NPM Adjustment is limited to no more, on a yearly basis, than 65% of the amount of such state’s allocated payment (including reallocations described above). The determination from a nationally recognized firm of economic consultants that a statute constitutes a Qualifying Statute is subject to reconsideration in certain circumstances and such statute may later be deemed not to constitute a Qualifying Statute. In the event that a Qualifying Statute that is not the Model Statute is invalidated or declared unenforceable by a court, or, upon reconsideration by a nationally recognized firm of economic consultants, is determined not to be a Qualifying Statute, the Settling State that adopted such statute will become fully subject to the NPM Adjustment. Moreover, if a state adopts the Model Statute or a Qualifying Statute but then repeals it or amends it in such fashion that it is no longer a Qualifying Statute, then such state will no longer be entitled to any protection from the NPM Adjustment. At all times, a state’s protection from the NPM Adjustment is conditioned upon the diligent enforcement of its Model Statute or Qualifying Statute, as the case may be.

For a discussion of the NPM Adjustment Settlement, which the State joined, as well as the State’s amendment to its Qualifying Statute in furtherance thereof, see “—NPM Adjustment Claims and NPM Adjustment Settlement” below and “STATE LAWS RELATED TO THE MSA—California Qualifying Statute” herein, respectively.

Summary of the Model Statute

One of the objectives of the MSA (as set forth in the Findings and Purpose section of the Model Statute) is to shift the financial burdens of cigarette smoking from the Settling States to the tobacco product manufacturers. The Model Statute provides that any tobacco manufacturer who does not join the MSA would be subject to the provisions of the Model Statute because, as provided under the MSA,

[i]t would be contrary to the policy of the state if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the state will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the state to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

Accordingly, pursuant to the Model Statute, a tobacco manufacturer that is an NPM under the MSA must deposit an amount for each cigarette that constitutes a “unit sold” into an escrow account (which amount increases on a yearly basis, as set forth in the Model Statute).

The amounts deposited into the escrow accounts by the NPMs may only be used in limited circumstances. Although the NPM receives the interest or other appreciation on such funds, the principal may only be released (i) to pay a judgment or settlement on any claim of the type that would have been released by the MSA brought against

such NPM by the applicable Settling State or any Releasing Party located within such state; (ii) with respect to Settling States that have enacted and have in effect Allocable Share Release Amendments (described in the next paragraph), to the extent that the NPM establishes that the amount it was required to deposit into the escrow account was greater than the total payments that such NPM would have been required to make if it had been a PM under the MSA (as determined before certain adjustments or offsets) or, with respect to Settling States that do not have in effect such Allocable Share Release Amendments, to the extent that the NPM establishes that the amount it was required to deposit into the escrow account was greater than such state's allocable share of the total payments that such NPM would have been required to make if it had been a PM under the MSA (as determined before certain adjustments or offsets); or (iii) 25 years after the date that the funds were placed into escrow (less any amounts paid out pursuant to (i) or (ii)).

The Model Statute, in its original form, required an NPM to make escrow deposits approximately in the amount that the NPM would have had to pay to all of the states had it been a PM and further authorized the NPM to obtain from the applicable Settling State the release of the amount by which the escrow deposit in that state exceeded that state's allocable share of the total payments that the NPM would have made as a PM. In recent years legislation has been enacted in the State and all other Settling States, except Missouri,* to amend the Qualifying or Model Statutes in those states by eliminating the reference to the allocable share and limiting the possible release an NPM may obtain under the Model Statute to the excess above the total payment that the NPM would have paid for its cigarettes had it been a PM (each an "**Allocable Share Release Amendment**"). NAAG has endorsed these legislative efforts. A majority of the PMs, including all OPMs, have indicated their agreement in writing that in the event a Settling State enacts legislation substantially in the form of the model Allocable Share Release Amendment, such Settling State's previously enacted Model Statute or Qualifying Statute will continue to constitute the Model Statute or a Qualifying Statute within the meaning of the MSA.

If the NPM fails to place funds into escrow as required by the applicable Qualifying Statute, the attorney general of the applicable Settling State may bring a civil action on behalf of the state against the NPM. If a court finds that an NPM violated the statute, it may impose civil penalties in the following amounts: (i) an amount not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in an amount not to exceed 100% of the original amount improperly withheld from escrow; (ii) in the event of a knowing violation, an amount not to exceed 15% of the amount improperly withheld from escrow per day of the violation and in an amount not to exceed 300% of the original amount improperly withheld from escrow; and (iii) in the event of a second knowing violation, the court may prohibit the NPM from selling cigarettes to consumers within such state (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed two years.

NPMs include foreign tobacco manufacturers that intend to sell cigarettes in the United States that do not themselves engage in an activity in the United States but may not include the wholesalers of such cigarettes. NPMs also include Native American tobacco manufacturers that manufacture and sell, directly or through other Native American retailers, cigarettes to consumers from their own or other Native American reservations and who assert their rights under various treaties and agreements with the United States and with states to manufacture and sell the cigarettes free of state and local taxes and, generally, free from the constraints and burdens of state and local laws. Enforcement of the Model Statute against any of such manufacturers may be difficult. See "STATE LAWS RELATED TO THE MSA."

Complementary Legislation

Most of the Settling States (including the State) have passed legislation (often termed "**Complementary Legislation**") to further ensure that NPMs are making escrow payments required by the states' respective Qualifying Statutes, as well as other legislation to assist in the regulation of tobacco sales. See "STATE LAWS RELATED TO THE MSA—California Complementary Legislation."

* The Missouri Attorney General reported February 8, 2016 that Missouri had negotiated with the PMs to resolve Missouri's dispute with the PMs with respect to the NPM Adjustment for years 2003-2014, contingent upon the Missouri legislature adopting an Allocable Share Release Amendment. However, the Missouri legislature failed to adopt an Allocable Share Release Amendment by the April 15, 2016 deadline in the agreement negotiated by the Missouri Attorney General.

All of the OPMs and other PMs have provided written assurances that the Settling States have no duty to enact Complementary Legislation, that the failure to enact such legislation will not be used in determining whether a Settling State has diligently enforced its Qualifying Statute pursuant to the terms of the MSA, and that diligent enforcement obligations under the MSA shall not apply to the Complementary Legislation. In addition, the written assurances contain an agreement that the Complementary Legislation will not constitute an amendment to a Settling State's Qualifying Statute. However, a determination that a Settling State's Complementary Legislation is invalid may make enforcement of its Qualifying Statute more difficult.

NPM Adjustment Claims and NPM Adjustment Settlement

Settlement of 1999 through 2002 NPM Adjustment Claims

In June 2003, the OPMs, certain SPMs and the Settling States settled all NPM Adjustment claims for the payment years 1999 through 2002, subject, however, under limited circumstances, to the reinstatement of a PM's right to an NPM Adjustment for the payment years 2001 and 2002. In connection therewith, such PMs and the Settling States agreed prospectively that PMs claiming an NPM Adjustment for any year will not make a deposit into the DPA or withhold payment with respect thereto unless and until the selected economic consultants determine that the disadvantages of the MSA were a significant factor contributing to the Market Share loss giving rise to the alleged NPM Adjustment. If the selected economic consultants make such a "significant factor" determination regarding a year for which one or more PMs have claimed an NPM Adjustment, such PMs may, in fact, either make a deposit into the DPA or withhold payment reflecting the claimed NPM Adjustment. As discussed below under "*NPM Adjustment Settlement Non-Signatories' Ongoing NPM Adjustment Claims*," the Settling States have since agreed that no "significant factor" determination will be necessary for certain years.

NPM Adjustment Claims for 2003 Onward, Generally

According to NAAG, one or more of the PMs are disputing or have disputed the calculations of some Annual Payments and Strategic Contribution Payments, totaling over \$13 billion, for the sales years 2003 through 2017 (payment years 2004 through 2018) as part of the NPM Adjustment. No provision of the MSA attempts to define what activities, if undertaken by a Settling State, would constitute diligent enforcement. Furthermore, the MSA does not explicitly state which party bears the burden of proving or disproving whether a Settling State has diligently enforced its Qualifying Statute, or whether any diligent enforcement dispute would be resolved in state courts or through arbitration. However, regarding the 2003 NPM Adjustment dispute, the State's MSA court determined that the 2003 NPM Adjustment dispute was to be determined by a panel of arbitrators, and such panel of arbitrators determined that, when contested, a state bears the burden of proving its diligence. As discussed further below, the State had been a contested state in the 2003 NPM Adjustment dispute but then joined the NPM Adjustment Settlement, thereby settling its 2003 NPM Adjustment dispute, together with its 2004 to 2015 NPM Adjustment disputes. The NPM Adjustment Settlement also sets forth a methodology for determining subsequent years' NPM Adjustments, as discussed below. The State has also entered into the 2016 and 2017 NPM Adjustments Settlement Agreement, settling claims for the years 2016 and 2017, as discussed below.

2003 NPM Adjustment Claims

An independent economic consulting firm, jointly selected by the MSA parties, determined that the disadvantages of the MSA were a significant factor contributing to the PMs' collective loss of market share for 2003. Following the "significant factor" determination with respect to 2003, each of 38 Settling States filed a declaratory judgment action in state court seeking a declaration that such Settling State diligently enforced its Qualifying Statute during 2003. The OPMs and SPMs responded to these actions by filing motions to compel arbitration in accordance with the terms of the MSA, including motions to compel arbitration in 11 states and territories that did not file declaratory judgment actions. With one exception (Montana), the courts have ruled that the states' claims of diligent enforcement are to be submitted to arbitration. The Montana Supreme Court ruled that Montana did not agree to arbitrate the question of whether it diligently enforced a Qualifying Statute and that diligent enforcement claims of that state must be litigated in state court, rather than in arbitration. Subsequently, in June 2012, Montana and the PMs reached an agreement whereby the PMs agreed not to contest Montana's claim that it diligently enforced the Qualifying Statute during 2003 and therefore Montana would not be subject to the 2003 NPM Adjustment.

The MSA provides that arbitration, if required by the MSA, will be governed by the United States Federal Arbitration Act. The decision of an arbitration panel under the Federal Arbitration Act may only be overturned under limited circumstances, including a showing of a manifest disregard of the law by the panel.

The OPMs and approximately 25 other PMs entered into an agreement regarding arbitration with 45 states and territories concerning the 2003 NPM Adjustment. The agreement effectively provided for a partial liability reduction for the 2003 NPM Adjustment for states that entered into the agreement by January 30, 2009 and were determined in the arbitration not to have diligently enforced a Qualifying Statute during 2003. Based on the number of states that entered into the agreement by January 30, 2009 (45), the partial liability reduction for those states was 20%. This partial liability reduction was effectuated by the PMs jointly reimbursing such states 20% of their respective amounts of the NPM Adjustment. The selection of a three-judge panel arbitrating the 2003 NPM Adjustment claims (the “**Arbitration Panel**”) was completed in July 2010.

Following the completion of discovery, the PMs determined to continue to contest the 2003 diligent enforcement claims of 33 states (including the State), the District of Columbia and Puerto Rico and to no longer contest such claims by 12 other states and four U.S. territories (the “**non-contested states**”). Eighteen of these contested states (including the State), the District of Columbia and Puerto Rico, as well as two non-contested states, subsequently entered into the NPM Adjustment Settlement with the OPMs and certain of the SPMs as discussed below under “—*NPM Adjustment Settlement and Award*,” leaving 15 states contested in the 2003 NPM Adjustment arbitration proceedings. A common issues hearing was held in April 2012 and state-specific evidentiary hearings began in May 2012 and were completed in May 2013. The decisions of the Arbitration Panel with regard to those 15 states and their enforcement in 2003 of their Qualifying Statutes are discussed below under “—*2003 NPM Adjustment Arbitration Results and Disputes Concerning the NPM Adjustment Settlement Term Sheet and Stipulated Partial Settlement and Award*.” Several of those 15 states subsequently joined the NPM Adjustment Settlement, as discussed below.

NPM Adjustment Settlement and Award

On December 17, 2012, terms of a settlement were agreed to in the form of a term sheet (the “**NPM Adjustment Settlement Term Sheet**”) by 19 jurisdictions (including the State), the OPMs and certain SPMs regarding claims related to the 2003 through 2012 NPM Adjustments and the determination of subsequent NPM Adjustments. The 19 jurisdictions that signed the NPM Adjustment Settlement Term Sheet on December 17, 2012 were Alabama, Arizona, Arkansas, California, the District of Columbia, Georgia, Kansas, Louisiana, Michigan, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Puerto Rico, Tennessee, Virginia, West Virginia and Wyoming. In April 2013, Oklahoma joined the NPM Adjustment Settlement Term Sheet; in May 2013, Connecticut and South Carolina joined the NPM Adjustment Settlement Term Sheet; in June 2014, Kentucky and Indiana joined the NPM Adjustment Settlement Term Sheet (on modified terms); and in April 2017, Rhode Island and Oregon joined the NPM Adjustment Settlement Term Sheet. In October 2017, a final settlement agreement (the “**NPM Adjustment Settlement Agreement**”) became effective, incorporating the terms of, and superseding, the NPM Adjustment Settlement Term Sheet. According to Altria in its Form 10-K filed with the SEC for calendar year 2018 and its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in the first quarter of 2018 nine additional jurisdictions (Alaska, Colorado, Delaware, Hawaii, Maine, North Dakota, South Dakota, Utah and Vermont) joined the NPM Adjustment Settlement Agreement, and in the second quarter of 2018 Pennsylvania joined the NPM Adjustment Settlement Agreement. The signatory jurisdictions to the NPM Adjustment Settlement Term Sheet and NPM Adjustment Settlement Agreement, as applicable, are referred to herein as the “**NPM Adjustment Settlement Signatories**” (which term, where appropriate, includes any additional jurisdictions that may in the future sign the settlement), and the settlement effected by the NPM Adjustment Settlement Term Sheet and the NPM Adjustment Settlement Agreement, as applicable, is referred to herein as the “**NPM Adjustment Settlement**.” Additional jurisdictions were permitted to join the settlement up to the end date of the last individual state-specific diligent enforcement hearings for the 2003 NPM Adjustment claims, although with potentially different and potentially less favorable payment obligations than those detailed in the NPM Adjustment Settlement. After such time, additional jurisdictions may join the settlement only if the signatory PMs, in their sole discretion, agree.

The NPM Adjustment Settlement Term Sheet was subject to approval by the Arbitration Panel. On March 12, 2013, the Arbitration Panel issued its Stipulated Partial Settlement and Award (the “**NPM Adjustment**”).

Stipulated Partial Settlement and Award”). In the NPM Adjustment Stipulated Partial Settlement and Award, the Arbitration Panel, as a threshold matter, ruled that it had jurisdiction (i) to enter the NPM Adjustment Stipulated Partial Settlement and Award, (ii) to rule on the objections of those jurisdictions that did not join the settlement (the “**NPM Adjustment Settlement Non-Signatories**”), (iii) to determine how the 2003 NPM Adjustment settlement would be allocated among the NPM Adjustment Settlement Non-Signatories in light of the settlement and (iv) to incorporate and direct the MSA Auditor to implement the provisions of the NPM Adjustment Settlement Term Sheet, including as they pertain to years beyond 2003. The Arbitration Panel noted that it was neither “approving” the NPM Adjustment Settlement Term Sheet nor assessing the merits of any NPM Adjustment dispute, but giving effect to the NPM Adjustment Settlement Signatories’ and signatory PMs’ agreed settlement payments as among themselves, by directing the MSA Auditor to implement the settlement provisions at issue.

In the NPM Adjustment Stipulated Partial Settlement and Award, the Arbitration Panel specifically directed the MSA Auditor (i) to release approximately \$1.76 billion (plus accumulated earnings thereon) from the DPA to the NPM Adjustment Settlement Signatories, allocating such released amount among the NPM Adjustment Settlement Signatories as they directed in connection with the April 2013 MSA payment and (ii) to apply a credit in the aggregate amount of approximately \$1.65 billion to the OPMs’ MSA payments, allocating such credit among the OPMs as they directed with 50% of the credit applied against the April 2013 MSA payment and 12.5% to be applied against each of the April 2014 through 2017 MSA payments. Such release to NPM Adjustment Settlement Signatories from the DPA and such application of credits to PMs’ MSA payments effected the settlement of the 2003 through 2015 NPM Adjustment claims. Under the NPM Adjustment Settlement, parallel provisions exist for SPMs, which stipulated a credit of approximately \$31 million to the SPMs’ April 2013 MSA payments. The NPM Adjustment Settlement provided for the NPM Adjustment Settlement Signatories to allocate the settlement amount for the 2003 NPM Adjustment among themselves (through the application of the credits to PMs or the receipt by the NPM Adjustment Settlement Signatories of amounts released from the DPA, or both) so as to fully compensate those NPM Adjustment Settlement Signatories whose diligent enforcement for 2003 was non-contested.

While not ruling on years subsequent to the 2003 NPM Adjustment, the Arbitration Panel ruled that the reduction of the 2003 NPM Adjustment, in light of the NPM Adjustment Stipulated Partial Settlement and Award (for purposes of allocating the 2003 NPM Adjustment to the NPM Adjustment Settlement Non-Signatories), would be on a *pro rata* basis: the dollar amount of the 2003 NPM Adjustment would be reduced by a percentage equal to the aggregate allocable share of the NPM Adjustment Settlement Signatories. In addition, the Arbitration Panel directed the MSA Auditor to treat the NPM Adjustment Settlement Signatories as not being subject to the 2003 NPM Adjustment, resulting in a reallocation of the NPM Adjustment Settlement Signatories’ share of the 2003 NPM Adjustment among those NPM Adjustment Settlement Non-Signatories that are found not to have diligently enforced their Qualifying Statutes during 2003. This framework would create an incentive for NPM Adjustment Settlement Non-Signatories to contest the diligent enforcement of NPM Adjustment Settlement Signatories for years 2004 onward. The Arbitration Panel concluded that the NPM Adjustment Settlement Term Sheet and the NPM Adjustment Stipulated Partial Settlement and Award do not legally prejudice or adversely affect the NPM Adjustment Settlement Non-Signatories, but that, should an NPM Adjustment Settlement Non-Signatory found by the Arbitration Panel to be non-diligent have a good faith belief that the *pro rata* reduction method did not adequately compensate it for an NPM Adjustment Settlement Signatory’s removal from the reallocation pool, its relief, if any, is by appeal to its individual MSA state court. The NPM Adjustment Settlement Non-Signatories that were found to be non-diligent with respect to the 2003 NPM Adjustment claims filed motions in their MSA state courts objecting to the *pro rata* reduction method; see “—2003 NPM Adjustment Arbitration Results and Disputes Concerning the NPM Adjustment Settlement Term Sheet and Stipulated Partial Settlement and Award” below for a discussion of such motions. The Arbitration Panel further concluded that neither the NPM Adjustment Stipulated Partial Settlement and Award nor the NPM Adjustment Settlement Term Sheet constitutes an amendment to the MSA that would require the consent of any NPM Adjustment Settlement Non-Signatory. No assurance can be given, however, that a court would not hold that the NPM Adjustment Stipulated Partial Settlement and Award and the NPM Adjustment Settlement constitute amendments to the MSA. See “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—Amendments, Waivers and Termination” and “—Reliance on State Enforcement of the MSA; State Impairment.”

In addition to settling the 2003 through 2012 NPM Adjustment claims as described above, the NPM Adjustment Settlement sets forth the terms by which NPM Adjustments for sales years 2013 onward are to be determined. Under the NPM Adjustment Settlement, sales years 2013-2014 were transition years for which an

adjustment was applied in payment years 2014-2015 for SET-Paid NPM Sales, as described below, and for which an adjustment for Non-SET-Paid NPM Sales, as described below, did not apply. In October 2017, pursuant to the NPM Adjustment Settlement Agreement, the NPM Adjustment Settlement Signatories and signatory PMs agreed similarly to settle sales year 2015 as a transition year, and the signatory PMs received an adjustment to the MSA payments in April 2018 for SET-Paid NPM Sales as a result of the settlement of 2015 as a transition year (such adjustment being 25% of the maximum 2015 NPM Adjustment of the NPM Adjustment Settlement Signatories). Furthermore, pursuant to the NPM Adjustment Settlement, beginning with the 2022 NPM Adjustment, the OPMs shall not receive any part of the NPM Adjustment allocated to any NPM Adjustment Settlement Signatory for any year for which the aggregate Market Share of all the PMs, as determined by the MSA Auditor using the 0.0325 roll-your-own conversion factor, is equal to or exceeds 97%.

Beginning in 2013, there is a state-specific adjustment that applies to sales of SET-paid NPM cigarettes (“**SET-Paid NPM Sales**”). “**SET**” consists of state cigarette excise tax or other state tax on the distribution or sale of cigarettes (other than a state or local sales tax that is applicable to consumer products generally and is not in lieu of an excise tax) and, after 2014, any excise or other tax imposed by a state or federally recognized tribe on the distribution or sale of cigarettes (other than a tribal sales tax that is applicable to consumer products generally and is not in lieu of an excise tax). For SET-Paid NPM Sales of “**Non-Compliant NPM Cigarettes**” (defined in the NPM Adjustment Settlement, with certain exceptions, as any NPM cigarette on which SET was paid but for which escrow is not deposited as required by the Model Statute, either by payment by the NPM or by collection upon a bond, or for which escrow was impermissibly released or refunded), the adjustment of PM payments due from signatory PMs is three times the per-cigarette escrow deposit rate contained in the Model Statute for the year of the sale, including the inflation adjustment in the statute. There is a proportional adjustment for each signatory SPM in proportion to the size of its MSA payment for that year. An NPM Adjustment Settlement Signatory will not be subject to this revised adjustment (thus, creating a safe harbor) if (i) the total number of Non-Compliant NPM Cigarettes sold in such state during the sales year in question did not exceed 4% of all NPM cigarettes on which such state’s SET was paid during such year, or (ii) the total number of Non-Compliant NPM Cigarettes sold in such state during such sales year did not exceed 2 million cigarettes.

Non-SET-Paid NPM Sales (“**Non-SET-Paid NPM Sales**”) will be handled as to the NPM Adjustment Settlement Signatories per the terms of the MSA, with the following adjustments. A data clearinghouse (the “**Data Clearinghouse**”) will calculate the total FET-paid NPM volume in the Settling States and nationwide. “**FET**” means the federal excise tax. Beginning in 2016, for Non-SET-Paid NPM Sales, the total NPM Adjustment liability, if any, of each NPM Adjustment Settlement Signatory under the original formula for a year would be reduced by a percentage (the “**SET-Paid NPM Percentage**”) equal to the sum of (i) the percentage represented by the fraction of the total number of NPM cigarettes on which SET was paid in such year in the Settling States, divided by the total nationwide number of NPM cigarettes on which FET was paid in such year, plus (ii) in the case of an NPM Adjustment Settlement Signatory that has, as of January 1 of the year at issue, approved the PSS Credit Amendment (even if the PSS Credit Amendment has not yet taken effect), the percentage represented by the fraction of (x) the total number of NPM cigarettes on which an equity fee was paid in such year in those Previously Settled States that had in effect an equity fee law for the entirety of such year (which, by its terms, imposed a per-cigarette payment equal to or greater than 90% of the escrow amount for sales made that year under the Model Statute on all NPM cigarette sales in such state that it has the authority under federal law to tax), divided by (y) the total nationwide number of NPM cigarettes on which FET was paid in such year. Such liability reduction will be effectuated by each NPM Adjustment Settlement Signatory that is found non-diligent and allocated a share of the NPM Adjustment amount receiving a reimbursement by the signatory PMs.

The NPM Adjustment Settlement provides that the arbitration regarding NPM Adjustment Settlement Signatories’ diligent enforcement for 2016 (and any subsequent year) will not commence until the diligent enforcement arbitration for 2016 (or such respective subsequent year) begins as to NPM Adjustment Settlement Non-Signatories (with an exception for an accelerated schedule as described therein). In the interim, pending the ultimate outcome of the applicable proceedings with respect to NPM Adjustments for sales year 2016 and onward, the signatory PMs will deposit into the DPA on the next April’s MSA payment date the NPM Adjustment Settlement Signatories’ aggregate Allocable Share of the potential maximum NPM Adjustment for such sales year (for example, on or before April 15, 2019 the signatory PMs made a deposit to the DPA for the NPM Adjustment for sales year 2018), and the PMs and the NPM Adjustment Settlement Signatories will jointly instruct the MSA Auditor to release promptly the entire amount deposited to the DPA and distribute it among the PMs and the NPM

Adjustment Settlement Signatories according to a formula. Pursuant to such formula, (x) the amount released to the NPM Adjustment Settlement Signatories would be (1) the SET-Paid NPM Percentage with respect only to NPM Adjustment Settlement Signatories (plus other factors as specified in Section VI.I.1 of the NPM Adjustment Settlement Agreement), plus (2) 50% of the portion that remains, and (y) the amount released to the PMs would be the other 50% of the portion that remains. The amount released pursuant to clause (x)(1) of the prior sentence is based on an estimate of the reimbursement percentage determined by the Data Clearinghouse. The NPM Adjustment Settlement also provides that, except for the DPA deposit (and subsequent release) described above, and except in certain other cases (primarily, if the dispute was noticed for arbitration by the PM and the party-selected arbitrator has not been appointed for over one year from the date notice was first given despite good faith efforts by the PM), the PMs will not withhold payments or pay into the DPA based on a dispute arising out of the NPM Adjustment as set forth in the NPM Adjustment Settlement.

In the NPM Adjustment Settlement, the NPM Adjustment Settlement Signatories agree that diligent enforcement will be determined as to them in a single arbitration each year. The NPM Adjustment Settlement further states that the NPM Adjustment Settlement Signatories and the PMs shall cooperate in merging the NPM Adjustment arbitration as to the NPM Adjustment Settlement Signatories with the NPM Adjustment arbitration for the year in question as to the NPM Adjustment Settlement Non-Signatories.

As of May 1, 2019, the State had not executed documentation approving the PSS Credit Amendment. No assurance can be given that the State will execute documentation approving the PSS Credit Amendment, or when any such approval will be executed. Further, no assurance can be given as to if or when the PSS Credit Amendment will take effect. See “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—*Amendments, Waivers and Termination*” and “—*Reliance on State Enforcement of the MSA; State Impairment.*”

In furtherance of the NPM Adjustment Settlement framework and NPM Adjustment Stipulated Partial Settlement and Award, the State in 2013 amended the definition of “units sold” subject to the required escrow deposits under the Qualifying Statute to be “the number of individual cigarettes sold to a consumer in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, regardless of whether the state excise tax was due or collected.” See “STATE LAWS RELATED TO THE MSA—California Qualifying Statute.” See also “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—*Amendment to the State’s Qualifying Statute*” and “LEGAL CONSIDERATIONS—MSA and Qualifying Statute Enforceability.”

The NPM Adjustment Settlement sets forth a framework for determining whether an NPM Adjustment Settlement Signatory diligently enforced its Qualifying Statute. Pursuant to the NPM Adjustment Settlement, the diligent enforcement standard applies to all NPM cigarettes on which federal excise tax was paid that the NPM Adjustment Settlement Signatory reasonably could have known about and that such state has the authority under federal law to tax or to subject to the escrow requirement, including (i) all such sales made via the internet, (ii) all such tribal sales or sales on tribal lands, and (iii) all such sales that may otherwise constitute contraband (regardless of whether the state’s Qualifying Statute imposes a broader or narrower escrow requirement). The NPM Adjustment Settlement provides that no determination that an NPM Adjustment Settlement Signatory failed to diligently enforce a Qualifying Statute may be based on the state’s failure to collect escrow on NPM cigarettes that federal law prohibits the state from subjecting to the escrow requirement, regardless of whether the state has authority under federal law to tax such cigarettes, provided the state used reasonable efforts (i) to oppose any claims of such prohibition and (ii) to appeal any ruling finding that such prohibition exists. Pursuant to the NPM Adjustment Settlement, the following are exempt from the diligent enforcement standard: (i) NPM cigarettes sold on a federal installation in a transaction that is exempt from state taxation under federal law, and (ii) NPM cigarettes sold on a Native American tribe’s reservation (which includes Indian Country as defined by federal law) by an entity more than 50% of which is owned, and which is operated, by that tribe or member of that tribe to a consumer who is an adult member of that tribe in a transaction that is exempt from state taxation under federal law.

Pursuant to the NPM Adjustment Settlement, factors relevant to the diligent enforcement determination for an NPM Adjustment Settlement Signatory include, but are not limited to: (i) whether the number of NPM cigarettes on which SET was paid in such state in the year in question was reduced by virtue of a state policy or agreement not to require or collect SET of the state where due or not to enforce an SET stamping requirement of the state, or an indifference of the state to such SET collection or to enforcement of such SET stamping requirement, unless escrow

was deposited on such SET-unpaid cigarettes; and (ii) whether the actual number of NPM cigarettes on which SET was paid in such state during that year significantly exceeded the number of such cigarettes used in Non-Compliant NPM Cigarette calculations pursuant to the NPM Adjustment Settlement.

No assurance can be given as to the implementation in future years of the NPM Adjustment Settlement by the MSA Auditor with regard to the State, as to whether or not the NPM Adjustment Settlement will be revised and any consequences thereto, or the effect of such factors on the amount and/or timing of Sold County Tobacco Assets available to the Issuer to pay debt service on the Series 2019 Bonds. See also “—2003 NPM Adjustment Arbitration Results and Disputes Concerning the NPM Adjustment Settlement Term Sheet and Stipulated Partial Settlement and Award” below.

See APPENDIX C – “NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT” for a copy of the NPM Adjustment Settlement Agreement.

2003 NPM Adjustment Arbitration Results and Disputes Concerning the NPM Adjustment Settlement Term Sheet and Stipulated Partial Settlement and Award

On September 11, 2013, the Arbitration Panel released its decisions in connection with the 2003 NPM Adjustment disputes with respect to each of the fifteen contested states that were NPM Adjustment Settlement Non-Signatories. The Arbitration Panel determined that nine states diligently enforced their respective Qualifying Statutes during 2003, and six states (Indiana, Kentucky, Maryland, Missouri, New Mexico and Pennsylvania, which have an aggregate allocable share of approximately 14.68%) did not diligently enforce their respective Qualifying Statutes during 2003. As a result, the nine states that were determined to have diligently enforced their respective Qualifying Statutes, as well as the jurisdictions that were either not contested or were not subject to the arbitration proceedings, were not to be subject to the 2003 NPM Adjustment, and their share of the 2003 NPM Adjustment was to be reallocated in accordance with the MSA to the six states found by the Arbitration Panel to have not diligently enforced their respective Qualifying Statutes during 2003.

The Arbitration Panel’s decisions regarding 2003 diligent enforcement defined diligent enforcement as “an ongoing and intentional consideration of the requirements of a Settling State’s Qualifying Statute, and a significant attempt by the Settling State to meet those requirements, taking into account a Settling State’s competing laws and policies that may conflict with its MSA contractual obligations.” The Arbitration Panel considered various factors in deciding whether or not a state met the diligent enforcement standard, including, in no particular order, (i) such state’s collection rate of amounts to be deposited by NPMs into escrow accounts, (ii) the number of lawsuits against manufacturers brought by such state, (iii) how the state gathered reliable data, (iv) resources allocated to enforcement, (v) prevention of non-compliant NPMs from future sales, (vi) legislation enacted by the state, (vii) actions short of legislation taken by the state, and (viii) efforts made to be aware of NAAG and other states’ enforcement efforts. The Arbitration Panel stated that such factors were not necessarily given equal weight, but were considered as a whole. Where certain terms defined in the Model Statute were disputed, the Arbitration Panel relied on the plain meaning of the defined terms and did not penalize states for a rational interpretation of the terms in enforcing their Qualifying Statutes. The Arbitration Panel did not penalize states that provided rational reasons for implementing policies and legislation with respect to enforcement of their Qualifying Statutes, finding that a good faith effort to address an issue where there is no evidence of intentional escrow evasion was an indication of diligent enforcement. The Arbitration Panel also stated that although the Settling States are required under the MSA to diligently enforce their Qualifying Statutes, the Settling States are not required “to elevate those obligations above other statutory or rational policy considerations.”

Several states, including all six states that were found to be non-diligent in the 2003 NPM Adjustment claims arbitration, disputed the NPM Adjustment Settlement Term Sheet and NPM Adjustment Stipulated Partial Settlement and Award. As an initial step, on March 13, 2013, the Office of the Attorney General of the State of Illinois sent a letter, on behalf of itself and 23 other NPM Adjustment Settlement Non-Signatories (to which letter several additional NPM Adjustment Settlement Non-Signatories later joined), to the MSA Auditor, affirming their position that the Arbitration Panel lacked jurisdiction and that the NPM Adjustment Stipulated Partial Settlement and Award was inconsistent with the terms of the MSA, and informing the MSA Auditor that they objected to and would contest any action by the MSA Auditor to release funds from the DPA or to reallocate the 2003 NPM Adjustment under the terms of the NPM Adjustment Stipulated Partial Settlement and Award. Subsequently,

motions were filed by various NPM Adjustment Settlement Non-Signatories in their respective MSA courts to vacate and/or modify the NPM Adjustment Stipulated Partial Settlement and Award. Two of the states (Colorado and Ohio) had also unsuccessfully sought to preliminarily enjoin the implementation of the NPM Adjustment Stipulated Partial Settlement and Award (but the MSA Auditor carried out the implementation of the NPM Adjustment Stipulated Partial Settlement and Award over the objections of the NPM Adjustment Settlement Non-Signatories, as discussed above).

The status of the motions filed by the six states that were determined by the Arbitration Panel in the 2003 NPM Adjustment dispute not to have diligently enforced their Qualifying Statutes in sales year 2003, is as follows. Indiana and Kentucky joined the NPM Adjustment Settlement in 2014 and those states stayed any further proceedings on their motions. In Pennsylvania, the state court entered an order that modified the judgment reduction method that had been adopted by the Arbitration Panel: the Pennsylvania court ruled that the states that signed the NPM Adjustment Settlement and had been contested in the 2003 NPM Adjustment arbitration (such as the State) would be deemed non-diligent for purposes of calculating Pennsylvania's share of the 2003 NPM Adjustment, resulting in a partial reduction of Pennsylvania's share of the 2003 NPM Adjustment allocation. Upon appeal, in April 2015, the intermediate appellate court in Pennsylvania upheld the trial court ruling. The Pennsylvania Supreme Court declined to take the PMs' appeal of that ruling. The defendant PMs filed a petition for writ of certiorari with the U.S. Supreme Court in April 2016, which was denied in October 2016. Similar to Pennsylvania, the state court in Missouri entered an order that modified the judgment reduction method that had been adopted by the Arbitration Panel, which order reduced Missouri's share of the NPM Adjustment allocation. Upon appeal, in September 2015, the intermediate appellate court in Missouri reversed the trial court ruling. Missouri appealed that ruling to the Missouri Supreme Court, and on February 14, 2017, the Supreme Court of Missouri issued a ruling affirming the trial court decision and overturning the intermediate appellate court decision. The Missouri Supreme Court's decision found in part that the Arbitration Panel exceeded its authority by deeming the NPM Adjustment Settlement Signatories diligent for purposes of reallocation and applying the pro rata judgment reduction. The Supreme Court of Missouri, in its February 14, 2017 decision, also denied Missouri's motion to order the PMs to arbitrate the question of Missouri's diligent enforcement in a single-state arbitration for 2004. In addition, Missouri had negotiated a settlement with PMs regarding the NPM Adjustment but failed to consummate that settlement because the Missouri legislature did not adopt an Allocable Share Release Amendment by the April 15, 2016 deadline that had been a condition to the settlement. In Maryland, that state's motion challenging the judgment reduction method adopted by the Arbitration Panel was denied by its state court. Upon appeal, in October 2015, the intermediate appellate court in Maryland reversed the trial court, the effect of which was to reduce Maryland's share of the NPM Adjustment allocation. The Maryland Supreme Court declined to take the PMs' appeal of that ruling. The PMs filed a petition for writ of certiorari with the U.S. Supreme Court in June 2016, which was denied in October 2016. Lastly, the New Mexico court granted that state's motion challenging the judgment reduction method that had been adopted by the Arbitration Panel, thereby reducing that state's share of the NPM Adjustment allocation.

No assurance can be given that other challenges to the NPM Adjustment Stipulated Partial Settlement and Award or NPM Adjustment Settlement will not be commenced in other MSA courts, nor can any prediction be made as to the effect on NPM Adjustment Settlement Signatories such as the State.

NPM Adjustment Settlement Non-Signatories' Ongoing NPM Adjustment Claims

For 2003-2014, all conditions for the NPM Adjustment were met, either by determination or agreement among the parties, and, in April 2017, the parties agreed that all the conditions for the NPM Adjustment will have been met for 2015 on February 1, 2018, for 2016 on February 1, 2019, and for 2017 on February 1, 2020, according to Altria in its SEC filings.

According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, the 2004 multi-state arbitration is currently pending with all of the NPM Adjustment Settlement Non-Signatories other than Montana (which obtained a ruling from the Montana Supreme Court that the issue of diligent enforcement under the MSA must be heard before that state's MSA court) and New Mexico (which is currently appealing a trial court ruling that the state must participate in the multi-state arbitration for 2004). The 2004 NPM Adjustment arbitration is pending before two separate arbitration panels. The two arbitration panels have two arbitrators in

common. Decisions in the 2004 NPM Adjustment arbitration are not expected until the middle of 2019 at the earliest, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, no assurance can be given as to when proceedings for 2005 and subsequent years will be scheduled or the precise form those proceedings will take.

Altria stated in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that it continues to pursue the NPM Adjustments against jurisdictions that have not signed onto settlements.

2016 and 2017 NPM Adjustments Settlement Agreement

On various dates between June 14, 2018 and November 27, 2018, 26 NPM Adjustment Settlement Signatory States (including the State), and 39 tobacco manufacturers (including Philip Morris, Reynolds Tobacco, Liggett, Imperial Tobacco, and Lorillard) executed the 2016 and 2017 NPM Adjustments Settlement Agreement. The 2016 and 2017 NPM Adjustments Settlement Agreement provides for the following adjustments to the NPM Adjustments. First, the PM's Annual Payments made for the benefit of the 2016-17 Settlement Signatory States will not be subject to downward adjustment pursuant to Section V.B Adjustment relating to Non-Compliant NPM Cigarettes (as defined herein) for the 2015 sales year. See "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—NPM Adjustment Settlement and Award." Second, in lieu of the 2016 NPM Adjustment and the 2017 NPM Adjustment (as defined in the NPM Adjustment Settlement Agreement), the PMs will receive, as applicable to the 2016-17 Settlement Signatory States, the following adjustments applied to their MSA payments due April 16, 2019: (A) an aggregate adjustment applicable to Annual Payments, subject to quarterly recognition provisions under the NPM Adjustment Settlement Agreement, equal to the sum of (i) 25% of the applicable Potential Maximum 2016 NPM Adjustment and 2017 NPM Adjustment applicable to Annual Payments multiplied by the aggregate Allocable Share of all 2016-17 Settlement Signatory States, and (ii) 25% of the applicable Potential Maximum 2016 NPM Adjustment and 2017 NPM Adjustment applicable to Strategic Contribution Payments multiplied by the aggregate Allocable Share of all 2016-17 Settlement Signatory States. Such aggregate amount shall be allocated to the PMs as provided in the 2016 and 2017 NPM Adjustments Settlement Agreement, and shall be allocated solely to and among the 2016-17 Settlement Signatory States, in proportion to their Allocable Shares and Strategic Contribution Payments Allocable Shares, as applicable; and (B) the amounts of the adjustments pursuant to clause (A) immediately above shall be determined based on the Market Share Loss for 2016 and the Potential Maximum NPM Adjustment for 2016, and the Market Share Loss for 2017 and the Potential Maximum NPM Adjustment for 2017, as applicable, as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the April 16, 2018 Payment Due Date and the April 15, 2019 Payment Due Date, respectively, and will not be subject to the Section V.B Adjustment for the 2016 sales year. Capitalized terms used in this subsection and not defined have the meanings given in the 2016 and 2017 NPM Adjustments Settlement Agreement. See APPENDIX C — "NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT for a copy of the 2016 and 2017 NPM Adjustments Settlement Agreement.

Other Settlements

In October 2015, New York State entered into a settlement agreement with the OPMs and certain SPMs pursuant to which the 2004-2014 NPM Adjustment disputes were settled with respect to New York and pursuant to which a methodology for the NPM Adjustments for sales years 2015 onward is determined for such state, involving an adjustment for NPM cigarettes on which New York SET is paid, and credits to PMs for tribal NPM sales.

No prediction can be given as to whether or when any other NPM Adjustment Settlement Non-Signatories will enter into settlements with respect to their NPM Adjustment disputes, what form those settlements may take, or what effect, if any, such settlements will have on NPM Adjustment Settlement Signatories such as the State.

STATE LAWS RELATED TO THE MSA

California Qualifying Statute

By letter dated June 18, 1999, counsel for the OPMs notified the State that SB 822, the bill which contained the State's escrow statute, was, if enacted without change, a Qualifying Statute and a Model Statute within the meaning of the MSA. Such bill was enacted without change on October 10, 1999 as the State's Qualifying Statute, in Division 103, Part 3, Chapter 1, Sections 104555 et seq. of the California Health and Safety Code. The State's Qualifying Statute is the Model Statute in the form attached to the MSA as Exhibit T, with certain modifications approved by the OPMs. By letter dated January 19, 2000, counsel to the OPMs confirmed that the OPMs will not dispute that the State's Qualifying Statute constitutes a Model Statute under the MSA.

In 2003, the State enacted an Allocable Share Release Amendment to amend Section 104557 of the Health and Safety Code. The amendment changed the release calculation from being based on the State's allocable share of the payments the NPM would have made if it were a signatory to the MSA to being based on the payments that the NPM would have made as a signatory to the MSA on account of units sold in the State by the NPM. A majority of the PMs, including all three OPMs, had indicated in writing that in the event a Settling State enacted legislation substantially in the form of the Model Allocable Share Release Amendment, the Settling State's previously enacted Qualifying Statute would continue to constitute a Model Statute and a Qualifying Statute within the meaning of the MSA. The State's Allocable Share Release Amendment was in the form of the Model Allocable Share Release Amendment.

In 2013, in furtherance of the NPM Adjustment Settlement and NPM Adjustment Stipulated Partial Settlement and Award, the State amended the definition of “**units sold**” in the State's Qualifying Statute to be “the number of individual cigarettes sold to a consumer in the state by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, regardless of whether the state excise tax was due or collected” (with the definition further providing that “units sold” does not include “cigarettes sold on federal military installations, sold by a Native American tribe to a member of that tribe on that tribe's land, or that are otherwise exempt from state excise tax pursuant to federal law”). The State received letters from counsels to the OPMs and certain SPMs to the effect that such amendment does not affect the status of the State's Qualifying Statute as a Qualifying Statute under the MSA. See “RISK FACTORS—Other Risks Relating to the MSA and Related Statutes—*Amendment to the State's Qualifying Statute*” and “LEGAL CONSIDERATIONS—MSA and Qualifying Statute Enforceability.”

Pursuant to Section 104557 of the State's Qualifying Statute, any tobacco product manufacturer selling cigarettes to consumers within the State, whether directly or through a distributor, retailer or similar intermediary or intermediaries, must either (i) become a PM and generally perform its financial obligations under the MSA or (ii) place into a qualified escrow fund by April 15 of the year following the year in question specified escrow amounts per unit sold during the year in question. Each tobacco product manufacturer that elects to place funds into escrow pursuant to the Qualifying Statute (as opposed to becoming a PM) shall annually certify to the Attorney General of the State that it is in compliance with the escrow deposit requirements of the Qualifying Statute. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under the Qualifying Statute. Any tobacco product manufacturer that fails in any year to place into escrow the funds required shall (1) be required within 15 days to place the funds into escrow as shall bring it into compliance with the Qualifying Statute (and the court, upon a finding of a violation of the escrow deposit requirements, may impose a civil penalty to be paid to the General Fund of the State in an amount not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100% of the original amount improperly withheld from escrow), (2) in the case of a knowing violation, be required within 15 days to place the funds into escrow as shall bring it into compliance with the Qualifying Statute (and the court, upon a finding of a knowing violation of the escrow deposit requirements, may impose a civil penalty to be paid to the General Fund of the State in an amount not to exceed 15% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300% of the original amount improperly withheld from escrow), and (3) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two years. Each failure to make an annual deposit required under the Qualifying Statute constitutes a separate violation.

California Complementary Legislation

Pursuant to the provisions of Section 30165.1 of the California Revenue and Taxation Code (the State's Complementary Legislation), every tobacco product manufacturer whose cigarettes are sold in the State, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form and in the manner prescribed by the State Attorney General, a certification to the Attorney General no later than the 30th day of April each year that, as of the date of the certification, the tobacco product manufacturer is either a PM that has made all payments calculated by the MSA Auditor to be due under the MSA, except to the extent the PM is disputing any of the payments, or is in full compliance with the State's Qualifying Statute, including all installment payments required by the State's Qualifying Statute and Complementary Legislation, and any regulations promulgated pursuant thereto. A tobacco product manufacturer located outside the U.S. shall provide to the Attorney General, and keep current, a list of all importers that sell or will be selling their cigarettes in the State.

A PM (whether located inside or outside the U.S.) shall include in its annual certification a complete list of its brand families. The PM shall update the list 30 days prior to any addition to or modification of its brand families. An NPM (whether located inside or outside the U.S.) shall include in its annual certification a complete list of all of its brand families in accordance with the following requirements: (A) separately listing brand families of cigarettes and the number of units sold for each brand family that were sold in the State during the preceding calendar year, (B) separately listing all of its brand families that have been sold in the State at any time during the current calendar year, (C) indicating by an asterisk 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 the certification and (D) identifying by name and address any other manufacturer, including all fabricators or makers of the brand families in the preceding or current calendar year in a form, manner, and detail as required by the Attorney General. The NPM shall update the list 30 days prior to any change in a fabricator for any brand family or any addition to or modification of its brand families. In the case of an NPM, the certification shall further certify all of the following: (A) that the NPM is registered to do business in the State, or has appointed a resident agent for service of process and provided notice thereof as required by the Complementary Legislation, (B) that the NPM has done all of the following: (i) established and continues to maintain a qualified escrow fund in accordance with the Qualifying Statute and implementing regulations, (ii) executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund, and (iii) if the NPM is not the fabricator or maker of the cigarettes, that the escrow agreement, certification, reports, and any other forms required by the Qualifying Statute and implementing regulations are signed by the company that fabricates or makes the cigarettes and in the manner required by the Attorney General, (C) that the NPM is in full compliance with both of the following: (i) the Qualifying Statute, the Complementary Legislation, and any regulations promulgated pursuant thereto and (ii) the State's Cigarette and Tobacco Products Licensing Act, and any regulations promulgated pursuant thereto (and the NPM shall provide a copy of a valid, corresponding federal permit issued by the United States Treasury, Alcohol and Tobacco Tax and Trade Bureau), (D) that the NPM has provided specified information regarding its qualified escrow fund, including the amount the NPM placed in the fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each deposit, and any confirming evidence or verification as may be deemed necessary by the Attorney General, and the amounts and dates of any withdrawal or transfer of funds the NPM made at any time from the fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to the Qualifying Statute.

Furthermore, each NPM located outside the U.S. and its importers are required to report, in the manner required by the Attorney General, all cigarette and tobacco products sold in the State each month, including, but not limited to, the quantity, including tobacco weight and number of cigarette sticks, the wholesale cost and sale price of each brand family. The State's Complementary Legislation also provides that, not later than 25 days after the end of each calendar quarter, and more frequently if so directed by the California Department of Tax and Fee Administration (formerly the Board of Equalization) (the "CDTFA") or the Attorney General of the State, each distributor shall submit any information as the CDTFA or Attorney General requires to facilitate compliance with the Complementary Legislation, including, but not limited to, a list by brand family of the total number of cigarettes or, in the case of roll-your-own tobacco, the total ounces for which the distributor affixed stamps during the previous calendar month or otherwise paid the tax due.

In addition, the State's Complementary Legislation requires that the Attorney General publish on its internet web site a directory listing all tobacco product manufacturers that have provided current, timely, and accurate certifications conforming to the annual certification requirements of the Complementary Legislation and all brand families that are listed in the certifications (except as specified in the Complementary Legislation). The Complementary Legislation sets forth procedures for removal of tobacco product manufacturers that no longer qualify for being named on the directory. The Complementary Legislation provides that no person shall affix, or cause to be affixed, any tax stamp or meter impression to a package of cigarettes, or pay the tax levied on a cigarette, unless the brand family of the cigarettes or tobacco product, and the tobacco product manufacturer that makes or sells the cigarettes or tobacco product, are included on the directory. The Complementary Legislation also provides that no person may sell, offer or possess for sale in the State, ship or otherwise distribute into or within the State or import for personal consumption in the State, cigarettes of a tobacco product manufacturer or brand family not included in the then current directory. Furthermore, the Complementary Legislation provides that no person shall either (A) sell or distribute cigarettes that the person knows or should know are intended to be distributed in violation of the foregoing two sentences or (B) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended to be distributed in violation of the foregoing two sentences. Notwithstanding the foregoing, a licensed retailer may possess, transport and sell the tax-stamped cigarettes of a manufacturer or brand family affected by a notice of removal from the directory for no more than 60 days following the effective date of the manufacturer or brand family's removal from the directory. After 60 days following removal from the directory, the cigarettes of a manufacturer or brand family identified in the related notice of removal are contraband and are subject to seizure and destruction and may not be purchased or sold in the State.

In addition to any other civil or criminal penalty provided by law, upon a finding that a person has affixed or caused to be affixed a tax stamp or meter impression in violation of the Complementary Legislation, or failed to submit quarterly information required by the CDTFA to facilitate compliance with the Complementary Legislation, as described above, the CDTFA may revoke or suspend the license or licenses issued to the person by the CDTFA.

State Statutory Enforcement Framework

The following information under this subheading "State Statutory Enforcement Framework" appeared in the Preliminary Official Statement dated August 14, 2018 relating to the Enhanced Tobacco Settlement Asset-Backed Bonds, Series 2018A-2 of the Golden State Tobacco Securitization Corporation, a special purpose trust established as a not-for-profit corporation by Article 7 of Chapter 2 of Division 1 of Title 6.7 of the California Government Code, as amended. Although the Issuer and the County have no independent knowledge of any facts indicating that the following information is inaccurate in any material respect, the Issuer and the County have not independently verified this information and cannot and do not warrant the accuracy or completeness of this information. Further, neither the State nor the Golden State Tobacco Securitization Corporation is making any representation that such information is accurate or complete in connection with the Issuer's issuance and sale of the Series 2019 Bonds. The Series 2019 Bonds are not a debt of the State or the Golden State Tobacco Securitization Corporation.

California Statutory Enforcement Provisions.

The State's statutory framework for enforcing laws relating to the manufacture, distribution, sale, possession and taxation of cigarettes within the State of California includes the State Qualifying Statute and Complementary Legislation, as well as, among other things:

- tax laws imposing taxes on cigarettes and other tobacco products (a \$2.00 per pack increase in the State's cigarette excise tax, in addition to the State's then current \$0.87 per pack excise tax, took effect April 1, 2017; Revenue and Taxation Code) and requiring stamps or meter impressions to be affixed to packages of cigarettes prior to distribution to evidence payment of cigarette taxes (Revenue and Taxation Code);
- laws setting forth licensing requirements for tobacco products, manufacturers and retailers (Business and Professions Code and Revenue and Taxation Code);

- laws prohibiting smoking in most enclosed spaces of places of employment (including restaurants and bars), with certain exceptions (Labor Code; Government Code; Education Code; and Health and Safety Code);
- laws prohibiting smoking by employees and members of the public inside buildings owned or leased by the State, a county, a city, a city and county, or a California Community College district or within a specified distance of a main exit, entrance, or operable window of these buildings (Government Code);
- laws prohibiting smoking in a motor vehicle, whether in motion or at rest, in which there is a minor in the vehicle (Health and Safety Code);
- laws setting the minimum age for sales of tobacco products to minors at 21 (Penal Code and Business and Professions Code);
- laws prohibiting any person engaged in the retail sale of tobacco products or tobacco paraphernalia to sell, offer for sale, or display for sale, tobacco products or tobacco paraphernalia by self-service display, with certain exceptions, and laws governing the location of tobacco product vending machines (Business and Professions Code);
- laws governing internet sales of tobacco products, by virtue of the tax laws providing that no person may engage in a retail sale of cigarettes in the State unless the sale is a vendor-assisted, face-to-face sale, except that a person may engage in delivery sale of cigarettes or tobacco products to a person in the State if the delivery seller has fully complied with the Jenkins Act, obtains and maintains an applicable State license, complies with any applicable State law that imposes escrow or other payment obligations on tobacco product manufacturers and complies with any Attorney General reporting requirements (Revenue and Taxation Code);
- laws restricting advertising of tobacco products (Government Code and Business and Professions Code);
- health laws setting fire safety standards for cigarettes (Health and Safety Code); and
- various implementing regulations promulgated by the California Board of Equalization (currently the CDTFA).

Enforcement

This statutory enforcement framework is administered and enforced by the Office of the Attorney General of the State of California, the CDTFA, the California Fire Marshal, or the local public prosecutors in the city or county in which the violation occurred. See “—California Complementary Legislation” above.

Pursuant to the California Cigarette and Tobacco Products Licensing Act, upon discovery by the CDTFA or a law enforcement agency that a retailer or any other person possesses, stores, owns, or has made a retail sale of an unstamped package of cigarettes, the CDTFA or the law enforcement agency shall be authorized to seize unstamped packages of cigarettes at the retail, or any other person’s location, and any cigarettes seized will be deemed forfeited. In addition, upon discovery by the CDTFA or a law enforcement agency that a retailer or any other person possesses, stores, owns, or has made a retail sale of tobacco products on which tax is due but has not been paid to the CDTFA, the CDTFA or law enforcement agency is authorized to seize such tobacco products at the retail, or any other person’s location, and any tobacco products seized will be deemed forfeited. In addition to any other civil or criminal penalty provided by law, upon a finding that a retailer has violated such provisions, the CDTFA may revoke or suspend the license of the retailer. (Business and Professions Code)

The California Cigarette and Tobacco Products Licensing Act also provides that, upon discovery by the CDTFA or a law enforcement agency that a distributor possesses, stores, owns, or has made a sale of an unstamped

package of cigarettes bearing a counterfeit California state tax stamp or that a wholesaler possesses, stores, owns, or has made a sale of an unstamped package of cigarettes, the CDTFA or the law enforcement agency shall be authorized to seize the unstamped packages of cigarettes at the distributor's or the wholesaler's location, and any cigarettes seized will be deemed forfeited. In addition, upon discovery by the CDTFA or a law enforcement agency that a distributor or a wholesaler possesses, stores, owns, or has made a sale of tobacco products on which tax is due but has not been paid to the CDTFA, or its designee, the CDTFA or law enforcement agency is authorized to seize such tobacco products at the distributor or wholesaler location, and any tobacco products seized will be deemed forfeited. In addition to any other civil or criminal penalty provided by law, upon a finding that any distributor or any wholesaler has violated such provisions, the CDTFA may revoke or suspend the license of the distributor or wholesaler. (Business and Professions Code)

Further, the California Cigarette and Tobacco Products Licensing Act provides that a person or entity that engages in the business of selling cigarettes or tobacco products (including e-cigarettes) in the State either without a valid license or after a license has been suspended or revoked, and each officer of any corporation that so engages in such business, is guilty of a misdemeanor. Continued sales or gifting of cigarettes and tobacco products either without a valid license or after a notification of suspension or revocation shall result in the seizure of all cigarettes and tobacco products in the possession of the person by the CDTFA or a law enforcement agency. Any cigarettes and tobacco products seized by the CDTFA or by a law enforcement agency shall be deemed forfeited. (Business and Professions Code)

Indian Country Cigarette Sales

The State's ability to enforce State laws, including State cigarette tax laws and regulatory provisions, is limited in various geographical areas in the State that constitute "**Indian Country**" as defined by 18 U.S.C. § 1151. The State does not have authority to regulate an Indian Tribe's ("**Tribe**") manufacture and wholesale distribution of tobacco products in its Indian Country when those products are not distributed outside of that Indian Country. The State is not aware of any cigarette manufacturers that are located in Indian Country within the State. However, one large cigarette distributor is located in Indian Country within the State. This distributor sells untaxed contraband cigarettes manufactured by NPMs to retailers located in Indian Country in the State and directly to members of the general public. The State also does not have authority to regulate sales of tobacco products to Indians in Indian Country or to collect the State cigarette tax on a sale to an Indian where the sale occurs in Indian Country. The State has authority to require a Tribe to collect the State cigarette tax on cigarettes sold in Indian Country to a non-Indian. (See *Chemehuevi Indian Tribe v. California State Board of Equalization*, 800 F.2d 1446 (9th Cir. 1986).) However, principles of Indian sovereign immunity limit the judicial remedies available to the State with respect to such sales. Numerous retailers located in Indian Country in the State sell untaxed contraband cigarettes to members of the general public, and the State has filed lawsuits against some of those retailers.

The State has not entered into any cigarette tax collection agreements with any Tribes located within the State.

See "SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—NPM Adjustment Claims and NPM Adjustment Settlement—*NPM Adjustment Settlement and Award*."

THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE CALIFORNIA ESCROW AGREEMENT

There follows a brief description of the Consent Decree, the MOU, the ARIMOU and the California Escrow Agreement. This description is not complete and is subject to, and qualified in its entirety by reference to, the terms of the Consent Decree, the MOU, the ARIMOU and the California Escrow Agreement.

General Description

On December 9, 1998, a Consent Decree and Final Judgment (the "**Consent Decree**"), which governs the class action portion of the State's action against the tobacco companies, was entered in the Superior Court of the State of California for the County of San Diego. The Consent Decree, which is final and non-appealable, settled the litigation brought by the State against the OPMs and resulted in the achievement of California State-Specific

Finality under the MSA. The Consent Decree incorporated by reference the MOU. The Superior Court of the State of California for the County of San Diego entered an order approving the ARIMOU on January 18, 2000. On July 30, 2001, an order was issued by the Superior Court of the State of California for San Diego County amending the ARIMOU with respect to certain rights of each Eligible City or County to transfer its MOU Proportional Allocable Shares in tobacco securitizations.

Prior to the entering of the Consent Decree, the plaintiffs of certain pending lawsuits agreed, among other things, to coordinate their pending cases and to allocate certain portions of the recovery among the State and the Participating Jurisdictions. This agreement was memorialized in the MOU, by and among various counsel representing the State and a number of the Participating Jurisdictions. To set forth the understanding of the interpretation to be given to the terms of the MOU and to establish procedures for the resolution of any future disputes that may arise regarding the interpretation of the MOU among the State and the Participating Jurisdictions, the parties entered into the ARIMOU. Upon satisfying certain conditions set forth in the MOU and the ARIMOU, the Participating Jurisdictions are deemed to be “eligible” to receive a share of the tobacco settlement payments to which the State is entitled under the MSA. All of the Participating Jurisdictions under the MOU and ARIMOU, including the County, have satisfied the conditions of the MOU and the ARIMOU and are eligible to receive funds under the MOU and the ARIMOU.

Under the MOU, 45% of the State’s entire allocation of TSRs under the MSA is allocated to the Participating Jurisdictions that are counties, 5% is allocated to the four cities that are Participating Jurisdictions (1.25% each), and the remaining 50% is retained by the State. The 45% share of the TSRs allocated to the Participating Jurisdictions that are counties is allocated among the counties based on population, on a per capita basis as reported in the 1990 Official United States Decennial Census, as adjusted by the 2000 Official United States Decennial Census, as adjusted by the 2010 Official United States Decennial Census. Pursuant to the proportional allocable share provided in the MOU and the ARIMOU, the County is currently entitled to receive 2.644923% of the total statewide share of the TSRs (based on adjustments made to reflect the 2010 Official United States Decennial Census.) This percentage is subject to adjustments for population changes every ten years based on the Official United States Decennial Census.

Flow of Funds and California Escrow Agreement

Under the MSA, the State’s portion of the tobacco settlement payments are deposited into the California State-Specific Account held by Citibank, N.A., as the MSA Escrow Agent. Pursuant to the terms of the MOU, the ARIMOU and an Escrow Agreement between the State and Citibank, N.A., as escrow agent (the “**California Escrow Agent**”), the State has instructed the MSA Escrow Agent to transfer (upon receipt thereof) all amounts in the California State-Specific Account to the California Escrow Agent. The California Escrow Agent will deposit the State’s 50% share of the tobacco settlement payments in an account for the benefit of the State (the “**California State Government Escrow Account**”), and the remaining 50% of the tobacco settlement payments into separate accounts (within the “**California Local Government Escrow Account**”) for the benefit of the Participating Jurisdictions. The transfer of the tobacco settlement payments into the California Local Government Escrow Account is not subject to legislative appropriation by the State or any further act by the State, nor are such funds subject to any lien of the State.

Pursuant to the California Escrow Agreement, the California Escrow Agent will distribute to each Participating Jurisdiction (including the County) its allocable proportional share of the tobacco settlement payments as determined by the MOU and the ARIMOU, within one business day of a deposit into the California Local Government Escrow Account, unless the California Escrow Agent receives different instructions in writing from the State three business days prior to a deposit. See the ARIMOU included in APPENDIX D attached hereto for a list of the Participating Jurisdictions and their proportional allocable shares under the ARIMOU.

On July 30, 2001, an order was issued by the Superior Court of the State of California for the County of San Diego amending the ARIMOU (the “**ARIMOU Amendment**”). The order provides that an Eligible City or Eligible County participating in a tobacco securitization may provide that, once the related bonds are issued and so long as the related bonds are Outstanding, all amounts of its MOU Proportional Allocable Share may be transferred directly to the indenture trustee for the related bonds, and that so long as such bonds are Outstanding, no further transfer instructions may be provided to the State for transmission to the California Escrow Agent unless

countersigned by the indenture trustee and, after the related bonds are repaid, unless countersigned by the relevant buyer. The County has executed instructions to provide for transfer of the Post-2026 Sold Tobacco Assets, the 2008-2020 Sold Tobacco Assets and the 2021-2026 Sold Tobacco Assets directly to the Indenture Trustee pursuant to the ARIMOU Amendment.

All fees and expenses due and owing the California Escrow Agent will be deducted equally from the California State Government Escrow Account and the California Local Government Escrow Account prior to the disbursement of any funds pursuant to the California Escrow Agreement. Such fees are set forth in the California Escrow Agreement and may be adjusted to conform to its then current guidelines. If at any time the California Escrow Agent is served with any judicial or administrative order or decree that affects the amounts deposited with the California Escrow Agent, the California Escrow Agent is authorized to comply with such order or decree in any manner it or its legal counsel deems appropriate. If any fees, expenses or costs incurred by the California Escrow Agent or its legal counsel are not promptly paid, the California Escrow Agent may reimburse itself from tobacco settlement payments in escrow, but is not permitted to place a lien on any such tobacco settlement payments. The California Escrow Agreement provides that only the State and the California Escrow Agent, and their respective permitted successors, are entitled to its benefits.

The California Escrow Agreement also provides a mechanism for the State to escrow tobacco settlement payments to satisfy “claims over” entitling a PM to an offset for amounts paid under the MSA. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Adjustments to Payments—*Offset for Claims-Over*” herein.

Enforcement Provisions of the Consent Decree, the MOU and the ARIMOU

The MOU provides that the distribution of tobacco-related recoveries is not subject to alteration by legislative, judicial or executive action at any level, and, if such alteration were to occur and survive legal challenge, any modification would be borne proportionally by the State and the Participating Jurisdictions. The Consent Decree specifically incorporates the entire MOU as if it were set forth in full in the Consent Decree. Thus, the allocation of the State’s TSRs under the MSA among the State and the Participating Jurisdictions set forth in the MOU is final and non-appealable. However, the MSA provides (and the Consent Decree confirms) that only the State is entitled to enforce the PMs’ payment obligations under the MSA, and the State is prohibited expressly from assigning or transferring its enforcement rights. In addition, under the ARIMOU the State and the Participating Jurisdictions are the only intended beneficiaries of the ARIMOU and the only parties entitled to enforce its terms and those provisions of the MOU incorporated into the ARIMOU.

Release and Dismissal of Claims

The MSA provides that, effective upon the occurrence of State Specific Finality in the State, the State will release and discharge all past, present and future smoking related claims against all Released Parties. In the MOU and the ARIMOU, the County and the other Participating Jurisdictions agreed that the sharing of the recovery in the State’s TSRs was conditioned upon the release by each Participating Jurisdiction of all tobacco related claims consistent with the extent of the State’s release and a dismissal with prejudice of any state or county’s pending action. The County has taken the necessary action to satisfy this condition.

CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY

The following description of the domestic tobacco industry has been compiled from certain publicly available documents of the tobacco companies and their current or former parent companies, certain publicly available analyses of the tobacco industry, and other public sources. Certain of those companies currently file annual, quarterly and certain other reports with the SEC. Such reports are available on the SEC’s website (www.sec.gov) and upon request from the SEC’s Investor Information Service, 100 F Street, NE, Washington, D.C. 20549 (phone: (800) SEC-0330 or (202) 551-8090; e-mail: publicinfo@sec.gov). The following information does not, nor is it intended to, provide a comprehensive description of the domestic tobacco industry, the business, legal and regulatory environment of the participants therein, or the financial performance or capability of such participants. Although the Issuer has no independent knowledge of any facts indicating that the following information is inaccurate in any material respect, the Issuer has not independently verified this information and cannot and does not warrant the accuracy or completeness of this information. To the extent that reports submitted

to the MSA Auditor by the PMs pursuant to the requirements of the MSA provide information that is pertinent to the following discussion, including market share information, the Attorney General of the State has not consented to the release of such information pursuant to the confidentiality provisions of the MSA. Prospective investors in the Series 2019 Bonds should conduct their own independent investigations of the domestic tobacco industry to determine if an investment in the Series 2019 Bonds is consistent with their investment objectives.

MSA payments are computed based in part on cigarette shipments in or to the 50 states of the United States, the District of Columbia and Puerto Rico. The quantities of cigarettes shipped and cigarettes consumed within the 50 states of the United States, the District of Columbia and Puerto Rico may not match at any given point in time as a result of various factors, such as inventory adjustments, but are substantially the same when compared over a period of time.

Retail market share information, based upon shipments or sales as reported by the OPMs for purposes of their filings with the SEC, may be different from Relative Market Share for purposes of the MSA and the respective obligations of the PMs to contribute to Annual Payments. The Relative Market Share information reported is confidential under the MSA, except to the extent reported by NAAG. See “SUMMARY OF THE MASTER SETTLEMENT AGREEMENT—Overview of Payments by the Participating Manufacturers; MSA Escrow Agent” and “—Annual Payments.” Additionally, aggregate market share information, based upon shipments as reported by OPMs and reflected in the chart below entitled “Manufacturers’ Domestic Market Share of Cigarettes” is different from that utilized in the Structuring Assumptions. See “SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS.”

Industry Overview

According to NAAG, the OPMs accounted for approximately 82.91% (based upon shipments and measuring roll-your-own cigarettes at 0.0325 ounces per cigarette conversion rate) of the U.S. domestic cigarette market in payment year 2019 (sales year 2018). See “—Industry Market Share” below. The market for cigarettes in the U.S. divides generally into premium and discount sales.

Philip Morris USA Inc. (“**Philip Morris**”), a wholly-owned subsidiary of Altria Group, Inc. (“**Altria**”), is the largest tobacco company in the U.S. Prior to a name change on January 27, 2003, Altria was named Philip Morris Companies Inc. In its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, Altria reported that Philip Morris’s domestic cigarette market share for the three months ended March 31, 2019 was 49.8% (based on retail sales data from IRI/Management Science Associates, Inc., a tracking service that uses a sample of stores and certain wholesale shipments to project market share and depict share trends), compared to 50.5% for the three months ended March 31, 2018. Philip Morris’s major premium brands are Marlboro, Virginia Slims and Parliament (with Marlboro representing approximately 86.7% of Philip Morris’s domestic cigarette shipment volume during the three months ended March 31, 2019, according to Altria’s Form 10-Q filed with the SEC for the three-month period ended March 31, 2019). Marlboro is also the largest selling cigarette brand in the U.S., with approximately 43.1% and 43.3% of the U.S. domestic retail share for the first quarters of 2019 and 2018, respectively, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, and has been the world’s largest-selling cigarette brand since 1972. Philip Morris’s principal discount brands are Basic and L&M. In 2009, Altria acquired UST LLC, whose subsidiary, U.S. Smokeless Tobacco Company LLC (“**UST**”), is the leading producer of smokeless tobacco in the U.S. On May 22, 2018, Altria announced the creation of two divisions within Altria—one division for traditional cigarettes, pipe tobacco, cigars and snuff, and a second division for innovative, non-combustible, reduced-risk products such as vapor products. Altria reported that the new structure is expected, among other things, to accelerate innovation. In its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, Altria states that on March 8, 2019, Altria completed its acquisition, through a subsidiary, of a \$1.8 billion, 45% economic and voting interest in Cronos Group Inc., a global cannabinoid company headquartered in Toronto, Canada, and that in December, 2018, Altria purchased, through a wholly-owned subsidiary, shares of non-voting convertible common stock of JUUL Labs, Inc., representing a 35% economic interest for \$12.8 billion. JUUL is engaged in the manufacture and sale of e-vapor products globally. See “E-Cigarettes and Vapor Products,” below.

R.J. Reynolds Tobacco Company (“**Reynolds Tobacco**”) is the second-largest tobacco company in the U.S. Reynolds Tobacco is a wholly-owned subsidiary of Reynolds American Inc. (“**Reynolds American**”), which

in turn is a wholly-owned subsidiary of British American Tobacco p.l.c. (“**BAT**”) following BAT’s acquisition on July 25, 2017 of the approximately 58% of Reynolds American stock not then owned by BAT. As a result of the acquisition by BAT, Reynolds American no longer files quarterly or annual reports with the SEC. BAT is subject to applicable SEC reporting obligations as a foreign private issuer. BAT is responsible for Reynolds Tobacco’s payment obligations under the MSA as a result of the acquisition of Reynolds Tobacco’s parent company Reynolds American. In an earlier merger, in June 2015, Reynolds American acquired Lorillard, Inc., the parent company of Lorillard Tobacco Company (“**Lorillard**”), the then third-largest tobacco company in the U.S., with Reynolds Tobacco continuing as the surviving entity. In yet an earlier merger, in July 2004, the U.S. operations of Brown & Williamson Tobacco Corporation (“**B&W**”) (the then third-largest tobacco company in the U.S.) were combined with Reynolds Tobacco. In its Annual Report on Form 20-F for the year ended December 31, 2018 BAT reported that its U.S. retail cigarette market share at December 31, 2018 declined 20 basis points from 2017, and its overall U.S. cigarette volume declined 5.3% from 2017. In its annual report for calendar year 2017, BAT reported a U.S. market share of 34.7%. In its Form 10-K filed with the SEC for the calendar year 2016, Reynolds American reported that Reynolds Tobacco’s domestic retail cigarette market share at December 31, 2016 and December 31, 2015 was 32.3%. Reynolds Tobacco’s major premium brands are Newport (which it acquired in the 2015 merger with Lorillard) and Camel, and its discount brands include Pall Mall and Doral. BAT, through Reynolds American, is also the parent company of American Snuff Company, LLC, the second-largest smokeless tobacco products manufacturer in the U.S., and Santa Fe Natural Tobacco Company, Inc. (“**Santa Fe Natural Tobacco Company**”), an SPM that manufactures a super-premium cigarette brand.

Contemporaneous with the 2015 merger of Lorillard, Inc. into Reynolds American, Imperial Tobacco Group plc (“**Imperial Tobacco**”) (through its subsidiary ITG Brands, LLC, an SPM under the MSA) purchased Reynolds Tobacco’s Kool, Salem and Winston cigarette brands, Lorillard, Inc.’s Maverick cigarette brand and blu eCig electronic cigarette brand, and other assets. Imperial Tobacco is listed on the London Stock Exchange and does not file quarterly or annual reports with the SEC. According to Imperial Tobacco’s announcement released November 6, 2018 containing preliminary results for the fiscal year ended September 30, 2018, Imperial Tobacco’s market share in the U.S. tobacco market at fiscal year-end 2018 was 8.7% (unchanged from an adjusted fiscal year-end 2017 market share (previously reported as 8.9%), and representing a decrease from 9.2% at fiscal year-end 2016), making it the third-largest tobacco company in the U.S. market. Imperial Tobacco’s annual report containing final results for the fiscal year ended September 30, 2018 did not disclose market share in the U.S. tobacco market. In accordance with Section XVIII(c) of the MSA, which states that “[n]o Original Participating Manufacturer may sell or otherwise transfer or permit the sale or transfer of any of its Cigarette brands, Brand Names, Cigarette product formulas or Cigarette businesses ... to any person or entity unless such person or entity is an Original Participating Manufacturer or prior to the sale or acquisition agrees to assume the obligations of an Original Participating Manufacturer with respect to such Cigarette brands, Brand Names, Cigarette product formulas or businesses,” the OPM payment obligations under the MSA with respect to the cigarette brands, brand names, cigarette product formulas and businesses acquired by Imperial Tobacco from Reynolds Tobacco and Lorillard have been assumed and continued by Imperial Tobacco. Imperial Tobacco also is the parent company of Commonwealth Brands, Inc. (“**CBI**”), an SPM under the MSA, which markets deep discount brands in the U.S., including USA Gold, Sonoma and Fortuna.

Based on the domestic retail market shares discussed above, the remaining share of the U.S. retail cigarette market in 2018 was held by a number of other cigarette manufacturers, including Liggett Group LLC (“**Liggett**”) (the operating successor to the Liggett & Myers Tobacco Company), an SPM under the MSA and a wholly-owned subsidiary of Vector Group Ltd. (“**Vector Group Ltd.**”). In its Form 10-K filed with the SEC for calendar year 2018, Vector Group Ltd. reported that the domestic market share of its Liggett subsidiary in calendar year 2018 was 4.0% (compared to 3.7% in 2017 and 3.3% in 2016), measured by MSAI shipment volume data, and that all of Vector Group Ltd.’s tobacco sales in those years were in the discount category. According to Vector Group Ltd. in its Form 10-K filed with the SEC for calendar year 2018, Liggett and Vector Tobacco are required to make payments under the MSA to the extent such companies’ market shares exceed approximately 1.65% and approximately 0.28%, respectively, of the U.S. cigarette market (with the MSA payment obligations based on each respective company’s incremental market share above the aforementioned minimum thresholds). Vector Group Ltd.’s brands include Pyramid, Eagle 20’s, Grand Prix and Liggett Select. In a form 8-K filed on May 7, 2019, Vector Group Ltd. announced its financial results for the three months ended March 31, 2019, stating that Liggett’s retail market share increased to 4.2% for the first quarter of 2019 from 4.0% for the first quarter of 2018. The filing

also states that, compared to the first quarter of 2018, Liggett's retail shipments declined by 2.1% while the overall industry's retail shipments declined by 5.6%, according to data from Management Science Associates, Inc.

Industry Market Share

The following table sets forth the approximate comparative market share positions of the leading producers of cigarettes in the U.S. tobacco industry. Lorillard is included for historical comparison. Individual domestic manufacturers' market shares presented below are derived from the publicly available documents of the respective manufacturers and, as a result of differing methodologies used by the manufacturers to calculate market share, may not be accurate.

Manufacturers' Domestic Market Share of Cigarettes¹

<u>Manufacturer</u>	<u>Calendar Year</u>						
	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Philip Morris	49.8%	50.7%	50.9%	51.3%	51.4%	50.7%	50.1
Reynolds Tobacco ²	26.5	26.0	26.5	32.0	32.3	34.7	34.5
Imperial Tobacco ³	----	----	----	9.5	9.2	8.7	8.7
Lorillard ⁴	14.4	14.9	15.1	----	----	----	----
Other ⁵	9.3	8.4	7.5	7.2	7.1	5.9	6.7

¹ Aggregate market share as reported above is different from that used in the Sold County Tobacco Assets Projection Methodology and Assumptions. In addition, aggregate market share for a given year is as reported in SEC filings for such year and has not been restated due to changes in reporting for subsequent years, if any, or otherwise. Shipments to retail outlets as reported by MSAI do not reflect actual consumer sales and do not track all volume and trade channels, and accordingly, the data may overstate or understate actual market share.

² Reynolds Tobacco's market share for 2014 and prior years is based on market share information prior to the merger with Lorillard. Reynolds Tobacco's 2015 market share assumes that cigarette brands acquired in the merger were part of Reynolds Tobacco's portfolio for the entire period, and also reflects for that entire period the divestiture of assets to Imperial Tobacco. Data for calendar year 2017 is as reported by BAT.

³ As of fiscal year-end September 30. According to Imperial Tobacco's annual report for its fiscal year ended September 30, 2015, the 2015 amount shown reflects the combined performance of U.S. operations before and after the acquisition of the above-described assets of Reynolds Tobacco and Lorillard, which occurred in such fiscal year. For fiscal years 2014 and prior, Imperial Tobacco is included in "Other."

⁴ Lorillard utilized MSAI market share data in its SEC reports. MSAI divides the cigarette market into two price segments, the premium price segment and the discount or reduced price segment. MSAI's information relating to unit sales volume and market share of certain of the smaller, primarily deep discount, cigarette manufacturers is based on estimates derived by MSAI.

⁵ The market share specified in "Other" has been determined by subtracting the total market share percentages of Philip Morris, Reynolds Tobacco, Imperial Tobacco and Lorillard as reported in their publicly available documents from 100%. Results may not be accurate and may not total 100% due to rounding and the differing sources and methodologies utilized to calculate market share.

Cigarette Shipment Trends

According to NAAG data, domestic U.S. cigarette shipments over the past 10 reported sales years were approximately as set forth in the table below.

NAAG-Reported Domestic U.S. Cigarette Shipments 2009-2018

<u>Sales Year</u>	<u>Overall No. of Cigarettes (in billions) (with 0.0325 oz. RYO conversion)</u>	<u>% Change From Prior Year (with 0.0325 oz. RYO conversion)¹</u>	<u>OPM No. of Cigarettes (in billions) (with 0.0325 oz. RYO conversion)</u>	<u>% Change From Prior Year (with 0.0325 oz. RYO conversion)¹</u>
2018	236.746	(4.72)%	197.132	(5.94)%
2017	248.487	(4.46)	209.584	(5.09)
2016	260.090	(4.06)	220.818	(2.40)
2015	271.090	1.87	226.214	(0.14)
2014	266.122	(3.73)	226.553	(3.53)
2013	276.423	(4.85)	234.841	(4.34)
2012	290.520	(1.90)	245.486	(1.99)
2011	296.159	(2.75)	250.461	(3.09)
2010	304.547	(6.36)	258.440	(3.96)
2009	325.226	(9.09)	269.095	(10.35)

¹ Percentage change calculated after rounding of shipment volume.

According to data from the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (the “TTB”), the overall quantity of cigarettes shipped domestically (not including a conversion for roll-your-own tobacco) for the past 10 reported calendar years was approximately as set forth in the table below.

TTB-Reported Quantity of Cigarettes Shipped Domestically 2009-2018

<u>Calendar Year</u>	<u>No. of Cigarettes (in billions)</u>	<u>Percent Change From Prior Year¹</u>
2018	235.319	(4.79)%
2017	247.162	(4.00)
2016	257.453	(4.03)
2015	268.261	2.10
2014	262.736	(4.04)
2013	273.787	(4.67)
2012	287.187	(1.91)
2011	292.769	(2.57)
2010	300.489	(5.52)
2009	318.029	(8.20)

¹ Percentage change calculated after rounding of shipment volume.

According to Altria in its Form 10-K filed with the SEC for calendar year 2018, total cigarette industry volumes declined by an estimated 4.5% in 2018 compared to 2017 when adjusted for trade inventory movements and one extra shipping day.

The MSA payments are calculated in part on shipments by the OPMs in or to the U.S., rather than total industry shipments (as shown in the tables above), and rather than consumption. The information in the foregoing tables, which has been obtained from publicly available documents but has not been independently verified, may differ materially from the amounts used by the MSA Auditor for calculating Annual Payments under the MSA.

Physical Plant, Raw Materials, Distribution and Competition

The production facilities of the OPMs tend to be highly concentrated. Material damage to these facilities could materially impact overall cigarette production. A prolonged interruption in the manufacturing operations of the cigarette manufacturers could have a material adverse effect on the ability of the cigarette manufacturers to

effectively operate their respective businesses. In addition, shifts in crops (such as those driven by economic conditions and adverse weather patterns), government mandated prices, economic trade sanctions, geopolitical instability and production control programs may increase or decrease the cost or reduce the supply or quality of tobacco and other agricultural products used to manufacture tobacco products. Any significant change in the price, quality or availability of tobacco leaf or other agricultural products used to manufacture tobacco products could restrict the cigarette manufacturers' ability to continue marketing existing products.

Cigarette manufacturers sell tobacco products to wholesalers (including distributors), large retail organizations, including chain stores, and the armed services. However, certain stores have ceased the sale of tobacco products. The retail chain store Target reportedly stopped selling tobacco products in 1996. In September 2014, the national pharmacy chain CVS reportedly stopped selling all cigarettes and other tobacco products in all its stores (following a February 2014 announcement), citing that such sales were inconsistent with its mission. CVS recently reported that a year after it stopped selling cigarettes, cigarette sales across all retailers have dropped in 13 states where it has sizable market share. A group of state attorneys general have pressured large retail stores with pharmacies to take similar action, and in April 2014 several members of Congress called on these retailers to stop selling cigarettes and other items containing tobacco. According to the American Nonsmokers' Rights Foundation ("ANRF"), as of April 1, 2019, one state (Massachusetts) and 213 cities and counties, located principally in California and Massachusetts, have tobacco-free pharmacy laws. In addition, Costco has also reportedly removed tobacco products from a majority of its U.S. locations, according to news reports in March 2016. The Walgreens drugstore chain announced in April, 2019, that, effective September 1, 2019, it will require customers to be at least 21 years old to purchase tobacco in any of its more than 9,500 stores nationwide. On May 8, 2019, WalMart announced that, beginning July 1, 2019, all WalMart and Sam's Club stores will raise the minimum age to purchase tobacco products, including all e-cigarettes, to 21, and will discontinue the sale of fruit- and dessert-flavored electronic nicotine delivery systems. Furthermore, certain municipalities have enacted laws limiting the number or density of cigarette retailers. For example, in 2014, San Francisco's Tobacco Use Reduction Act was passed which sets a cap on the number of tobacco retailers in each supervisory district and prohibits new stores from locating within 500 feet of schools or within 500 feet of another existing tobacco retailer. In 2016, Philadelphia's Retailer Reduction Regulations were passed, setting a cap on the number of tobacco retailers allowed at one per 1,000 persons in each planning district and restricting any new retailer from locating within 500 feet of K-12 schools. In November 2013, New York City passed an ordinance that set a minimum price of \$10.50 for every pack of cigarettes sold in New York City and prohibited the use of coupons or other promotional discounts to lower that price. In August 2017, New York City updated its comprehensive point-of-sale regulations, to, among other things, set a city-wide cap on retailer licenses at half of the current number in each district, add a licensing requirement for e-cigarettes, and raise the minimum price of a pack of cigarettes to \$13.00, effective June 1, 2018.

Cigarette manufacturers and their affiliates and licensees also market cigarettes and other tobacco products worldwide, directly or through export sales organizations and other entities with which they have contractual arrangements.

The domestic market for cigarettes is highly competitive. Competition is primarily based on a brand's price, including the level of discounting and other promotional activities, positioning, product attributes and packaging, consumer loyalty, advertising, retail display, quality and taste. Promotional activities include, in certain instances, allowances, the distribution of incentive items, price reductions and other discounts. Considerable marketing support, merchandising display and competitive pricing are generally necessary to maintain or improve a brand's market position. Increased selling prices and taxes on cigarettes have resulted in additional price sensitivity of cigarettes at the consumer level and in a proliferation of discounts and of brands in the discount segment of the market. According to the Tobacco Consumption Report, premium brands are typically \$1.00 to \$2.00 more expensive per pack than discount brands, allowing a margin for consumers to switch to less costly discount brands in the event of price increases.

The tobacco products of the cigarette manufacturers and their affiliates and licensees are advertised and promoted through various media, although television and radio advertising of cigarettes is prohibited in the U.S. The domestic tobacco manufacturers have agreed to additional marketing restrictions in the U.S. as part of the MSA and other settlement agreements. They are still permitted, however, to conduct advertising campaigns in magazines, at retail cigarette locations, in direct mail campaigns targeted at adult smokers, and in other adult media.

E-Cigarettes and Vapor Products

Numerous manufacturers have recently developed (or acquired) and are marketing “electronic cigarettes” (or “e-cigarettes”), which, while not tobacco products, are battery powered devices in the shape of a cigarette that vaporize liquid nicotine, which is then inhaled by the consumer. Because they do not contain or burn or heat tobacco, the manufacturers (and certain states) do not deem e-cigarettes to constitute “cigarettes” within the meaning of the MSA. Electronic nicotine products also include devices called “vaporizers,” which are larger, customizable devices. They have larger batteries and cartridges, hold more liquid, produce larger vapor clouds and last longer. They allow users to mix and match hardware and refill cartridges with liquid bought in bulk, so that they generally are cheaper than e-cigarettes. As discussed below, in May 2016, the U.S. Food and Drug Administration (“FDA”) released its final rule which subjects manufacturers, importers and/or retailers of e-cigarettes, other vapor products and certain other tobacco related products to the same and additional regulations applicable to cigarettes, cigarette tobacco, roll-your-own tobacco and smokeless tobacco. However, e-cigarettes and vapor products are currently not subject to the advertising restrictions to which tobacco products are subject. According to research cited by the Campaign for Tobacco-Free Kids, in 2017 there were more than 430 brands of e-cigarettes, and over 15,500 unique e-cigarette flavors were available online.

According to the Tobacco Consumption Report, growth of e-cigarette use increased dramatically in 2017 and 2018, led by sales of the JUUL brand. According to a CDC release dated October 2, 2018, based on an analysis of retail sales data from 2013-2017, sales of JUUL, an e-cigarette shaped like a USB flash drive, grew more than seven-fold from 2016 to 2017, and held the greatest share of the U.S. e-cigarette market by December 2017. Like other e-cigarettes, JUUL is a battery-powered device that heats a nicotine-containing liquid to produce an aerosol that is inhaled. No single e-cigarette manufacturer dominated the U.S. market through 2013. However, sales of British American Tobacco e-cigarette devices surged 146% during 2014 and led the market well into 2017. During 2016-2017, JUUL Labs’ sales increased 641 percent — from 2.2 million devices sold in 2016 to 16.2 million devices sold in 2017. By December of 2017, JUUL Labs’ sales comprised nearly 1 in 3 e-cigarette sales nationally, giving it the largest market share in the United States. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in December 2018, Altria, through a wholly-owned subsidiary, purchased shares of non-voting convertible common stock of JUUL Labs, Inc., representing a 35% economic interest for \$12.8 billion.

Altria introduced e-vapor products through its subsidiary Nu Mark LLC under the “MarkTen” brand in 2013, but according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in December 2018, Altria announced the discontinuation of production and distribution of all e-vapor products by Nu Mark LLC, and the purchase of its 35% economic interest in JUUL Labs, Inc., as described in the previous paragraph. The parent companies of each of the OPMs have launched e-cigarette brands. Reynolds American markets the e-cigarette product VUSE and introduced its VUSE Fob power unit, which offers an on-device display with information about battery and cartridge levels, in March 2016, and began national distribution of its VUSE Vibe high-volume cartridge and closed-tank system, with a stronger and longer-lasting battery, in November 2016. As discussed above under “—Industry Overview,” on May 22, 2018, Altria announced the creation of a separate division within Altria for innovative, non-combustible, reduced-risk products such as vapor products and reported that the new structure is expected, among other things, to accelerate innovation. In April 2012 Lorillard, Inc. acquired the blu eCigs brand, which it sold to Imperial Tobacco contemporaneously with the Lorillard, Inc. merger into Reynolds American in 2015. In May 2018, Imperial Tobacco introduced to the Canadian market its vapor product Vype, a fillable e-cigarette that produces an inhalable aerosol, comes in a number of flavors and is available with various levels of nicotine, including one with no nicotine. In addition, Vector Group Ltd.’s subsidiary Zoom E-Cigs LLC rolled out its Zoom e-cigarette brand nationally 2014. Other manufacturers also have e-cigarette brands on the market.

E-cigarette and vapor product sales were an estimated \$3.5 billion in 2015 and \$4 billion in 2016, according to news reports, and estimated at \$6 billion for 2018, according to research cited by Campaign for Tobacco-Free Kids. According to the Tobacco Consumption Report, 2018 sales of electronic cigarettes in the U.S. were estimated at over \$7 billion, with rapid growth in the past two years, led by sales of the JUUL brand which is now the most popular electronic cigarette accounting for approximately three-fourths of the market share. Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that its subsidiaries believe that a significant number of adult tobacco consumers switch between tobacco categories, use multiple forms

of tobacco products and try innovative tobacco products, such as e-vapor products and that, although the e-vapor category grew rapidly from 2012 through 2015, it then slowed, but the growth trend resumed in 2017 and accelerated rapidly in 2018. Altria and its tobacco subsidiaries believe that the innovative tobacco product categories will continue to be dynamic as adult tobacco consumers explore a variety of tobacco product options, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

According to a CDC report published November 9, 2018, in 2017 2.8% of adults were current e-cigarette users. The CDC in September 2014 reported results of a survey that indicated that in 2013 approximately 8.5% of the adult population, and 36.5% of smokers, had tried e-cigarettes at some time. According to an article in the November 16, 2018 CDC Morbidity and Mortality Weekly Report, current e-cigarette use among high school students had increased to 20.8% in 2018 from 1.5% in 2011, and had increased by 78% (from 11.7% to 20.8%) during 2017–2018 alone. According to the same report, e-cigarettes were the most commonly used tobacco product among high school students (20.8%), followed by cigarettes (8.1%), and among middle school students, the most commonly used tobacco product was e-cigarettes (4.9%), followed by cigarettes (1.8%). In January 2016 the CDC reported that in 2014 approximately 2.4 million middle and high school students had used electronic cigarettes in the preceding 30 days. The CDC in June 2016 released survey results showing that 45% of high school students had tried e-cigarettes in 2015, compared with only 32% who had tried cigarettes. In December 2014 the University of Michigan’s Survey for Research Center (“UMSRC”) reported its findings that e-cigarette use exceeded traditional cigarette smoking among teens in 2014. In December 2015, the UMSRC reported its findings that in 2015, a substantially higher percentage of adolescents used e-cigarettes in the last 30 days than had smoked regular cigarettes and that cigarette smoking among teens continued a decades-long decline in 2015 and reached the lowest levels recorded since annual tracking began over 40 years ago. In addition, it has been reported that increases in taxes on traditional cigarettes have caused an increase in the sale of e-cigarettes. According to the Tobacco Consumption Report, certain sources have shown that e-cigarette use is associated with quit attempts by smokers; that youth use of e-cigarettes is unlikely to increase the number of future cigarette smokers; and that the substantial increase in e-cigarette use among U.S. adult smokers this decade was associated with a statistically significant increase in the smoking cessation rate at the population level; however, the Tobacco Consumption Report cites two studies published in 2019 that found that teens who use e-cigarettes or other tobacco-related products are more likely to later initiate cigarette use.

On May 5, 2016, the FDA released final rules that extend its regulatory authority to electronic cigarettes and certain other tobacco products under the FSPTCA (following an April 25, 2014 release of proposed rules). The rules ban sales of e-cigarettes and other vapor products, cigars, hookah tobacco, pipe tobacco and other products to people under 18, effective August 2016. The rules also require new health warnings for these products, and manufacturers must seek FDA permission to continue marketing all such products launched since 2007 (comprising virtually all of the market), as discussed below under “—Regulatory Issues—FSPTCA.” In addition, the rules require that product manufacturers register with the FDA and report product and ingredient listings; only make direct and implied claims of reduced risk if the FDA confirms that scientific evidence supports the claim and that marketing the product will benefit public health as a whole; not distribute free samples; and not sell products in vending machines, unless in a facility that never admits youth. The rules do not restrict flavored products, online sales or advertising for e-cigarettes and vapor products. Various manufacturers have sued the FDA over the final rules. As part of the FDA’s comprehensive plan for tobacco and nicotine regulation discussed below under “—Regulatory Issues—FSPTCA,” in March 2018 the FDA announced that it is considering over-the-counter regulation of e-cigarettes and in April 2018 the FDA announced a Youth Tobacco Prevention Plan focused on stopping the use by youth of tobacco products, particularly e-cigarettes. See also “—Heat-Not-Burn Tobacco Products” below.

On March 2, 2016, the U.S. Department of Transportation announced a final rule that explicitly bans the use of e-cigarettes and other vaping devices on commercial flights and applies to all scheduled flights of U.S. and foreign carriers involving transportation in, to, and from the U.S.; the U.S. Court of Appeals District of Columbia Circuit upheld the rule in July 2017. On January 28, 2016, President Obama signed the Child Nicotine Poisoning Prevention Act into law which requires containers for liquid nicotine used in e-cigarettes to have child-proof packaging.

Electronic cigarettes are currently not subject to federal excise taxes. For a description of state taxes imposed on vapor products, see “—Regulatory Issues—Excise Taxes” below.

Certain legislation has been passed by states and localities restricting the use and sale of electronic cigarettes and other vapor products. According to ANRF, as of April 1, 2019, 13 U.S. states and two territories (California, Connecticut, Delaware, Hawaii, Maine, Massachusetts, New Jersey, New York, North Dakota, Oregon, Rhode Island, Utah, Vermont, the Northern Mariana Islands and Puerto Rico) and 841 municipalities have banned the use of e-cigarettes in smoke-free venues, and 16 states have restricted e-cigarette use in other venues. On December 19, 2013, the New York City Council approved legislation that prohibits the use of e-cigarettes in indoor public places and in places of employment (where smoking of traditional cigarettes is prohibited), and on January 3, 2017 a New York appellate panel affirmed the constitutionality of the ban. Chicago, Los Angeles, San Francisco and Philadelphia passed similar legislation in 2014.

In December 2014, Representatives Henry Waxman and Frank Pallone and Senator Dick Durbin sent letters to 29 Attorneys General urging them to classify e-cigarettes as cigarettes under the MSA in order to prevent e-cigarette companies from targeting youth and getting them addicted to their products. In February 2015, eight Attorneys General sent a response letter stating their position that the MSA does not cover e-cigarettes.

In September 2017, Philip Morris International announced that it would contribute approximately \$80 million each year for the following 12 years to a non-profit organization called the Foundation for a Smoke-Free World, to fund research on smoke-free alternatives, among other things. In addition, in January 2018, Philip Morris International announced that its long-term goal is to replace its traditional cigarettes with smoke-free alternative products.

Heat-Not-Burn Tobacco Products

Certain tobacco product manufacturers have developed alternative products in which the tobacco is electronically heated rather than burned. Altria, through its subsidiaries, has developed the IQOS and TEEPS heat-not-burn tobacco products, and BAT has developed a similar product, Glo. Such products are currently sold in certain international markets. In addition, in July 2018, BAT received approval from the FDA under the substantial equivalence application process to begin selling its Neocore heated-tobacco device, which was formerly known as Eclipse, according to the Tobacco Consumption Report. Neocore is a carbon-tipped product that is lit with a match but does not burn the tobacco. The FDA regulatory authority described under “—E-Cigarettes and Vapor Products” above extends to heat-not-burn tobacco products, and any state and local regulation on vapor products described under “—E-Cigarettes and Vapor Products” above would also extend to heat-not-burn tobacco products. According to news reports, in December 2016 Philip Morris International filed a modified risk tobacco product application with the FDA to market IQOS in the U.S. as a “less harmful” tobacco product than traditional cigarettes. In March 2017 Philip Morris International filed the corresponding pre-market tobacco production application with the FDA, and in January 2018 an FDA advisory panel found that IQOS significantly reduces exposure to harmful or potentially harmful chemicals, but the panel rejected Philip Morris International’s claim that the product is less harmful than traditional cigarettes. On April 30, 2019, the FDA, which is not required to follow the advice of the advisory panel, announced that it has authorized the marketing of the IQOS “Tobacco Heating System” in the U.S. following review through the FDA’s premarket tobacco product application (PMTA) pathway. Altria has stated that it considers IQOS and other products in which tobacco is heated rather than burned as “tobacco products” under the MSA.

Smokeless Tobacco Products

Smokeless tobacco products, which are not “cigarettes” within the meaning of the MSA, have been available for centuries. Chewing tobacco and snuff are the most significant components of this market segment. Snuff is a ground or powdered form of tobacco that is placed under the lip to dissolve. It delivers nicotine effectively to the body. Moist snuff, including “snus” (originated in Sweden), is both smoke-free and potentially spit-free. As cigarette consumption expanded in the last century, the use of smokeless products declined. Recently, however, the industry has expanded its smokeless tobacco products in response to the general decline in cigarette consumption, the proliferation of smoking bans and the perception that smokeless use is a less harmful mode of tobacco and nicotine usage than cigarettes. Snuff, for example, is now being marketed to adult cigarette smokers as an alternative to cigarettes. UST, the largest producer of moist smokeless tobacco (and a subsidiary of Altria, Philip Morris’s parent company), which manufactures Copenhagen and Skoal smokeless products, among others, is explicitly targeting adult smoker conversion in its growth strategy. In 2006, the OPMs entered the market of smokeless tobacco products. Reynolds American has tested dissolvable tobacco products Camel Sticks (a twisted,

dissolvable stick made of tobacco), Camel Orbs (dissolvable tobacco tablets) and Camel Strips (dissolvable tobacco strips), but in recent years has scaled back marketing of these products.

As a result of these efforts, smokeless tobacco products have been increasing market share of tobacco products overall at the expense of the market share captured by cigarettes. According to a CDC report published November 9, 2018, 2.1% of U.S. adults were current users of smokeless tobacco (defined as chewing tobacco, snuff, dip, snus, or dissolvable tobacco) in 2017. According to a CDC report published December 9, 2016, per capita consumption of smokeless tobacco (defined as chewing tobacco and dry snuff) increased modestly, from 0.533 pounds in 2000 to 0.555 pounds 2015, or 4.2%. According to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, smokeless tobacco products accounted for approximately 9.9% of Altria's tobacco product net revenues for the three months ended March 31, 2019, compared with approximately 8.8% for the three months ended March 31, 2018.

For a description of federal and state taxes imposed on smokeless tobacco products, see “—Regulatory Issues—*Excise Taxes*” below.

On June 10, 2014, Swedish Match submitted an application to the FDA to (i) authorize under the FDA's Premarket Tobacco Application pathway the marketing and sale of updated versions of eight of its snus products under the “General” brand name and (ii) approve the snus products as a “modified risk tobacco product” (“MRTP”) allowing the manufacturer to alter or remove certain warning labels from its packages and to make claims that its products present a lower risk than cigarettes. The FDA announced in November 2015 that it had for the first time authorized the marketing of a new tobacco product through the Premarket Tobacco Application process by granting Swedish Match's application with respect to the marketing and sale of its snus products. In December 2016 the FDA denied Swedish Match's request to remove one of the required warning statements for eight snus products under the “General” brand name, and the FDA provided recommendations related to Swedish Match's other requests and provided an opportunity for Swedish Match to amend its MRTP applications.

Smoking Cessation Products

A variety of smoking cessation products and services have been developed to assist individuals to quit smoking. While some studies have shown that smokers who use a smoking cessation product to help them quit smoking are more likely to relapse, other studies have shown that these products and programs are effective, and that excise taxes and smoking restrictions and related tobacco regulation drive additional expenditures to the smoking cessation market. The smoking cessation industry is broadly divided into two segments, counseling services (e.g., individual, group, or telephone), and pharmacological treatments (both prescription and over-the-counter). Several large pharmaceutical companies, including GlaxoSmithKline, Johnson & Johnson, Novartis and Pfizer are significant participants in the smoking cessation market. The FDA has approved a variety of smoking cessation products and these products include prescription medicine, such as Nicotrol, Chantix, and Zyban, as well as over-the-counter products such as skin patches, lozenges and chewing gum. Alternative therapies, such as psychotherapy and hypnosis, are also in use and available to individuals. On March 15, 2018, as part of the FDA's comprehensive plan for tobacco and nicotine regulation discussed below under “—Regulatory Issues—FSPTCA,” the FDA announced that it is starting new work to re-evaluate and modernize its approach to the development and regulation of medicinal nicotine replacement products such as gums, patches and lozenges, and on August 3, 2018, the FDA released draft guidance aimed at supporting the development of novel, inhaled nicotine replacement therapies that could be submitted to the FDA for approval as new drugs, similar to current over-the-counter pharmaceutical nicotine replacement therapy products.

According to the Tobacco Consumption Report, on June 19, 2018, the CDC released data from a survey indicating that adult smoking prevalence declined to 13.8% in 2017. It is possible that many former smokers were aided by smoking cessation products.

Regarding smoking cessation generally, the CDC in January 2017 released the results of a study of quitting smoking, which found that in 2015, 68.0% of smokers wanted to stop smoking, 55.4% had made a quit attempt in the past year, 7.4% had recently quit, 57.2% had been advised by a health professional to quit, and 31.2% had used counseling and/or medications when they tried to quit.

Private health insurance carriers are increasing premiums on smokers, which often are passed on by the employer to the smoker-employee. Certain of these and other health insurance policies, including Medicaid and Medicare, cover various forms of smoking cessation treatments, making smoking cessation treatments more affordable for covered smokers.

Gray Market

A price differential (principally resulting from differing tax rates) exists between cigarettes manufactured for sale abroad and cigarettes manufactured for U.S. sale. Such differential increases as excise taxes in the U.S. are increased. Consequently, a domestic gray market has developed for cigarettes that are manufactured for sale abroad, but instead are diverted for domestic sales at substantially lower prices that compete with cigarettes manufactured for domestic sale. The U.S. federal government and all states, except Massachusetts, have enacted legislation prohibiting the sale and distribution of gray market cigarettes. Smuggling activities and other illicit trade in cigarettes can adversely impact the sale of cigarettes by PMs, and certain PMs engage in a variety of initiatives to help prevent illicit trade and have taken legal action against certain distributors and retailers who engage in such illicit trade practices.

Regulatory Issues

Regulatory Restrictions and Legislative Initiatives

The tobacco industry is subject to a wide range of laws and regulations regarding the marketing, sale, taxation and use of tobacco products imposed by local, state, federal and foreign governments. Various state governments have adopted or are considering, among other things, legislation and regulations that would increase their excise taxes on cigarettes, restrict displays and advertising of tobacco products, establish ignition propensity standards for cigarettes, raise the minimum age to possess or purchase tobacco products, ban the sale of “flavored” cigarette brands, require the disclosure of ingredients used in the manufacture of tobacco products, impose restrictions on smoking in public and private areas, and restrict the sale of tobacco products directly to consumers or other unlicensed recipients, including over the Internet. Several states charge higher health insurance premiums to state employee smokers than non-smokers, and a number of states have implemented legislation that allows employers to provide incentives to employees who do not smoke. Federal law currently allows insurance companies to charge smokers up to 50% higher premiums than non-smokers, and several large corporations are now charging smokers higher premiums.

Federal Regulation

During the past five decades, various laws affecting the cigarette industry have been enacted. Since 1966, federal law has required a warning statement on cigarette packaging. Since 1971, television and radio advertising of cigarettes has been prohibited in the U.S. Cigarette advertising in other media in the U.S. is required to include information with respect to the “tar” and nicotine yield of cigarettes, as well as a warning statement. In 1984, Congress enacted the Comprehensive Smoking Education Act. Among other things, the Comprehensive Smoking Education Act established an interagency committee on smoking and health that is charged with carrying out a program to inform the public of any dangers to human health presented by cigarette smoking; required a series of four health warnings to be printed on cigarette packages and advertising on a rotating basis; increased type size and area of the warning required in cigarette advertisements; and required that cigarette manufacturers provide annually, on a confidential basis, a list of ingredients added to tobacco in the manufacture of cigarettes to the Secretary of Health and Human Services.

In 1992, the federal Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act was signed into law. This act required states to adopt a law prohibiting any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18 and to establish a system to monitor, report and reduce the illegal sale of tobacco products to minors in order to continue receiving federal funding for mental health and drug abuse programs. Federal law prohibits smoking in scheduled passenger aircraft, and the U.S. Interstate Commerce Commission has banned smoking on buses transporting passengers interstate. Certain common carriers have imposed additional restrictions on passenger smoking. On March 31, 2010, President Obama signed into law the Prevent All Cigarette Trafficking (PACT) Act. This legislation, among other things, restricts the sale of tobacco products directly to consumers or unlicensed recipients, including over the Internet, through expanded reporting requirements, requirements for delivery and sales, and penalties.

FSPTCA

The federal Family Smoking Prevention and Tobacco Control Act of 2009 (“**FSPTCA**”) (amending the FDA’s Food, Drug and Cosmetics Act) (“**FD&C Act**”), signed by President Obama on June 22, 2009, grants the FDA authority to regulate tobacco products. Among other provisions, the FSPTCA:

- establishes a Tobacco Products Scientific Advisory Committee (“**TPSAC**”) to, among other things, evaluate the issues surrounding the use of menthol as a flavoring or ingredient in cigarettes;
- allows the FDA to impose a ban on the use of menthol and other flavors in cigarettes upon a finding that such a prohibition would be appropriate for the public health;
- allows the FDA to require the reduction of nicotine or any other compound in cigarettes;
- imposes restrictions on the advertising, promotion, sale and distribution of tobacco products, including at retail;
- requires larger and more severe health warnings on cigarette packs and cartons;
- requires pre-market approval by the FDA for claims made with respect to reduced risk or reduced exposure products and bans the use of descriptors on tobacco products, such as “low tar,” “mild” and “light,” when used as descriptors of modified risk, unless expressly authorized by the FDA;
- requires the disclosure of ingredients and additives to consumers;
- allows the FDA to mandate the use of reduced risk technologies in conventional cigarettes;
- permits inconsistent state regulation of the advertising or promotion of cigarettes and eliminates the existing federal preemption of such regulation;
- allows the FDA to subject new or modified tobacco products to application and premarket review and authorization requirements (the “**New Product Application Process**”) if the FDA does not find them to be “substantially equivalent” to products commercially marketed as of February 15, 2007, and to deny any such new product application thus preventing the distribution and sale of any product affected by such denial; and
- grants the FDA the regulatory authority to consider and impose broad additional restrictions through a rule making process.

Since the passage of the FSPTCA, the FDA has taken the following actions, among others:

- established the collection of user fees from the tobacco industry;
- created and staffed the TPSAC;
- selected the Director of the Center for Tobacco Products;
- announced and began enforcing a ban on fruit, candy or clove flavored cigarettes (menthol is currently exempted from this ban);
- issued guidance on registration and product listing;

- issued final rules on tobacco marketing, including restricting access and marketing of cigarettes and smokeless tobacco products to youth;
- issued a prohibition on misleading marketing terms (“Light,” “Low,” and “Mild”) for tobacco products;
- is considering new graphic warnings to appear on cigarette packages and in cigarette advertisements;
- required warning labels for smokeless tobacco products;
- authorized the sale and marketing of new tobacco products and rejected applications to introduce certain new tobacco products into the market;
- issued its final rule subjecting e-cigarettes, vapor products and certain other tobacco products to FDA regulation (as discussed under “—E-Cigarettes and Vapor Products” above); and
- stated its intent to issue a notice of proposed rulemaking that would seek to ban menthol in combustible tobacco products and has issued the March 15, 2018 ANPRM in order to obtain information for consideration in developing a tobacco product standard to set the maximum nicotine level for cigarettes.

Marketing Rule. As required by the FSPTCA, the FDA re-promulgated in March 2010 a wide range of advertising and promotion restrictions in substantially the same form as regulations that were previously adopted in 1996 (but never imposed on tobacco manufacturers due to a United States Supreme Court ruling). This marketing rule banned the use of color and graphics in tobacco product labeling and advertising (which ban was ruled to be unenforceable, as described under “—FSPTCA Litigation” below); prohibits the sale of cigarettes and smokeless tobacco to underage persons; restricts the use of non-tobacco trade and brand names on cigarettes and smokeless tobacco products (the FDA is currently not issuing enforcement actions with regard to this restriction, as described under “—FSPTCA Litigation” below); requires the sale of cigarettes and smokeless tobacco in direct, face-to-face transactions; prohibits sampling of cigarettes and prohibits sampling of smokeless tobacco products except in qualified adult-only facilities; prohibits gifts or other items in exchange for buying cigarettes or smokeless tobacco products; prohibits the sale or distribution of items such as hats and tee shirts with tobacco brands or logos; and prohibits brand name sponsorship of any athletic, musical, artistic or other social or cultural event, or any entry or team in any event. Except as noted above, the marketing rule took effect in June 2010.

Warnings. Pursuant to requirements of the FSPTCA, the FDA issued a proposed rule in November 2010 to modify the required warnings that appear on cigarette packages and in cigarette advertisements. The proposed new warnings consisted of nine new textual warning statements accompanied by color pictures depicting the negative health consequences of smoking. The proposed warnings would appear on the upper portion of the front and rear panels of each cigarette package and comprise at least the top 50% of these panels, and would also appear in each cigarette advertisement and occupy at least 20% of the advertisement and be located at the top of the advertisement. The FDA took public comments on the proposed rule through January 2011, and in June 2011, the FDA unveiled nine new graphic health warnings that were required to appear on cigarette packages and advertisements no later than September 2012. As discussed below under “—FSPTCA Litigation,” five tobacco companies in August 2011 filed a complaint against the FDA in the U.S. District Court for the District of Columbia challenging the FDA’s rule requiring new textual and graphic warning labels on cigarette packaging and advertisements. The district court enjoined the FDA from enforcing the rule, the appellate court affirmed the district court’s decision invalidating the graphic warning rule, and the FDA did not seek further review. The FDA has announced that it would undertake research to support a new rulemaking on different warning labels consistent with the FSPTCA and would propose a new graphic warnings rule in the future.

Dissolvable Tobacco Products. In July 2010, the TPSAC conducted hearings on the impact of dissolvable tobacco products on public health. A report on these hearings was submitted to the FDA in 2011 and remains subject to continuing TPSAC hearings. Written comments regarding dissolvable tobacco products were submitted

to the TPSAC ahead of its January 2012 meeting, at which the TPSAC continued its discussions of issues related to the nature and impact of dissolvable tobacco products on public health. The TPSAC's final report released to the FDA in March 2012 found that dissolvable tobacco products would reduce health risks compared to smoking cigarettes, but also have the potential to increase the number of tobacco users. The TPSAC could not reach any overall judgment as to whether or not the consequence of dissolvable tobacco products would be an increase or decrease in the number of people who successfully quit smoking. The FDA will consider the report and recommendations and determine what future action, if any, is warranted with respect to dissolvable tobacco products. There is no timeline or statutory requirement for the FDA to act on the TPSAC's recommendations.

Menthol. The TPSAC and the Menthol Report Subcommittee held meetings throughout 2010 and 2011 to consider the issues surrounding the use of menthol in cigarettes. At its March 2011 meeting, TPSAC presented its report and recommendations on menthol, which included that menthol likely increases experimentation and regular smoking, menthol likely increases the likelihood and degree of addiction for youth smokers, non-white menthol smokers (particularly African-Americans) are less likely to quit smoking and are less responsive to certain cessation medications, and consumers continue to believe that smoking menthol cigarettes is less harmful than smoking non-menthol cigarettes as a result of the cigarette industry's historical marketing. TPSAC's overall recommendation to the FDA was that "removal of menthol cigarettes from the marketplace would benefit public health in the United States." At the July 2011 meeting, TPSAC considered revisions to its report, and the voting members unanimously approved the final report for submission to the FDA with no change in its recommendation. On July 23, 2013, the FDA released its Independent Preliminary Scientific Evaluation of the Public Health Effects of Menthol Versus Non-menthol Cigarettes (the "**Preliminary Evaluation**") for public comment, and issued an Advance Notice of Proposed Rulemaking ("**ANPRM**") seeking additional information to help the FDA make informed decisions about menthol in cigarettes. The Preliminary Evaluation found that although there is little evidence to suggest menthol cigarettes are more toxic than regular cigarettes, the mint flavor of menthol masks the harshness of tobacco, which makes it easier to become addicted and harder to quit, and increases smoking initiation among youth. The FDA concluded that menthol cigarettes likely pose a public health risk above that seen with non-menthol cigarettes. During the public comment period, the FDA was to consider all comments, data and research submitted to determine what regulatory action, if any, with respect to menthol cigarettes is appropriate, including the establishment of product standards. In the meantime the FDA was to conduct and support research on the differences between menthol and non-menthol cigarettes as they relate to menthol's likely impact on smoking cessation. The FDA is allowed to rely on the TPSAC's report but is not required to follow the TPSAC's recommendations, and the FDA has not yet taken any final action with respect to menthol use. In a press release dated November 15, 2018, the FDA announced its intent to advance a Notice of Proposed Rulemaking that would seek to ban menthol in combustible tobacco products, including cigarettes and cigars, based on comments received from the March, 2018 ANPRM. See "*Comprehensive Regulatory Plan for Tobacco and Nicotine*" below for a description of the FDA's ANPRM issued on March 20, 2018 regarding flavors, including menthol, in tobacco products. See "*FSPTCA Litigation*" below for a description of litigation regarding the composition of the TPSAC and reliance upon the menthol report.

On November 8, 2013, twenty-seven states (including the State) sent a letter to the FDA in support of a ban on menthol-flavored cigarettes. Any ban or material limitation on the use of menthol in cigarettes could materially adversely affect the results of operations, cash flow and financial condition of the PMs, especially with respect to the *Newport* brand mentholated cigarettes, which is owned by BAT through its subsidiary Reynolds American (following the Reynolds American merger with Lorillard, Inc.). According to research published in *Nicotine and Tobacco Research* in May, 2018, the menthol cigarette market share increased from 30.2% in 2011 to 32.5% in 2015. News reports have estimated the 2018 market share of menthol cigarettes at 35%.

Pre-Market Review for New and Modified Products. The FSPTCA imposes restrictions on marketing new and modified tobacco products, requiring FDA review in order for a manufacturer to begin marketing a new product or continue marketing a modified product. Unless a manufacturer can demonstrate that its products are "substantially equivalent" to products commercially marketed as of February 15, 2007, the FDA could require the removal of such products or subject them to the new product application process and, if any such new product applications are denied, prevent the continued distribution and sale of such products. Manufacturers intending to first introduce new and modified cigarette, cigarette tobacco and smokeless tobacco products into the market after March 22, 2011 or intending to first introduce other new and modified products such as e-cigarettes and other vapor products into the market after August 8, 2016 must submit substantial equivalence reports to the FDA and obtain "substantial equivalence orders" from the FDA, or submit new tobacco product applications to the FDA and obtain

“new tobacco product marketing orders” from the FDA before introducing the products into the market. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, new tobacco product applications would need to demonstrate that the marketing of the product would be appropriate for the protection of the public health, and it is uncertain how the FDA will interpret the requirements for obtaining a new tobacco product marketing order (although, as noted below, the FDA has indicated its intention to issue appropriate regulations to clarify the requirements).

According to FDA guidance issued in January 2011, for cigarettes, cigarette tobacco and smokeless tobacco products modified or first introduced into the market between February 15, 2007 and March 22, 2011 for which a manufacturer submitted substantial equivalence reports that the FDA determines are not “substantially equivalent” to products commercially marketed as of February 15, 2007, the FDA could require the removal of such products from the marketplace. In its May 2016 final rule on e-cigarettes and other vapor products, the FDA left the “grandfather” date of February 15, 2007 in place for e-cigarettes and vapor products. For e-cigarettes and other vapor products modified or first introduced into the market between February 15, 2007 and August 8, 2016, if a manufacturer submits substantial equivalence reports for products that the FDA determines are not “substantially equivalent” to products commercially marketed as of February 15, 2007, or rejects a new tobacco product application submitted by a manufacturer, the FDA could require the removal of such products from the marketplace. Few, if any, e-cigarettes and other vapor products were on the market as of February 15, 2007, and thousands of such products subsequently entered into commerce. To address this issue, the FDA established a compliance policy regarding its premarket review requirements for all products (such as e-cigarettes and other vapor products) deemed by the May 2016 final rule to be tobacco products that are not grandfathered products but were on the market as of August 8, 2016. The FDA will allow such products to remain on the market so long as the manufacturer has filed the appropriate Premarket Tobacco Application (“PMTA”) by a specific deadline. In August 2017 in a “Guidance for Industry” (the “August 2017 Guidance”) the FDA extended the filing deadlines for combustible non-cigarette products, such as cigars and pipe tobacco, to August 8, 2021, and for non-combustible products, such as e-cigarettes, other vapor products and oral nicotine products, to August 8, 2022. The August 2017 Guidance also provides that the FDA will permit manufacturers to continue to market such products that were on the market on August 8, 2016 until the FDA renders a decision on the applicable substantial equivalence report or new tobacco product application. In a subsequent draft guidance dated March, 2019 (the “March 2019 Draft Guidance”), the FDA, among other things, proposed shortening the August 2022 deadline for non-combustible products to August, 2021. See “—FDA March 2019 Draft Guidance,” below). On May 15, 2019, the U.S. District Court for the District of Maryland rendered a decision in *American Academy of Pediatrics, et al. v. Food and Drug Administration* that vacated the August 2017 Guidance, gave the plaintiffs two weeks to propose a revised schedule for the submission and review of PMTAs, and allowed the FDA two weeks to respond to such proposal.

In addition, modifications to currently-marketed products, including modifications that result from, for example, a supplier being unable to maintain the consistency required in ingredients or a manufacturer being unable to obtain the ingredients with the required specifications, can trigger the FDA’s pre-market review process described above.

In March 2015 and September 2015, the FDA issued draft guidance that announced that certain label changes and changes to the quantity of tobacco products in a package would each require submission of substantial equivalence reports and authorization from the FDA prior to marketing tobacco products with such changes, even when the tobacco product itself is not changed. As discussed under “—FSPTCA Litigation” below, in response to a legal challenge from the tobacco manufacturers, the United States District Court for the District of Columbia found that labeling changes do not require a substantial equivalence review, but product quantity changes require a substantial equivalence review. In December 2016, the FDA issued a revised final guidance document entitled, “Demonstrating the Substantial Equivalence of a New Tobacco Product: Response to Frequently Asked Questions (Edition 3)” as a result of the court decision.

Since the FSPTCA’s enactment, the FDA has received thousands of applications for products that tobacco companies claimed were “substantially equivalent” to ones already on the market. The FDA began announcing decisions on substantial equivalence reports in 2013. The FDA announced on June 25, 2013 that it approved the applications and authorized the sale of two new non-menthol Newport cigarettes that were made by Lorillard (after determining that the cigarettes, while slightly different than previous products, would not pose new health issues) and rejected four other new tobacco products, based on new health concerns raised by some ingredients and a lack

of detail about product design. It was the first instance of a federal agency rejecting an application by a tobacco manufacturer to bring a new tobacco product to the market based on the product's threat to public health. Four additional tobacco products were rejected by the FDA on August 28, 2013 because they were found to be "not substantially equivalent" to the predicate products to which they were compared, and in September 2013 four roll-your-own products were approved for marketing and sale by the FDA because the products were determined to be "substantially equivalent" to the predicate products to which they were compared. In February 2014, the FDA issued orders to prevent the further sale and distribution of four of the "not substantially equivalent" tobacco products that were currently on the market, marking the first time the FDA has used its authority to order a tobacco manufacturer to stop selling and distributing currently available tobacco products. In August 2014, the FDA ordered a tobacco product manufacturer to stop selling and distributing seven dissolvable tobacco products because they were not substantially equivalent to predicate products. Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that there remain a significant number of substantial equivalence reports for which the FDA has not announced decisions, that it is not possible to predict how long reviews of the FDA of substantial equivalence reports or new tobacco product applications will take, and a "not substantially equivalent" determination or denial of a new tobacco product application could have a material adverse impact on its business, cash flows or financial position.

As noted below under "*Comprehensive Regulatory Plan for Tobacco and Nicotine*," as part of the FDA's comprehensive plan for tobacco and nicotine regulation, the FDA reported that it plans to develop foundational rules and guidance that will delineate key requirements of the regulatory process, such as the demonstration of substantial equivalence and the submission of applications for new tobacco products.

Modified Risk Products. The FSPTCA bans the use of descriptors on tobacco products such as "low tar," "mild" and "light" when used as descriptors of modified risk, unless expressly authorized by the FDA. On March 30, 2012 the FDA issued draft guidance on preparing and submitting applications for modified risk tobacco products pursuant to the FSPTCA.

On August 27, 2015, the FDA sent a warning letter to Reynolds American's subsidiary Santa Fe Natural Tobacco Company, claiming that its use of the terms "Natural" and "Additive Free" in the product labeling and advertising for Natural American Spirit cigarettes violates the modified risk tobacco products provision of the FSPTCA. The FDA stated that in order for such terms to be used, these cigarettes must have an FDA modified-risk tobacco product order, which requires scientific evidence in order to legally make those claims. Following discussions between the parties, on January 23, 2017 the FDA and Santa Fe Natural Tobacco Company reached an agreement whereby, among other things, Santa Fe Natural Tobacco Company committed to phasing out use of the terms "Natural" and "Additive Free" from product labeling and advertising for Natural American Spirit cigarettes on an established timeframe, but it may continue to use the term "Natural" in the Natural American Spirit brand name and trademarks.

In connection with a 2016 lawsuit initiated by Altria's subsidiary John Middleton Co. ("**Middleton**") the Department of Justice, on behalf of the FDA, informed Middleton that the FDA does not intend to bring an enforcement action against Middleton for the use of the term "mild" in the trademark "Black & Mild" (Middleton's principal cigar brand), according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

As described above under "*Heat-Not-Burn Tobacco Products*," in January 2018 an advisory panel to the FDA rejected Philip Morris International's claim that its product IQOS, in which tobacco is electronically heated rather than burned, is less harmful than traditional cigarettes. On April 30, 2019, the FDA, which is not required to follow the advice of the advisory panel, announced that it has authorized the marketing of the IQOS "Tobacco Heating System" in the U.S. following review through the FDA's premarket tobacco product application (PMTA) pathway.

Product Constituents and Product Standards. On March 30, 2012 the FDA issued draft guidance on the reporting of harmful and potentially harmful constituents in tobacco products and tobacco smoke pursuant to the FSPTCA. In January 2017, the FDA proposed a product standard for N-nitrosornicotine (NNN) levels in finished smokeless tobacco products, and according to Altria in SEC filings, in March 2017 the FDA extended the comment

period and acknowledged what it described as a typographical error in a formula it used in documentation supporting the proposed rule.

Comprehensive Regulatory Plan for Tobacco and Nicotine. On July 28, 2017, the FDA announced its intent to develop a comprehensive plan for tobacco and nicotine regulation that recognizes the continuum of risk for nicotine delivery. On March 15, 2018, as part of this comprehensive plan, the FDA announced an ANPRM to explore and seek comment on lowering the nicotine in cigarettes to minimally or non-addictive levels. On March 20, 2018, the FDA issued an additional ANPRM regarding the role that flavors, including menthol, play in initiation, use and cessation of use of tobacco products, and in a press release dated November 15, 2018, the FDA announced its intent to advance a Notice of Proposed Rulemaking that would seek to ban menthol in combustible tobacco products, including cigarettes and cigars, based on comments received from the March, 2018 ANPRM. In the March 15, 2018 announcement, the FDA also stated that it is starting new work to re-evaluate and modernize its approach to the development and regulation of medicinal nicotine replacement products such as gums, patches and lozenges; and plans to issue a series of foundational rules and guidance that will delineate key requirements of the regulatory process, such as the demonstration of substantial equivalence and the submission of applications for new tobacco products, as well as a framework for addressing substantial equivalence applications for provisional products that entered the market during applicable grace periods. The FDA also noted in the July 2017 announcement that it plans to develop product standards to protect against known public health risks such as issues with electronic nicotine delivery systems batteries and concerns about children's exposure to liquid nicotine. On March 28, 2018, the FDA announced, as part of the comprehensive plan, that it is considering over-the-counter regulation of e-cigarettes. On April 24, 2018, the FDA announced a Youth Tobacco Prevention Plan focused on stopping the use by youth of tobacco products, particularly e-cigarettes, as part of its comprehensive plan. Among other initial actions, the FDA sent official requests for information to several e-cigarette manufacturers, requiring them to submit documents to enable the FDA to better understand the youth appeal of e-cigarettes, and conducted an undercover nationwide blitz to crack down on illicit sales of e-cigarettes. The Youth Tobacco Prevention Plan will also include efforts to make tobacco products less toxic, appealing and addictive in order to deter use by youth, which may include measures on flavors or designs that appeal to youth, child-resistant packaging and product labeling to prevent accidental child exposure to liquid nicotine. Additionally, the FDA plans to explore additional restrictions on the sale and promotion of electronic nicotine delivery systems to further reduce youth exposure and access to these products. On August 3, 2018, the FDA released draft guidance aimed at supporting the development of novel, inhaled nicotine replacement therapies that could be submitted to the FDA for approval as new drugs, similar to current over-the-counter pharmaceutical nicotine replacement therapy products.

User Fees. The FSPTCA imposes quarterly user fees on cigarette, cigarette tobacco, smokeless tobacco, cigar and pipe tobacco manufacturers and importers to pay for the cost of regulation and other matters. The FSPTCA does not impose user fees on vapor product manufacturers. The cost of the FDA user fees is allocated first among tobacco product categories subject to FDA regulation and then among manufacturers and importers within each respective category based on their relative market shares, all as prescribed by the FSPTCA and FDA regulations. Payments for user fees are adjusted for several factors, including inflation, market share and industry volume.

FDA March 2019 Draft Guidance. In March 2019 the FDA issued a draft Guidance for Industry entitled "Modifications to Compliance Policy for Certain Deemed Tobacco Products" (the "**Draft Guidance**"). The Draft Guidance proposes, among other things, to revise the FDA compliance policy for flavored e-vapor products (other than tobacco, mint and menthol flavors) by, among other things, moving the deadline for filing pre-market applications from August 2022 to August 2021, and imposing restrictions on sales of such tobacco products at in-person locations and online in order to reduce underage access. The Draft Guidance was subject to a 30-day comment period, after which the FDA may issue a final guidance. According to the Draft Guidance, enforcement actions under the revised policies would begin 30 days after the issuance of the final guidance.

Future Actions. The FDA can issue additional regulations under the FSPTCA to impose broad additional restrictions on tobacco products. In addition, the FSPTCA requires that the FDA promulgate good manufacturing practice regulations for tobacco product manufacturers, but does not specify a timeframe for such regulations.

FSPTCA Litigation

Tobacco manufacturers have filed suit regarding certain provisions of the FSPTCA and actions taken thereunder. In August 2009, a group of tobacco manufacturers (including Reynolds Tobacco and Lorillard) and a tobacco retailer filed a complaint against the U.S. government in the U.S. District Court for the Western District of Kentucky, *Commonwealth Brands, Inc. v. U.S.*, 678 F.Supp.2d 512, in which they asserted that various provisions of the FSPTCA violate their free speech rights under the First Amendment, constitute an unlawful taking under the Fifth Amendment, and are an infringement on their Fifth Amendment due process rights. Plaintiffs sought a preliminary injunction and a judgment declaring the challenged provisions unconstitutional. Both plaintiffs and the government filed motions for summary judgment and on November 5, 2009, the district court denied certain plaintiffs' motion for preliminary injunction as to the modified risk tobacco products provision of the FSPTCA and in January 2010 granted partial summary judgment to plaintiffs on their claims that the ban on color and graphics in advertising and the ban on statements implying that tobacco products are safer due to FDA regulation violated their First Amendment speech rights. The district court granted partial summary judgment to the government on all other claims. Both parties appealed from the district court's order and on March 19, 2012, the U.S. Court of Appeals for the Sixth Circuit affirmed the district court's decision upholding the FSPTCA's restrictions on the marketing of modified-risk tobacco products, the FSPTCA's bans on event sponsorship, branding non-tobacco merchandise, and free sampling, and the requirement that tobacco manufacturers reserve significant packaging space for textual health warnings. The Sixth Circuit further affirmed the district court's grant of summary judgment to plaintiff manufacturers on the unconstitutionality of the FSPTCA's restriction of tobacco advertising to black and white text. The Sixth Circuit reversed the district court's determination that the FSPTCA's restriction on statements regarding the relative safety of tobacco products based on FDA regulation is unconstitutional and its determination that the FSPTCA's ban on tobacco continuity programs is permissible under the First Amendment. On May 31, 2012, the Sixth Circuit denied the plaintiffs' motion for rehearing en banc. On October 30, 2012, the plaintiffs filed a petition for writ of certiorari with the U.S. Supreme Court. On April 22, 2013, the U.S. Supreme Court denied plaintiffs' petition for certiorari. The government had not appealed the portion of the Court of Appeals ruling that affirmed the unconstitutionality of the FSPTCA's restriction of tobacco advertising to black and white text.

In a separate lawsuit that challenged the constitutionality of the FDA regulation that restricts tobacco manufacturers from using the trade or brand name of a non-tobacco product on cigarettes or smokeless tobacco products, the case was dismissed without prejudice pursuant to a stipulation by which the FDA agreed not to enforce the current or any amended trade name rule against plaintiffs until at least 180 days after rulemaking on the amended rule concludes. This relief only applies to plaintiffs in the case. However, in May 2010, the FDA issued guidance on the use of non-tobacco trade and brand names applicable to all cigarette and smokeless tobacco product manufacturers. This guidance indicated the FDA's intention not to commence enforcement actions under the regulation while it considers how to address the concerns raised by various manufacturers.

In February 2011, Lorillard, along with Reynolds Tobacco, filed a lawsuit in the U.S. District Court for the District of Columbia, *Lorillard, Inc. v. U.S. Food and Drug Administration*, against the FDA challenging the composition of the TPSAC because of the FDA's appointment of certain voting members with significant financial conflicts of interest. Lorillard believed these members were financially biased because they regularly testify as expert witnesses against tobacco-product manufacturers, and because they are paid consultants for pharmaceutical companies that develop and market smoking-cessation products. The suit similarly challenged the presence of certain conflicted individuals on the Constituents Subcommittee of the TPSAC. The complaint sought a judgment (i) declaring that, among other things, the appointment of the conflicted individuals to the TPSAC (and its Constituents Subcommittee) was arbitrary, capricious, an abuse of discretion, and otherwise not in compliance with the law because it prevented the TPSAC from preparing a report that was unbiased and untainted by conflicts of interest, and (ii) enjoining the FDA from, among other things, relying on the TPSAC's report. On July 21, 2014, the U.S. District Court for the District of Columbia granted plaintiffs' summary judgment motion, in part, and denied defendants' summary judgment motion, finding that three of the panel's members had conflicts of interest that biased them against the tobacco industry and that "the FDA's appointment of those members was arbitrary and capricious, in violation of the APA, and fatally tainted the composition of the TPSAC and its work product, including the Menthol Report." The court ordered the FDA to reconstitute the TPSAC so that it complies with the applicable ethics laws and barred the FDA from relying on the TPSAC 2011 report on menthol, which the court found to be, "at a minimum suspect, and at worst untrustworthy." The FDA appealed the district court's decision to the U.S. Court of Appeals for the District of Columbia in September 2014. On March 5, 2015, the FDA announced

the resignation or termination of four members from the TPSAC and the addition of three members to the TPSAC, in response to the district court's order to reconstitute the committee. The FDA also announced that it would work expeditiously to fill the remaining vacancy. On January 15, 2016, the appellate court reversed the decision of the district court, finding that the plaintiffs did not have standing to challenge appointments of certain TPSAC members. Under the appellate court's order, the three former committee members can serve once again on the TPSAC and the FDA can rely on the TPSAC menthol report. On February 26, 2016, the plaintiff tobacco manufacturers filed a petition for a rehearing en banc, which was denied in May 2016.

On August 16, 2011, five tobacco companies (including OPMs Reynolds Tobacco and Lorillard as well as SPMs Commonwealth Brands, Inc., Liggett Group LLC, and Santa Fe Natural Tobacco Company) filed a complaint against the FDA in the U.S. District Court for the District of Columbia, *R.J. Reynolds Tobacco Co. v. U.S. Food and Drug Administration*, challenging the FDA's rule requiring new textual and graphic warning labels on cigarette packaging and advertisements. The tobacco companies sought a declaratory judgment that the FDA's final rule violates the First Amendment and the Administrative Procedure Act (the "APA"), and declarative and injunctive relief that the new textual and graphic warnings will not become effective until 15 months after the FDA issues regulations "that are permissible under the United States Constitution and federal laws." The plaintiffs alleged that the FDA's final rule regarding textual and graphic warnings requires them "to become a mouthpiece for the Government's emotionally-charged anti-smoking message." The plaintiffs also contended that the FDA's warnings are unjustified and unduly burdensome, as they do not further any compelling governmental purpose and are "unlikely to have any material impact on consumer understanding of smoking risks, consumer intentions regarding smoking, or actual consumer smoking decisions." The FDA's final rule, according to the plaintiffs, "violates the First Amendment under any standard of review." On February 29, 2012, the district court granted the plaintiffs' motion for summary judgment and entered an order permanently enjoining the FDA, until 15 months following the issuance of new regulations implementing Section 201(a) of the FSPTCA that are substantively and procedurally valid and permissible under the United States Constitution and federal law, from enforcing against plaintiffs the new textual and graphic warnings required by Section 201 (a) of the FSPTCA. The district court ruled that the mandatory graphic warnings violated the First Amendment by unconstitutionally compelling speech, and that the FDA had failed to carry both its burden of demonstrating a compelling interest for its rule requiring the textual and graphic warning labels and its burden of demonstrating that the rule is narrowly tailored to achieve a constitutionally permissible form of compelled commercial speech. The FDA filed an appeal with the U.S. Court of Appeals for the District of Columbia Circuit on March 4, 2012, and moved the appellate court to consolidate this appeal with the FDA's appeal of the preliminary injunction decision. The Court of Appeals granted the FDA's motion and heard argument on both appeals on April 10, 2012. On August 24, 2012, the Court of Appeals affirmed the district court's decision invalidating the graphic warning rule. On October 9, 2012, the FDA filed a motion for rehearing en banc with the Court of Appeals, and on December 5, 2012, the Court of Appeals denied the FDA's petition for a rehearing en banc. The FDA, on December 5, 2012, issued a notice announcing its intention to collect information from consumers to determine the effectiveness of graphic warning labels, in apparent response to the Court of Appeal's August 2012 affirmation of the invalidation of the graphic warning rule, in which it cited the absence of evidence that the chosen labels furthered the FDA's stated goal of encouraging cessation and discouraging initiation of smoking. On March 19, 2013, the FDA announced that it would not file a petition for a *writ of certiorari* with the U.S. Supreme Court, but instead would undertake research to support a new rulemaking on different warning labels consistent with the FSPTCA and would propose a new graphic warnings rule in the future. In October 2016, several public health groups filed suit in federal court to force the FDA to issue final rules requiring graphic warnings on cigarette packs and advertising. In October 2016, several public health groups filed suit in the Federal District Court for the District of Massachusetts to force the FDA to issue final rules requiring graphic warnings on cigarette packs and advertising (*American Academy of Pediatrics, et al v. United States Food and Drug Administration*, No. 16-cv-11985, D. Mass.). In a March 5, 2019 Memorandum and Order, the court directed the FDA to submit by March 15, 2020 a final rule mandating color graphic warnings on cigarette packs and in cigarette advertisements as required by the FSPTCA.

In 2015, cigarette manufacturers filed a lawsuit in the federal district court for the District of Columbia challenging the FDA's draft guidance that had announced that certain label changes and changes to the quantity of tobacco products in a package would each require submission of substantial equivalence reports and authorization from the FDA prior to marketing tobacco products with such changes. In August 2016, the court held that a modification to an existing product's label does not result in a "new tobacco product" and therefore such a label change does not give rise to the substantial equivalence review process, but the court upheld the guidance

document's treatment of product quantity changes as modifications that give rise to a "new tobacco product" requiring substantial equivalence review. The parties did not appeal this decision, concluding the litigation.

Surgeon General Reports

In 1964, the Report of the Advisory Committee to the Surgeon General of the U.S. Public Health Service concluded that cigarette smoking was a health hazard of sufficient importance to warrant appropriate remedial action. Since this initial report in 1964, the Secretary of Health, Education and Welfare (now the Secretary of Health and Human Services) and the Surgeon General have issued a number of other reports that find the nicotine in cigarettes addictive and that link cigarette smoking and exposure to cigarette smoke with certain health hazards, including various types of cancer, coronary heart disease and chronic obstructive lung disease. These reports have recommended various governmental measures to reduce the incidence of smoking. Furthermore, there are various Surgeon General's warnings that are required on cigarette packages and advertisements.

In June 2006, the Office of the Surgeon General released a report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke." It is a comprehensive review of health effects of involuntary exposure to tobacco smoke. It concludes definitively that secondhand smoke causes disease and adverse respiratory effects. It also concludes that policies creating completely smoke-free environments are the most economical and efficient approaches to providing protection to non-smokers. On September 18, 2007, the Office of the Surgeon General released the report, "Children and Secondhand Smoke Exposure," which concludes that many children are exposed to secondhand smoke in the home and that establishing a completely smoke-free home is the only way to eliminate secondhand smoke exposure in that setting. The Surgeon General also addressed the health risks of second-hand smoke in its 2010 report entitled "How Tobacco Smoke Can Cause Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease." In 2012, the Surgeon General released a report on preventing tobacco use among youth and young adults, and on January 17, 2014, the Surgeon General released a report on the health consequences of smoking, contending that smoking is linked in the U.S. to a higher number of deaths than previous estimates, that filtered cigarettes may increase the risk of certain diseases, and that cigarettes are a causal factor in certain conditions and diseases that had not previously been linked to cigarette smoking. These reports are expected to strengthen arguments in favor of further smoking restrictions across the country.

In December 2016, the Surgeon General issued a report on e-cigarettes, raising public health concerns regarding the use of e-cigarettes by U.S. youth and young adults. The report recommended that state, local, tribal, and territorial governments implement additional laws and regulations to address e-cigarette use among youth and young adults, including: incorporating e-cigarettes into existing smoke-free policies; preventing youth access to e-cigarettes through various restrictions on sales of e-cigarettes to minors (including age verification requirements, prohibitions against self-service displays, and active enforcement of existing laws); implementing taxation and other price policies for e-cigarettes; increasing regulation of e-cigarette marketing by expanding evidence and facilitating the development of constitutionally feasible restrictions on such marketing; and targeting youth and young adults with educational initiatives on e-cigarettes and their potential for nicotine addiction and adverse health consequences. The report also calls for expanded federal funding of e-cigarette research efforts, including research on health risks and the impact of governmental policies on initiation and use patterns for e-cigarettes and other tobacco products, and recommends continued surveillance of e-cigarette marketing to assess the link between exposure to e-cigarette marketing and use of these products.

Other Federal Action

In October 2011, the FDA and the National Institutes of Health (the "NIH") announced a joint national study called the "Tobacco Control Act National Longitudinal Study of Tobacco Users" to monitor and assess the behavioral and health impacts of new government tobacco regulations. This study, now referred to as the Population Assessment of Tobacco and Health (PATH) Study, started in 2013 and is the first large research effort undertaken by the National Institutes of Health (NIH) and the Food and Drug Administration (FDA) since Congress gave FDA authority to regulate tobacco products in 2009. About 49,000 people ages 12 years and older are participating in the PATH Study. The results of the study will be used to guide the FDA in targeting effective actions to reduce the effects of smoking on public health.

In November 2011, the FDA announced its plans for an integrated anti-smoking campaign targeting teenagers, with a combined budget of up to \$600 million over five years. As part of this campaign, the FDA

announced in February 2014 that advertisements would run for at least one year under the “Real Cost” campaign that targets young people aged 12-17 years and shows the costs and health consequences associated with tobacco use. The FDA reported that the “Real Cost” campaign prevented nearly 350,000 youth aged 11 to 18 nationwide from smoking during 2014-2016. According to the FDA, subsequent campaigns will target young adults aged 18-24 years and people who influence teens, including parents, family members and peers. In May 2018, the FDA announced that it expanded the “Real Cost” public education campaign with messages focused on preventing use by youth of e-cigarettes and that it will launch a full-scale campaign in the fall of 2018.

In March 2012, the CDC announced its first national anti-tobacco effort entitled “Tips From Former Smokers” (TIPS) which features graphic advertisements intended to shock smokers into quitting with stories of people damaged by tobacco products. The initial campaign’s goal was to convince 500,000 people to try quitting smoking and 50,000 to quit long-term, and the CDC reported that as a result of the 2012 campaign an estimated 1.6 million smokers attempted to quit smoking and more than 200,000 Americans had quit smoking immediately following the campaign, of which researchers estimated that more than 100,000 would likely quit smoking permanently, according to the CDC. The TIPS advertising campaign was subsequently renewed in March of 2013, July of 2014 and March of 2015 with new advertisements showing in stark terms the negative health effects of smoking. The CDC announced the launch of another graphic anti-smoking campaign beginning in January 2016, to run for 20 weeks on television, radio, billboards online and in magazines and newspapers. The CDC has reported that the TIPS program helped prompt millions of smokers to try to quit since it began in 2012. Annual budgets of the CDC have consistently included funds for tobacco prevention and control, including in order to continue the national tobacco education campaigns that are meant to raise awareness about the health effects of tobacco use and prompt smokers to quit.

In November 2008, the FTC rescinded guidance it issued in 1966 which provided that tobacco manufacturers were allowed to make factual public statements concerning the tar, nicotine and carbon monoxide yields of their cigarettes without violating the Federal Trade Commission Act if they were based on the “**Cambridge Filter Method.**” The Cambridge Filter Method is a machine-based test that “smokes” cigarettes according to a standard protocol and measures tar, nicotine and carbon monoxide yields. The FTC has determined that machine-based yields determined by the Cambridge Filter Method are relatively poor indicators of actual tar, nicotine and carbon monoxide exposure and may be misleading to individual consumers who rely on such information as indicators of the amount of tar, nicotine and carbon monoxide they will actually receive from smoking a particular cigarette and therefore do not provide a good basis for comparison among cigarettes. According to the FTC, this is primarily due to “smoker compensation,” which is the tendency of smokers of lower nicotine rated cigarettes to alter their smoking behavior in order to obtain higher doses of nicotine. Now that the FTC has withdrawn its guidance, tobacco manufacturers may no longer make public statements that state or imply that the FTC has endorsed or approved the Cambridge Filter Method or other machine-based testing methods in determining the tar, nicotine and carbon monoxide yields of their cigarettes. Factual statements concerning cigarette yields are allowed by the FTC if they are truthful, non-misleading and adequately substantiated, which is the same basis on which the FTC evaluates other advertising or marketing claims that are subject to the FTC’s jurisdiction. It is possible that the FTC’s rescission of its guidance regarding the Cambridge Filter Method could be cited as support for allegations by plaintiffs in pending or future litigation, or could encourage additional litigation against cigarette manufacturers.

The U.S. Defense Department has undertaken efforts to reduce smoking among members of the military. A March 14, 2014 Defense Department memo encouraged the services to eliminate tobacco sales and tobacco use on military bases, although it did not order specific actions. In April 2016, Defense Secretary Ash Carter approved a policy set forth in DoD Tobacco Policy Memorandum 16-001 which directs all Department of Defense facilities to restrict tobacco use to outdoor areas; directs military branches to implement plans to improve tobacco education for their personnel, strengthen programs for quitting tobacco, review efforts to institute smoke-free military housing and implement tobacco-free zones in areas frequented by children; and also requires tobacco prices at military base exchanges and commissaries to match local civilian store prices, including tax.

Excise Taxes

Cigarettes are subject to substantial excise taxes in the U.S. On February 4, 2009, President Obama signed into law, effective April 1, 2009, an increase of \$0.62 in the excise tax per pack of cigarettes, bringing the total

federal excise tax to \$1.01 per pack, and significant tax increases on other tobacco products. The federal excise tax rate for snuff increased \$0.925 per pound to \$1.51 per pound. The federal excise tax on small cigars, defined as those weighing three pounds or less per thousand, increased by \$48.502 per thousand to \$50.33 per thousand. In addition, the federal excise tax rate for roll-your-own tobacco increased from \$1.097 per pound to \$24.78 per pound. Press reports have noted that many consumers who previously purchased roll-your-own tobacco began using pipe tobacco to roll their own cigarettes in order to avoid the new excise tax, as pipe tobacco excise taxes were unaffected, and using new, mechanized rolling machines to process cigarettes in bulk. Press reports have also noted that increased excise taxes have led to an increase in cigarette smuggling. On July 6, 2012, President Obama signed into law a provision classifying retailers that operate roll-your-own machines as cigarette manufacturers, thus requiring those retailers to pay the same tax rate as other cigarette manufacturers.

All of the states, the District of Columbia, Puerto Rico, Guam and the Northern Mariana Islands currently impose cigarette taxes, which as of January 30, 2019 ranged from \$0.17 per pack in Missouri to \$5.10 per pack in Puerto Rico, according to the American Lung Association's Tobacco Policy Project/State Legislated Actions on Tobacco Issues ("SLATI"). Since January 1, 2002, 48 states and the District of Columbia have raised their cigarette taxes a total of 136 times, according to the Campaign for Tobacco-Free Kids. According to a report by the American Lung Association, in 2009, 14 states turned to cigarette taxes to increase revenue in response to record state deficits. As reported by SLATI, six states passed cigarette excise tax increases during 2010, two states (Connecticut and Vermont) passed cigarette excise tax increases during 2011, and in 2012, Illinois and Rhode Island enacted legislation to increase their cigarette excise taxes. During 2013, Massachusetts, Minnesota, Oregon and Puerto Rico had enacted legislation to increase their cigarette taxes. In particular, Minnesota increased its cigarette excise tax in July 2013 by \$1.60 per pack, and Massachusetts raised its excise tax by \$1.00 per pack, effective July 31, 2013, bringing its tax to \$3.51 per pack. New Hampshire's cigarette tax also increased by \$0.10 on August 1, 2013 due to legislation enacted in 2011. Vermont enacted a cigarette excise tax increase in 2014. During 2015, Alabama, Nevada, Kansas, Vermont, Louisiana, Ohio, Rhode Island and Connecticut enacted legislation to increase their cigarette excise taxes. During 2016, Louisiana, Pennsylvania, West Virginia and California enacted legislation to increase cigarette excise taxes. In particular, in California, a \$2.00 per pack increase in the State's cigarette excise tax (in addition to that state's then current \$0.87 per pack excise tax) was passed by voters on November 8, 2016, effective April 1, 2017. During 2017, Rhode Island, Delaware, Connecticut and Puerto Rico enacted legislation to increase their cigarette excise taxes. According to Altria in its Form 10-K filed with the SEC for calendar year 2018, Kentucky, Oklahoma, and Washington D.C. enacted cigarette excise tax increases in 2018. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 as of April 22, 2019, only one state, New Mexico, had increased its cigarette excise tax in 2019, although various increases were under consideration or had been proposed in other states. Ballot initiatives to increase tobacco excise taxes qualified for the November 2018 ballot in Montana (\$2.00 per pack increase) and South Dakota (\$1.53 per pack increase), but neither initiative was voted into law.

In addition to federal and state excise taxes, certain city and county governments also impose substantial excise taxes on tobacco products sold, such as New York City, Philadelphia and Chicago. Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that between the end of 1998 (the year in which the MSA was executed) and April 22, 2019, the weighted-average state and certain local cigarette excise taxes increased from \$0.36 to \$1.79 per pack. It is expected that state and local governments will continue to raise excise taxes on cigarettes in future years.

All 50 states and the District of Columbia subject smokeless tobacco to excise taxes. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, a majority of states currently tax smokeless tobacco products using an ad valorem method, which is calculated as a percentage of the price of the product, typically the wholesale price. As of April 22, 2019, the federal government, 23 states, Puerto Rico, Philadelphia, Pennsylvania and Cook County, Illinois have adopted a weight-based tax methodology for smokeless tobacco, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. According to SLATI, six states (Kansas, Louisiana, Minnesota, North Carolina, Pennsylvania and West Virginia) and the District of Columbia have established separate taxes on electronic cigarettes and/or vapor products—Kansas, Louisiana, North Carolina and West Virginia tax by weight of the e-cigarette liquid used in the product, while Minnesota, Pennsylvania and the District of Columbia tax by the percentage of the wholesale price of the product.

E-cigarettes are subjected to excise taxes either as a percentage of wholesale price or on a cents-per-milliliter of e-liquid basis. According to the Campaign for Tobacco-Free Kids, as of January 2, 2019, eight states (California, Delaware, Kansas, Minnesota, New Jersey, North Carolina, Pennsylvania, and West Virginia) and the District of Columbia imposed excise taxes on e-cigarettes. In April 2019 a bill, HB 19-1333, was introduced into the Colorado General Assembly that would impose a 62% state excise tax on e-cigarettes, which would equal the tax that would be imposed on combustible tobacco products under the bill.

According to the Campaign for Tobacco-Free Kids, six states have special taxes or fees on brands of manufacturers not participating in the State Settlement Agreements: Alaska, Michigan, Minnesota, Mississippi, Texas and Utah. Texas's tax took effect on September 1, 2013, but in November 2013, a district court judge in *Texas Small Tobacco Coalition. v. Combs* (Tex. Dist. Ct., Travis Cnty.) ruled that the tax violated the Equal and Uniform Taxation clause of the Texas Constitution. The Texas Comptroller of Public Accounts appealed this decision on November 13, 2013, and on August 15, 2014 the Texas Court of Appeals affirmed the district court judge's decision, holding that the tax violates the Texas Constitution, and enjoined Texas from collecting or assessing the tax. The State of Texas filed its petition for review with the Texas Supreme Court in October 2014, and on April 1, 2016, the Texas Supreme Court reversed the Texas Court of Appeals and ruled that the Texas equity fee legislation does not violate the Texas Constitution and remanded the case back to the Texas Court of Appeals for that court to consider the non-settling manufacturers' remaining challenges to the legislation. On March 24, 2017, the Texas Court of Appeals granted Texas' motion for summary judgment, ruling that the tax does not violate the equal protection and due process clauses of the U.S. Constitution.

In 2005, Minnesota enacted a 75-cent "health impact fee" on tobacco manufacturers for each pack of cigarettes sold, in order to recover Minnesota's health costs related to or caused by tobacco use. The imposition of this fee was contested by Philip Morris and upheld by the Minnesota Supreme Court as not in violation of Minnesota's settlement with the tobacco companies (and in February 2007, the U.S. Supreme Court denied Philip Morris's petition for writ of certiorari). In 2013, however, the Minnesota legislature repealed the health impact fee (the bill cited the contemporaneous increase in the cigarette excise tax as offsetting the repeal of the health impact fee).

In November 2013, New York City passed an ordinance that set a minimum price of \$10.50 for every pack of cigarettes sold in New York City and prohibited the use of coupons or other promotional discounts to lower that price. In August 2017 New York City further raised the minimum price of a pack of cigarettes to \$13.00, effective June 1, 2018. On February 16, 2014, tobacco companies and trade groups representing cigarette retailers filed a motion for preliminary injunction in federal court to block that portion of the ordinance that prohibited the use of coupons and other promotional discounts (*National Association of Tobacco Outlets Inc. et al. v. City of New York et al.*), but in June 2014 the court upheld that portion of the ordinance.

Minimum Age to Possess or Purchase Tobacco Products

All states and the District of Columbia have enacted statutes generally prohibiting the sale of tobacco products to individuals under the age of 18. In 2016, Hawaii became the first state to make 21 the minimum age to purchase tobacco products. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, an increasing number of states and localities have proposed legislation to increase the minimum age to purchase all tobacco products, including e-vapor products, above the current federal minimum age of 18; the following states have enacted such legislation: Delaware (21), Illinois (21), Arkansas (21), Washington (21), Utah (21), Virginia (21), California (21), Hawaii (21), Alabama (19), Alaska (19), New Jersey (21), Oregon (21), Maine (21) and Massachusetts (21); of these states, six enacted such legislation since the beginning of 2019; many localities have taken similar actions; and legislation is under consideration in various other states. According to the Campaign for Tobacco-Free Kids, as of May 1, 2019, at least 450 localities have raised the tobacco age to 21, including New York City, Chicago, San Antonio, Boston, Cleveland, Minneapolis, both Kansas Cities, and Washington, D.C. On April 30, 2019, bills were submitted in the U.S. Senate (S 1258) and House of Representatives (HR 2411) that would prohibit the sale of tobacco products to individuals under the age of 21. On May 20, 2019 another bill was introduced into the U.S. Senate (S 1541) by Senator Mitch McConnell that would increase the minimum age for sale of tobacco products to 21, including sales to military personnel. On March 6, 2019, the New York Assembly passed Assembly Bill 558-A, which would raise the minimum age for the sale of tobacco and electronic cigarette products from 18 to 21 in the State of New York. The bill passed the New York

Senate on April 1, 2019. It has not yet been signed into law. On May 13, 2019 Maryland enacted legislation increasing the minimum age to purchase tobacco products, including vaping devices, to 21. In October, 2018 Altria announced its support for federal legislation to establish 21 as the minimum age to purchase any tobacco product.

On March 12, 2015, the Institute of Medicine of the National Academy of Sciences released a report recommending that the minimum age of legal access to tobacco products be raised to 21. The report concluded that raising the minimum legal age to 21 would likely decrease smoking prevalence by 12% among today's teenagers when they become adults.

The enactment of "minimum age" laws with respect to the sale of tobacco products is one of the factors that has been attributed to decreasing smoking prevalence among teenagers. The CDC's Youth Risk Behavior Survey found that the number of high school students who had smoked a cigarette in the previous month had dropped to 8.5% in 2017, from 10.8% in 2015, 15.7% in 2013, 18.1% in 2011, 21.9% in 2003 and 36.4% in 1997.

State and Local Regulation

Legislation imposing various restrictions on public smoking has been enacted in all of the states and many local jurisdictions. A number of states have enacted legislation designating a portion of increased cigarette excise taxes to fund either anti-smoking programs, healthcare programs or cancer research. In addition, educational and research programs addressing healthcare issues related to smoking are being funded from industry payments made or to be made under the MSA.

The FSPTCA substantially expanded federal tobacco regulation, but state regulation of tobacco is not necessarily preempted by federal law in this instance. Importantly, the FSPTCA specifically allows states and localities to impose restrictions on the time, place and manner, but not content, of advertising and promotion of tobacco products. The FSPTCA also eliminated the prior federal preemption of state regulation that, in certain circumstances, had been upheld by the U.S. Supreme Court.

In addition to the FSPTCA disclosure requirements and marketing and labeling restrictions, several states have enacted or proposed legislation or regulations that would require cigarette manufacturers to disclose the ingredients used in the manufacture of cigarettes to state health authorities. According to SLATI, six states currently require some form of tobacco product disclosure information, including, for example, requiring tobacco manufacturers to disclose any added constituent of tobacco products other than tobacco, water and reconstituted tobacco sheet made wholly from tobacco (Massachusetts and Texas); requiring disclosure of the nicotine yield for each brand of cigarettes (Massachusetts, Texas and Utah); and requiring tobacco manufacturers to disclose the presence of ammonia, any compound of ammonia, arsenic, cadmium, formaldehyde or lead in their unburned or burned states (Minnesota and Utah).

In 2003, New York was the first state to pass legislation requiring the introduction of cigarettes with a lower likelihood of starting a fire. Cigarette manufacturers responded by designing cigarettes that would extinguish quicker when left unattended. Since then, according to SLATI, fire-safety standards for cigarettes identical to those of New York are in effect in all 50 states and the District of Columbia.

In July 2007, the State of Maine became the first state to enact a statute that prohibits the sale of cigarettes and cigars that have a characterizing flavor. The legislation defines characterizing flavor as "a distinguishable taste or aroma that is imparted to tobacco or tobacco smoke either prior to or during consumption, other than a taste or aroma from tobacco, menthol, clove, coffee, nuts or peppers." In 2008 New Jersey passed similar legislation prohibiting the sale of cigarettes that have a characterizing flavor (other than the flavors of tobacco, clove or menthol). In February 2018, New Jersey introduced a bill that would add menthol to its list of prohibited characterizing flavors. Numerous counties and municipalities have adopted laws prohibiting or restricting the sale of certain tobacco products containing "characterizing flavors." The scope of these laws varies from jurisdiction to jurisdiction; for example, some, but not all, of these laws exempt menthol from the definition of a "characterizing flavor," and certain laws apply to tobacco products other than cigarettes. The "characterizing flavor" ordinances in New York City and Providence, Rhode Island were each challenged on the grounds, among others, that the FSPTCA preempts such local laws. The U.S. Courts of Appeals for the Second Circuit and First Circuit have held that the FSPTCA does not preempt the New York City and Providence, Rhode Island ordinances, respectively. In June

2017, San Francisco amended its city health code to prohibit tobacco retailers from selling flavored tobacco products, including flavored e-cigarettes and menthol cigarettes, and voters approved the measure on June 5, 2018.

According to ANRF, as of April 1, 2019, 41 states and territories have laws that require either 100% smoke-free non-hospitality workplaces or restaurants or bars (and only 14 states and territories do not have laws that require either 100% smoke-free non-hospitality workplaces or restaurants or bars, being Alabama, Alaska, Arkansas, Georgia, Kentucky, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wyoming). On September 4, 2014, Kentucky banned all uses of tobacco products on most government properties. Also according to ANRF, as of April 1, 2019, 27 states and territories have laws that require 100% smoke-free non-hospitality workplaces and restaurants and bars: Arizona, California, Delaware, Hawaii, Illinois, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Puerto Rico, Rhode Island, South Dakota, the U.S. Virgin Islands, Utah, Vermont, Washington and Wisconsin. Restrictions in many jurisdictions also include a ban on outdoor smoking within a specified number of feet of the entrances of restaurants and other public places. ANRF also tracks clean indoor air ordinances by local governments throughout the U.S. Most states without a statewide smoking ban have some local municipalities that have enacted smoking regulations. As of April 1, 2019, there were 1,537 local jurisdictions with local laws that require 100% smoke-free non-hospitality workplaces or restaurants or bars, of which 1,051 local jurisdictions (including the District of Columbia) have local laws that require 100% smoke-free non-hospitality workplaces and restaurants and bars. In addition, according to ANRF, as of April 1, 2019, there were at least 782 state-regulated gambling facilities that are required to be 100% smoke-free indoors, and there were at least 620 smoke-free airports. It is expected that restrictions on indoor smoking will continue to proliferate.

Smoking bans have also extended outdoors. For example:

- According to ANRF, Puerto Rico prohibits smoking on beaches, Maine prohibits smoking on beaches in its state parks, and, as of October 2, 2017, 317 municipalities had enacted ordinances that specified that all city beaches and/or specifically named city beaches are smoke-free. In July 2018, the Governor of New Jersey signed legislation banning smoking on all public beaches, effective January 1, 2019;
- According to ANRF, as of October 2, 2017, Oklahoma prohibits tobacco and e-cigarette use on all state lands and parks, Puerto Rico prohibits smoking in all parks, and 1,531 municipalities specified that all city parks and/or specifically named city parks are smoke-free; in addition, on March 31, 2016, New York's highest court upheld a smoking ban in certain outdoor areas, state parks and historic sites; and in July 2018, the Governor of New Jersey signed legislation banning smoking in public parks, effective January 1, 2019;
- According to ANRF, as of April 1, 2019, Hawaii, Maine, Michigan, Washington and Puerto Rico laws prohibit smoking in both outdoor dining areas and bar patios (while Iowa prohibits smoking only in outdoor dining areas), and 507 municipalities have enacted laws for 100% smoke-free outdoor dining, while 332 municipalities have enacted laws for 100% smoke-free outdoor dining areas and bar patios; and
- According to ANRF, as of October 2, 2017, Iowa, New York, Wisconsin, Guam and the U.S. Virgin Islands prohibit smoking in outdoor public transit waiting areas, and there are 535 municipalities with smoke-free outdoor public transit waiting area laws.

Smoking bans have also been enacted for smaller governmental and private entities. According to the ANRF, as of April 1, 2019, there are at least 2,356 100% smoke-free university and college campuses, and of these, 1,986 have a 100% tobacco-free policy and 1,965 prohibit the use of e-cigarettes anywhere on campus. The University of California implemented its system-wide smoke-free and tobacco-free policy effective January 1, 2014. ANRF further reports, as of April 1, 2019, that four national hospitals, clinics, insurers and health service companies, and at least 4,051 local and/or state hospitals, healthcare systems and clinics have adopted 100% smoke-free grounds policies; that in July 2013, New York State enacted a law requiring 100% smoke-free grounds of general hospitals; in April 2016, Hawaii enacted a law requiring 100% tobacco- and e-cigarette-free grounds of state

health facility properties; and that as of April 4, 2017, at least 44 municipalities had enacted laws specifically requiring 100% smoke-free hospital grounds. In addition, ANRF reports as of April 1, 2019 that, effective January 2015, the Federal Bureau of Prisons prohibits the smoking of tobacco in any form in and on the grounds of its institutions and offices, that correctional facilities in 23 states plus Puerto Rico are 100% smoke-free indoors and outdoors, and that 27 other states ban smoking indoors in correctional facilities (but allow smoking in outdoor areas). ANRF reports that as of April 1, 2019, five states and 228 municipalities have laws requiring that all hotel and motel rooms be 100% smoke-free. Furthermore, ANRF reports as of April 1, 2019 that 69 municipalities restrict or prohibit smoking in private units of market-rate multi-unit housing (whether privately-owned or publicly-owned housing), and 619 municipalities have smoke-free policies for publicly-owned multi-unit housing. The Department of Housing and Urban Development prohibits smoking in public housing residences nationwide under a federal rule effective February 3, 2017, which gave public housing agencies 18 months to put smoke-free policies into effect.

Voluntary Private Sector Regulation

In recent years, many employers have initiated programs restricting or eliminating smoking in the workplace and providing incentives to employees who do not smoke, including charging higher health insurance premiums to employees who smoke and refusing to hire people who do smoke, and many common carriers have imposed restrictions on passenger smoking more stringent than those required by governmental regulations. Similarly, many restaurants, hotels and other public facilities have imposed smoking restrictions or prohibitions more stringent than those required by governmental regulations, including outright bans. According to the Tobacco Consumption Report, New York City's first non-smoking apartment building opened in 2009, and many landlords and condominium associations in California and New York City have also established smoke-free apartment policies, including Related Companies, which manages 40,000 rental units across the country and announced in 2013 a ban on smoking for all new tenants.

International Agreements

On March 1, 2003, the member nations of the World Health Organization concluded four years of negotiations on an international treaty, the Framework Convention on Tobacco Control (the "FCTC"), whose objective is to establish a global agenda for tobacco regulation with the purpose of reducing initiation of tobacco use and encouraging cessation. The FCTC entered into force in February 2005, and according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, as of April 22, 2018, 180 countries and the European Community have become party to the FCTC. The treaty recommends (and in certain instances, requires) signatory nations to enact legislation that would, among other things: establish specific actions to prevent youth tobacco product use; restrict or eliminate all tobacco product advertising, marketing, promotion and sponsorship; initiate public education campaigns to inform the public about the health consequences of tobacco consumption and exposure to tobacco smoke and the benefits of quitting; implement regulations imposing product testing, disclosure and performance standards; impose health warning requirements on packaging; adopt measures intended to combat tobacco product smuggling and counterfeit tobacco products, including tracking and tracing of tobacco products through the distribution chain; and restrict smoking in public places, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. While the United States is a signatory of the FCTC, it is not currently a party to the agreement, as the agreement has not been submitted to, or ratified by, the United States Senate, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

Civil Litigation

Overview

Legal proceedings or claims covering a wide range of matters are pending or threatened in various United States and foreign jurisdictions against the tobacco industry. Several types of claims are raised in these proceedings including, but not limited to, claims for product liability, consumer protection, antitrust, and reimbursement. Litigation is subject to many uncertainties and it is possible that there could be material adverse developments in pending or future cases. Damages claimed in some tobacco-related and other litigation are or can be significant and, in certain cases, range in the billions of dollars. It can be expected that at any time and from time to time there will be developments in the litigation presently pending and filing of new litigation that could materially adversely affect the business of the PMs and the market for or prices of securities such as the Series 2019 Bonds payable from tobacco settlement payments made under the MSA.

Thousands of claims have been brought against the PMs in tobacco-related litigation. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, the following tobacco-related cases were pending against Altria and/or its subsidiary Philip Morris as of April 22, 2019: 98 individual smoking and health cases (see “—*Individual Smoking and Health Cases*” below); 567 flight attendant cases (see “—*Flight Attendant Cases*” below); approximately 2,000 *Engle* Progeny cases in state court (involving approximately 2,600 state court plaintiffs) and approximately 4 *Engle* Progeny cases in federal court (see “—*Engle Progeny Cases*” below); 2 smoking and health class action cases and aggregated claims and an additional 2 “Lights/Ultra Lights” class action cases (see “—*Class Action Cases and Aggregated Claims*” below); and 1 health care cost recovery case (see “—*Health Care Cost Recovery Cases*” below). Altria reported in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that after exhausting all appeals in cases resulting in adverse verdicts associated with tobacco-related litigation, since October 2004 Philip Morris has paid in the aggregate judgments (and related costs and fees) totaling approximately \$668 million and interest totaling approximately \$211 million as of March 31, 2019.

Plaintiffs assert a broad range of legal theories in these cases, including, among others, theories of negligence, fraud, misrepresentation, strict liability in tort, design defect, breach of warranty, enterprise liability (including claims asserted under RICO), civil conspiracy, intentional infliction of harm, injunctive relief, indemnity, restitution, unjust enrichment, public nuisance, unfair trade practices, claims based on antitrust laws and state consumer protection acts, and claims based on failure to warn of the harmful or addictive nature of tobacco products.

The MSA does not release the PMs from liability in individual plaintiffs’ cases or in class action lawsuits. Plaintiffs in most of the cases seek unspecified amounts of compensatory damages and punitive damages that may range into the billions of dollars. Plaintiffs in some of the cases have sought treble damages, statutory damages, disgorgement of profits, equitable and injunctive relief, and medical monitoring and smoking cessation programs, among other damages.

The list below specifies certain categories of tobacco-related cases pending against the tobacco industry. A summary description of each type of case follows the list.

Type of Case

Individual Smoking and Health Cases
Flight Attendant Cases
Engle Progeny Cases
Class Action Cases and Aggregated Claims
Health Care Cost Recovery Cases

“**Individual Smoking and Health Cases**” are smoking and health cases brought by or on behalf of individual plaintiffs who allege personal injury caused by smoking cigarettes, by using smokeless tobacco products, by addiction to tobacco, or by exposure to environmental tobacco smoke (but this category of cases as described herein does not include the Flight Attendant Cases or *Engle* Progeny Cases discussed below).

“**Flight Attendant Cases**” are brought by non-smoking flight attendants alleging injury from exposure to environmental smoke in the cabins of aircraft. Plaintiffs in these cases may not seek punitive damages for injuries that arose prior to January 15, 1997. The time for filing Flight Attendant Cases expired in 2000 and no additional cases in this category may be filed.

“***Engle* Progeny Cases**” are brought by individuals who purport to be members of the decertified *Engle* class. These cases are pending in a number of Florida courts. The time period for filing *Engle* Progeny Cases expired in January 2008 and no additional cases may be filed. Some of the *Engle* Progeny Cases were filed on behalf of multiple class members. Some of the courts hearing the cases filed by multiple class members severed these suits into separate individual cases. It is possible the remaining suits filed by multiple class members may also be severed into separate individual cases.

“**Class Action Cases**” are purported to be brought on behalf of large numbers of individuals for damages allegedly caused by smoking, including, among other categories, “lights” class action cases. Aggregated claims are claims of a number of individual plaintiffs that are to be tried in a single proceeding.

“**Health Care Cost Recovery Cases**” are brought by or on behalf of entities seeking equitable relief and reimbursement of expenses incurred in providing health care to individuals who allegedly were injured by smoking. Plaintiffs in these cases have included the U.S. federal government, U.S. state and local governments, foreign governmental entities, hospitals or hospital districts, American Indian tribes, labor unions, private companies and private citizens. Included in this category is the suit filed by the federal government, *United States of America v. Philip Morris USA, Inc., et al.* (the “**DOJ Case**”), that sought to recover profits earned by the defendants and other equitable relief.

Individual Smoking and Health Cases

This category of cases includes smoking and health cases alleging personal injury caused by smoking cigarettes, by using smokeless tobacco products, by addiction to tobacco, or by exposure to environmental tobacco smoke that are brought by or on behalf of individual plaintiffs, but as described herein does not include the Flight Attendant Cases or *Engle Progeny Cases* discussed below. An example of an Individual Smoking and Health Case is *Gentile*, in which, in October 2017, a jury in a Florida state court returned a verdict in favor of the plaintiff, awarding approximately \$7.1 million in compensatory damages and allocating 75% of the fault to Philip Morris (an amount of approximately \$5.3 million). In April 2018, the trial court denied Philip Morris’s post-trial motions and entered final judgment in favor of the plaintiff, and Philip Morris posted a bond in the amount of approximately \$8 million. In May 2018, Philip Morris filed a notice of appeal to the Florida Fourth District Court of Appeal, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

Flight Attendant Cases

The Flight Attendant Cases were filed as a result of a settlement agreement by the parties in *Broin v. Philip Morris Companies, Inc., et al.* (Circuit Court, Miami-Dade County, Florida, filed October 31, 1991), a class action brought on behalf of flight attendants claiming injury as a result of exposure to environmental tobacco smoke in airplane cabins. The settlement agreement, among other things, permitted the plaintiff class members to file these individual suits. The settlement agreement bars class members from bringing aggregate claims, bars class members from obtaining punitive damages, and bars individual claims to the extent that they are based on fraud, misrepresentation, conspiracy to commit fraud or misrepresentation, RICO, suppression, concealment or any other alleged intentional or willful conduct. The defendant tobacco manufacturers agreed that, in any individual case brought by a class member, the defendant will bear the burden of proof with respect to whether environmental tobacco smoke can cause certain specifically enumerated diseases, referred to as “general causation.” With respect to all other issues relating to liability, including whether an individual plaintiff’s disease was caused by his or her exposure to environmental tobacco smoke in airplane cabins, referred to as “specific causation,” the individual plaintiff will have the burden of proof. On September 7, 1999, the Florida Supreme Court approved the settlement, and the individual Flight Attendant Cases arose out of such settlement. In October 2000, the *Broin* court entered an order applicable to all Flight Attendant Cases that the terms of the settlement agreement do not require the individual plaintiffs in the Flight Attendant Cases to prove the elements of strict liability, breach of warranty or negligence. Under the order, there is a rebuttable presumption in the plaintiffs’ favor on those elements, and the plaintiffs bear the burden of proving that their alleged adverse health effects actually were caused by exposure to environmental tobacco smoke in airplane cabins (specific causation). The period for filing Flight Attendant Cases expired in 2000 and no additional cases in this category may be filed.

According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in March 2018, 923 of the Flight Attendant Cases were voluntarily dismissed without prejudice.

Engle Progeny Cases

The case of *Engle v. R.J. Reynolds Tobacco Co., et al.* (Circuit Court, Dade County, Florida, filed May 5, 1994) was certified in 1996 as a class action on behalf of Florida residents, and survivors of Florida residents, who were injured or died from medical conditions allegedly caused by addiction to smoking. During the three-phase trial, a Florida jury awarded compensatory damages to three individuals and approximately \$145 billion in punitive

damages to the certified class. In *Engle v. Liggett Group, Inc.*, 945 So.2d 1246 (Fla. 2006), the Florida Supreme Court vacated the punitive damages award, determined that the case could not proceed further as a class action and ordered decertification of the class. The Florida Supreme Court also reinstated the compensatory damages awards to two of the three individuals whose claims were heard during the first phase of the *Engle* trial. These two awards totaled approximately \$7 million.

The Florida Supreme Court's 2006 ruling also permitted *Engle* class members to file individual actions, including claims for punitive damages. The court further held that these individuals are entitled to rely on a number of the jury's findings in favor of the plaintiffs in the first phase of the *Engle* trial. These findings included that smoking cigarettes causes a number of diseases; that cigarettes are addictive or dependence-producing; and that the defendants were negligent, breached express and implied warranties, placed cigarettes on the market that were defective and unreasonably dangerous, and concealed or conspired to conceal the risks of smoking. The time period for filing *Engle* Progeny Cases expired in January 2008 and no additional cases may be filed. In 2009, the Florida Supreme Court rejected a petition that sought to extend the time for purported class members to file an additional lawsuit.

In the wake of the Florida Supreme Court ruling, thousands of individuals filed separate lawsuits seeking to benefit from the *Engle* findings. According to Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, as of April 22, 2019, 130 state and federal *Engle* Progeny Cases involving Philip Morris resulted in verdicts since the Florida Supreme Court's *Engle* decision, 73 of which were returned in favor of plaintiffs, 46 of which were returned in favor of Philip Morris, seven of which were initially returned in favor of plaintiffs but were reversed post-trial or on appeal and remain pending, and four of which were returned in favor of Philip Morris but were reversed for new trials. In addition, according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, as of January 29, 2019 approximately 2,000 state court cases were pending against Philip Morris or Altria asserting individual claims by or on behalf of approximately 2,600 state court plaintiffs, and approximately 4 cases were pending against Philip Morris in federal court representing the federal cases excluded from the settlement agreement discussed below.

On October 23, 2013, Vector Group Ltd. announced that it and its subsidiary Liggett reached a comprehensive settlement (which is now final) resolving substantially all of the individual *Engle* Progeny Cases pending against them. Under the settlement, which did not require court approval, approximately 4,900 (out of approximately 5,300) individual *Engle* plaintiffs would dismiss their claims against Vector Group Ltd. and Liggett. Vector Group Ltd. recorded a charge of approximately \$86 million for the year ended December 31, 2013 related to the settlement agreement. Pursuant to the terms of the agreement, Liggett will pay a total of \$110 million, with approximately \$61.6 million paid collectively in December 2013 and February 2014, and the balance to be paid in equal annual installments over the following 14 years.

In February 2015, Philip Morris, Reynolds Tobacco and Lorillard settled virtually all of the *Engle* Progeny Cases then pending against them in federal district court. The total amount of the settlement of the federal *Engle* Progeny Cases was \$100 million, divided among Reynolds Tobacco (\$42.5 million), Philip Morris (\$42.5 million) and Lorillard (\$15 million), which shares of the settlement were paid into escrow in March 2015. The settlement, which received final approval from the court on November 6, 2015, covers more than 400 federal *Engle* Progeny Cases but does not cover certain federal *Engle* Progeny Cases previously tried to verdict and pending on post-trial motions or appeal, or filed by different lawyers from the ones who negotiated the settlement for the plaintiffs. Also, certain state court cases were removed from state to federal court, which were not part of the settlement, and were all remanded back to state court.

At the beginning of the *Engle* Progeny Cases litigation, a central issue was the proper use of the preserved *Engle* findings. The tobacco manufacturers had argued that use of the *Engle* findings to establish individual elements of progeny claims (such as defect, negligence and concealment) was a violation of federal due process, but in 2013, both the Florida Supreme Court (in the *Douglas* case) and the Eleventh Circuit (in the *Duke* and *Walker* cases) rejected that argument, and the U.S. Supreme Court denied the tobacco manufacturers' petitions for writ of certiorari in all of those cases. As noted below, the Eleventh Circuit, sitting en banc, recently heard argument on this issue again.

In addition to the global due process argument, the tobacco manufacturers raise many other factual and legal defenses as appropriate in each case, including, among other things, arguing that the plaintiff is not a proper member of the *Engle* class, that the plaintiff did not rely on any statements by any tobacco company, that the trial was conducted unfairly, that some or all claims are preempted or barred by applicable statutes of limitation, or that any injury was caused by the smoker's own conduct. In *Hess v. Philip Morris USA Inc.* and *Russo v. Philip Morris USA Inc.*, decided on April 2, 2015, the Florida Supreme Court held that, in *Engle* Progeny Cases, the defendants cannot raise a statute of repose defense to claims for concealment or conspiracy. On April 8, 2015, in *Graham v. R. J. Reynolds Tobacco Co.*, the Eleventh Circuit held that federal law impliedly preempts use of the preserved *Engle* findings to establish claims for strict liability or negligence. On January 21, 2016, the Eleventh Circuit granted the plaintiff's motion for rehearing en banc and vacated the panel decision. On May 18, 2017, the en banc Eleventh Circuit rejected Reynolds Tobacco's due process and implied preemption arguments, holding that giving preclusive effect to the findings of negligence and strict liability by the *Engle* jury in individual *Engle* Progeny Case actions against the tobacco companies is not preempted by federal tobacco laws and does not deprive the tobacco companies of due process, and the Eleventh Circuit affirmed the final judgment entered in the plaintiff's favor. In January 2018, the U.S. Supreme Court denied Philip Morris's petition for writ of certiorari in *Graham*. On January 6, 2016, in *Marotta v. R. J. Reynolds Tobacco Co.*, the Florida Fourth District Court of Appeal also disagreed with the 2015 *Graham* panel decision and held that federal law does not impliedly preempt any tort claims against cigarette manufacturers, including those of plaintiffs in *Engle* Progeny Cases. The Florida Supreme Court accepted jurisdiction in *Marotta*, and in April, 2017 affirmed the ruling of the Florida Fourth District Court of Appeal and found that federal law does not preempt the *Engle* Progeny Case plaintiff's claims, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

In addition, in *Searcy* and *Burkhart*, *Engle* Progeny Cases against Philip Morris and Reynolds Tobacco on appeal to the Eleventh Circuit, defendants argued that application of the *Engle* findings to the *Engle* progeny plaintiffs' concealment and conspiracy claims violated defendants' due process rights. In March 2018, in *Burkhart*, the Eleventh Circuit rejected defendants' due process arguments and affirmed the final judgment entered in plaintiff's favor. Defendants filed a motion for rehearing challenging that decision, which the Eleventh Circuit denied. In September 2018, in *Searcy*, the Eleventh Circuit also affirmed the judgment in plaintiff's favor, and in February 2019, the United States Supreme Court denied Philip Morris's petition for review, according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. In *Soffer*, an *Engle* Progeny Case against Reynolds Tobacco, the Florida First District Court of Appeal held that *Engle* progeny plaintiffs can recover punitive damages only on their intentional tort claims; the Florida Supreme Court accepted jurisdiction over plaintiff's appeal from the Florida First District Court of Appeal's decision and, in March 2016, held that *Engle* progeny plaintiffs can recover punitive damages in connection with all of their claims, and the plaintiffs now generally seek punitive damages in connection with all of their claims in *Engle* Progeny Cases, according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. In *Schoeff*, an *Engle* Progeny Case against Reynolds Tobacco, the Florida Supreme Court held that comparative fault does not reduce compensatory damages awards for intentional torts, according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

In another *Engle* Progeny Case, *Robinson v. R.J. Reynolds*, on July 18, 2014 a jury in Escambia County, Florida rendered a verdict against Reynolds Tobacco and awarded plaintiff \$16.9 million in compensatory damages and \$23.6 billion in punitive damages for the lung cancer death of plaintiff's spouse who smoked Kool brand cigarettes for more than 20 years from age 13 to his death at age 36. Reynolds Tobacco filed a motion on July 28, 2014 to set aside the jury's verdict on the grounds that it was unconstitutionally disproportionate to plaintiff's actual damages. The court entered partial judgment on the compensatory damages against Reynolds Tobacco in the amount of \$16.9 million on July 21, 2014. On January 27, 2015 the court denied the defendant's post-trial motions, but granted the defendant's motion for remittitur of the punitive damages award. The punitive damages award was remitted to approximately \$16.9 million. In February 2015, Reynolds Tobacco filed an objection to the remitted award of punitive damages and a demand for a new trial on damages. The court granted a new trial on the amount of punitive damages only. The new trial on punitive damages was stayed pending Reynolds Tobacco's appeal to the First District Court of Appeal of the partial judgment of compensatory damages and of the order granting a new trial on the amount of punitive damages only. On February 24, 2017, the First District Court of Appeal reversed the judgment of the trial court and remanded the case for a new trial. On May 17, 2017, the First District Court of Appeal denied the plaintiff's motion for rehearing and the plaintiff filed a notice to invoke the discretionary jurisdiction of the Florida Supreme Court on June 14, 2017, which the Florida Supreme Court denied.

Various *Engle* Progeny Cases in addition to the cases described herein are discussed in detail in the SEC filings of Altria. As of April 22, 2019, 4 *Engle* progeny cases are set for trial through June 30, 2019, according to Altria's Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. Trial schedules are subject to change.

In June 2009, Florida amended its existing bond cap statute by adding a \$200 million bond cap that applied to all *Engle* Progeny Cases in the aggregate. In May 2011, Florida removed the provision that would have allowed it to expire on December 31, 2012. The bond cap for any given individual *Engle* Progeny Case varies depending on the number of judgments in effect at a given time, but never exceeds \$5 million per case for appeals within the Florida state court system. The legislation, which became effective in June 2009 and 2011, applies to judgments entered after the original 2009 effective date. The plaintiffs in some cases challenged the constitutionality of the amended statute, but the challenges were unsuccessful. No federal court has yet addressed the constitutionality of the bond cap statute or the applicability of the bond cap to *Engle* Progeny Cases tried in federal court, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. From time to time, legislation has been presented to the Florida legislature that would repeal the 2009 appeal bond cap statute; however to date, no legislation repealing the statute has passed, according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

Class Action Cases and Aggregated Claims

In 1996, the Fifth Circuit Court of Appeals in *Castano v. American Tobacco Co.* overturned the certification of a nation-wide class of persons whose claims related to alleged addiction to tobacco products, finding that the district court failed to properly assess variations in the governing state laws and whether common issues predominated over individual issues. Since the Fifth Circuit's ruling in *Castano*, plaintiffs have filed numerous putative smoking and health class action suits in various state and federal courts; in general, these cases purport to be brought on behalf of residents of a particular state or states (although a few cases purport to be nationwide in scope), according to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. In most of the class action cases, plaintiffs seek class certification on behalf of groups of cigarette smokers, or the estates of deceased cigarette smokers, who reside in the state in which the case is filed. Several categories of class action cases are discussed below.

"Lights" Class Action Cases. In "lights" class action cases, plaintiffs generally allege that the tobacco manufacturers made false and misleading claims that "lights" cigarettes were lower in tar and nicotine and/or were less hazardous or less mutagenic than other cigarettes. These cases typically are filed pursuant to state consumer protection laws and related statutes.

In one of the "lights" class action cases, *Good v. Altria Group, Inc., et al.*, the U.S. Supreme Court ruled in December 2008 that neither the Federal Cigarette Labeling and Advertising Act nor the Federal Trade Commission's regulation of cigarettes' tar and nicotine disclosures preempts (or bars) certain of plaintiffs' claims. Although the Court rejected the argument that the Federal Trade Commission's actions were so extensive with respect to the descriptors that the state law claims were barred as a matter of federal law, the Court's decision was limited: it did not address the ultimate merits of plaintiffs' claim, the viability of the action as a class action, or other state law issues. The case was returned to the federal court in Maine and consolidated by the Judicial Panel on Multidistrict Litigation ("JPMDL") with other federal cases in a multidistrict litigation proceeding. In June 2011, the plaintiffs voluntarily dismissed the *Good* case without prejudice after the district court denied plaintiffs' motion for class certification, concluding the litigation. The other multidistrict cases were either voluntarily dismissed or resolved in a manner favorable to Philip Morris, according to Altria's SEC filings.

The Price Case. In *Price, et al v. Philip Morris Inc.* (Circuit Court, Madison County, Illinois, filed February 10, 2000) the trial judge found in favor of the plaintiff class and awarded \$7.1 billion in compensatory damages and \$3 billion in punitive damages against Philip Morris in 2003. In December 2005, the Illinois Supreme Court issued its judgment reversing the trial court's judgment in favor of the plaintiffs and directing the trial court to dismiss the case. In December 2006, the defendant's motion to dismiss and for entry of final judgment was granted, and the case was dismissed with prejudice. In December 2008, plaintiffs filed with the trial court a petition for relief from the final judgment and sought to vacate the 2005 Illinois Supreme Court judgment, contending that the U.S. Supreme Court's December 2008 decision in *Good* demonstrated that the Illinois Supreme Court's decision was

“inaccurate.” In February 2009, the trial court granted Philip Morris’s motion to dismiss plaintiffs’ petition. In March 2009, the plaintiffs filed a notice of appeal with the Illinois Appellate Court, Fifth Judicial District. In February 2011, the Illinois Appellate Court, Fifth Judicial District reversed the trial court’s dismissal of plaintiffs’ petition and remanded for further proceedings, and on September 28, 2011, the Illinois Supreme Court denied Philip Morris’ petition for leave to appeal that ruling. As a result, the case returned to the trial court for proceedings on whether the court should grant the plaintiffs’ petition to reopen the prior judgment. In February 2012, plaintiffs filed an amended petition, which Philip Morris opposed. Subsequently, in responding to Philip Morris’s opposition to the amended petition, plaintiffs asked the trial court to reinstate the original judgment. On December 12, 2012, the trial court denied the plaintiffs’ request to reopen the prior judgment, and the plaintiffs filed a notice of appeal to the Fifth District Appellate Court on January 8, 2013. On April 29, 2014, the Fifth District Appellate Court reinstated the \$10.1 billion 2003 verdict. In May 2014, Philip Morris filed a petition requesting the Illinois Supreme Court to direct the Fifth Judicial District to vacate its April 2014 judgment and to order the Fifth Judicial District to affirm the trial court’s denial of the plaintiff’s petition for relief from the judgment, or in the alternative, grant its petition for leave to appeal. On September 24, 2014, the Illinois Supreme Court agreed to hear Philip Morris’s appeal. In November 2015, the Illinois Supreme Court vacated the judgments of the lower courts and dismissed the case without prejudice to allow the plaintiffs to file a motion to recall the mandate. The plaintiffs filed a motion to recall the mandate or for other appropriate relief in the Illinois Supreme Court, which was denied on January 11, 2016. In January 2016 plaintiffs filed a petition for writ of certiorari with the United States Supreme Court on the question of whether one of the Illinois Supreme Court justices should have recused himself, and in June 2016 the U.S. Supreme Court denied plaintiffs’ petition for writ of certiorari, concluding the litigation.

As of January 29, 2019, 21 state courts in 23 “lights” cases have refused to certify class actions, dismissed class action allegations, reversed prior class certification decisions or entered judgment in favor of Philip Morris, according to Altria’s Form 10-Q filed with the SEC for the three-month period ended March 31, 2019. State trial courts have certified classes against defendant tobacco manufacturers in several jurisdictions; over time, all such cases have been dismissed by the courts at the summary judgment stage, were settled by the parties or were resolved in favor of Philip Morris, according to Altria’s Form 10-Q filed with the SEC for the three-month period ended March 31, 2019.

Other Class Action Cases. Other categories of class action cases include, among others, (i) medical monitoring class action cases, wherein plaintiffs seek to recover the cost for, or otherwise the implementation of, court-supervised programs for ongoing medical monitoring providing members of the purported class low dose CT scanning in order to identify and diagnose lung cancer, and other relief such as court-supervised smoking cessation programs; (ii) e-cigarette class action cases, wherein plaintiffs seek damages, alleging that defendants made false and misleading claims that e-cigarettes are less hazardous than other cigarette products or failed to disclose that e-cigarettes expose users to certain substances; and (iii) class action cases seeking damages related to Santa Fe Natural Tobacco Company’s allegedly deceptive use of the words “natural” and “additive-free” in the labeling, advertising, and promotional materials for Natural American Spirit brand cigarettes.

Aggregated Claims. In a 1999 administrative order, the West Virginia Supreme Court of Appeals transferred to a single West Virginia court a group of roughly 1,200 cases brought by individuals who allege cancer or other health effects caused by smoking cigarettes, smoking cigars, or using smokeless tobacco products (the “**West Virginia Cases**”). The plaintiffs’ claims alleging injury from smoking cigarettes were consolidated for trial. The time for filing a case that could be consolidated for trial with the West Virginia Cases expired in 2000. The cases were consolidated for a Phase I trial on various defense conduct issues, to be followed in Phase II by individual trials of remaining claims to determine liability and compensatory damages. On May 15, 2013, the Phase I jury found that defendants’ cigarettes were not defectively designed; defendants’ cigarettes were not defective due to a failure to warn before July 1, 1969; defendants were not negligent, did not breach warranties, and did not engage in conduct warranting punitive damages; and defendants’ ventilated filter cigarettes manufactured and sold between 1964 and July 1, 1969 were defective for a failure to instruct. In November 2014, the West Virginia Supreme Court affirmed the verdict. On June 8, 2015, the U.S. Supreme Court denied the plaintiffs’ petition for writ of certiorari. On the same date, the trial court issued an order finding that only 30 plaintiffs are alleged to have smoked ventilated filter cigarettes in the relevant period. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, the 30 civil actions were to be tried in six consolidated trials in West Virginia, but the parties agreed to resolve the cases for an immaterial amount, and in the second quarter of 2018 the court dismissed all 30 cases.

Health Care Cost Recovery Cases

Health Care Cost Recovery Cases are brought by or on behalf of entities seeking equitable relief and reimbursement of expenses incurred in providing health care to individuals who allegedly were injured by smoking. Plaintiffs in these cases have included the U.S. federal government, U.S. state and local governments, foreign governmental entities, hospitals or hospital districts, American Indian tribes, labor unions, private companies and private citizens. Relief sought by some but not all plaintiffs includes punitive damages, multiple damages and other statutory damages and penalties, injunctions prohibiting alleged marketing and sales to minors, disclosure of research, disgorgement of profits, funding of anti-smoking programs, additional disclosure of nicotine yields, and payment of attorney and expert witness fees. The claims asserted include the claim that cigarette manufacturers were “unjustly enriched” by plaintiffs’ payment of health care costs allegedly attributable to smoking, as well as claims of indemnity, negligence, strict liability, breach of express and implied warranty, violation of a voluntary undertaking or special duty, fraud, negligent misrepresentation, conspiracy, public nuisance, claims under federal and state statutes governing consumer fraud, antitrust, deceptive trade practices and false advertising, and claims under federal and state anti-racketeering statutes.

According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, although there have been some decisions to the contrary, most judicial decisions in the U.S. have dismissed all or most health care cost recovery claims against cigarette manufacturers; nine federal circuit courts of appeals and eight state appellate courts, relying primarily on grounds that plaintiffs’ claims were too remote, have ordered or affirmed dismissals of health care cost recovery actions, and the U.S. Supreme Court has refused to consider plaintiffs’ appeals from the cases decided by five circuit courts of appeals.

The DOJ Case. In 1999, in *United States v. Philip Morris USA Inc.*, the U.S. Department of Justice brought an action against various tobacco manufacturers in the U.S. District Court for the District of Columbia. The government initially sought to recover federal funds expended by the federal government in providing health care to smokers who developed diseases and injuries alleged to be smoking-related, based on several federal statutes. In addition, the government sought, pursuant to the civil provisions of RICO, disgorgement of profits the government contended were earned as a consequence of a RICO racketeering “enterprise.” In September 2000, the district court dismissed the government’s claims asserted under the Medical Care Recovery Act as well as those under the Medicare Secondary Payer provisions of the Social Security Act, but did not dismiss the RICO claims. In February 2005, the Circuit Court of Appeals for the District of Columbia ruled that disgorgement is not an available remedy in the case. The government’s petition for writ of certiorari with the U.S. Supreme Court was denied in October 2005. The non-jury, bench trial concluded in June 2005, and in August 2006, the U.S. District Court for the District of Columbia issued its final judgment and remedial order in favor of the government. The court determined that the defendants violated certain provisions of the RICO statute, that there was a likelihood of present and future RICO violations, and that equitable relief was warranted. The government was not awarded monetary damages.

The equitable relief included permanent injunctions that prohibit the defendant tobacco manufacturers from engaging in any act of racketeering, as defined under RICO; from making any material false or deceptive statements concerning cigarettes; from making any express or implied statement about health on cigarette packaging or promotional materials (these prohibitions include a ban on using such descriptors as “low tar,” “light,” “ultra-light,” “mild” or “natural”); from making any statements that “low tar,” “light,” “ultra-light,” “mild” or “natural” or low-nicotine cigarettes may result in a reduced risk of disease; and from participating in the management or control of certain entities or their successors. The final judgment and remedial order also requires the defendants to make corrective statements on their websites, in certain media, in point-of-sale advertisements, and on cigarette package “onsets” (as described below). In addition, the final judgment and remedial order requires defendants to make disclosures of disaggregated marketing data to the government, and to make document disclosures on a website and in a physical depository, and also prohibits each defendant that manufactures cigarettes from selling any of its cigarette brands or certain elements of its business unless certain conditions are met.

On November 27, 2012 the U.S. District Court for the District of Columbia issued an order specifying the text of the corrective statements that the defendants must make on their websites and through other media. The court ordered that the corrective statements include statements, among others, to the effect that smoking kills on average 1,200 Americans every day, results in various detrimental health conditions and is highly addictive, that low tar and light cigarettes are not less harmful than regular cigarettes and cause some of the same detrimental health

conditions that regular cigarettes cause, that tobacco companies intentionally designed cigarettes to make them more addictive, and that secondhand smoke causes lung cancer and coronary heart disease in adults who do not smoke. The court further ordered the parties to engage in discussions with the court, regarding implementation of the corrective statements. In January 2013, defendants appealed to the U.S. Court of Appeals for the District of Columbia Circuit the district court's November 2012 order on the text of the corrective statements, claiming a violation of free speech rights. Defendants also filed a motion to hold the appeal in abeyance pending the completion of related proceedings in the district court regarding the implementation of the corrective statements, which the Court of Appeals granted in February 2013.

On January 10, 2014, the U.S. government and the defendant tobacco companies issued a joint status report confirming that the parties reached an agreement following the negotiations regarding implementation of the corrective statements and filed a joint motion for consent order, and in April 2014 the parties filed an amended proposed consent order. For specified time periods following the date when all appeals are exhausted, corrective statements would be disseminated in newspapers (print and online), on television, on the tobacco companies' websites, and on "onserts" affixed to cigarette packs. In June 2014, U.S. District Court for the District of Columbia approved the April 2014 proposed consent order.

In May 2015, the U.S. Court of Appeals affirmed in part and reversed in part the consolidated appeal before it, and upheld the content of the corrective statements ordered by the district court in November 2012, but rejected the preamble to the statements (which had included a statement that the PMs deliberately deceived the American public). On August 20, 2015, the district court directed the parties to undertake mediation in order to attempt to reach agreement on the wording of the corrective-statements preamble. The parties were unable to reach agreement. On October 1, 2015, the district court held a status conference at which it ordered the parties to propose new corrective-statements preambles and brief their proposals in October and November 2015. The U.S. Department of Justice proposed a preamble that removed the reference to deliberate deception, and instead included only that a federal court has ordered the PMs to make such corrective statements. On February 8, 2016, the district court issued an order on the content of the corrective-statements preamble, in which it held that the preamble proposed by the Department of Justice remedied the concern of the Court of Appeals, and the district court adopted the corrective statements set forth in the order, with the preamble that the government had proposed. In April 2017, the U.S. Court of Appeals for the District of Columbia Circuit reversed in part the district court's decision on the content of the corrective communications, striking certain content (the statement "Here is the Truth") and remanding to the district court the decision on how to revise certain other content. In June 2017, the U.S. District Court for the District of Columbia issued an order adopting modified corrective statements, featuring a preamble to the effect that a federal court has ordered the OPMs to make the specified statements, and featuring statements regarding the adverse health effects of smoking, the addictiveness of smoking and nicotine, the lack of significant health benefit from smoking "low tar," "light," "ultra light," "mild" and "natural" cigarettes, the manipulation of cigarette design and composition to ensure optimum nicotine delivery, and the adverse health effects of exposure to second hand smoke.

In October 2017, the U.S. District Court for the District of Columbia approved the parties' consent order implementing the corrective statements remedy for newspapers and television. According to the October 2017 court order, in November 2017 the OPMs began running court-mandated announcements containing the agreed-upon corrective statements. Television announcements are between 30 and 45 seconds long and run in prime time five days a week for 52 weeks. Full-page print ads appeared in at least 45 newspapers and ran on five weekends spread over approximately four months, and also appeared on the newspapers' websites. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, the parties reached agreement in April 2018 on the implementation details of the corrective statements remedy for "onserts" affixed to cigarette packs and for company-owned websites. Under the agreement, the corrective statements began appearing on websites in the second quarter of 2018 and the onserts began appearing in the fourth quarter of 2018. Altria stated in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019 that in the second quarter of 2014, Altria and Philip Morris recorded provisions totaling \$31 million for the estimated costs of implementing the corrective communications remedy.

The consent order that was approved in June 2014 by the U.S. District Court for the District of Columbia, described above, did not resolve outstanding issues as to whether corrective statements must be posted in retail point-of-sale displays, and this issue remains pending. According to Altria in its Form 10-Q filed with the SEC for the three-month period ended March 31, 2019, in May 2018, the parties submitted a joint status report on point-of-

sale signage to the district court, the court approved the parties' proposed briefing schedule, and the briefing is complete and the matter is pending before the district court.

Other Litigation

By way of example only, and not as an exclusive or complete list, the following are additional types of tobacco-related litigation which the tobacco industry is also the target of: (a) asbestos contribution cases, where asbestos manufacturers and related parties seek contribution or reimbursement where asbestos claims were allegedly caused in whole or in part by cigarette smoking, (b) patent infringement claims, (c) "ignition propensity cases" where wrongful death actions contend fires caused by cigarettes led to other individuals' deaths, (d) "filter cases" which mostly have been filed against Lorillard for alleged exposure to asbestos fibers there were incorporated into filter material used in one brand of cigarettes manufactured by Lorillard over 50 years ago, (e) claims related to smokeless tobacco products and electronic cigarettes, (f) ERISA claims, (g) antitrust claims and (h) employment litigation claims. Tobacco manufacturers are also subject to international litigation.

Defenses

The PMs have stated that they believe that they have valid defenses to the cases pending against them as well as valid bases for appeal should any adverse verdicts be returned against them. While PMs have indicated their intent to defend vigorously all tobacco products liability litigation, it is not possible to predict the outcome of any litigation. Litigation is subject to many uncertainties. Plaintiffs have prevailed in several cases, as noted herein, and it is possible that one or more of the pending actions could be decided unfavorably as to the PMs or the other defendants. The PMs may enter into discussions in an attempt to settle particular cases if the PMs believe it is appropriate to do so.

Some plaintiffs have been awarded damages from cigarette manufacturers at trial. While some of these awards have been overturned or reduced, other damages awards have been paid after the manufacturers have exhausted their appeals. These awards and other litigation activities against cigarette manufacturers and health issues related to tobacco products also continue to receive media attention. It is possible, for example, that the 2006 verdict in the DOJ case, which made many adverse findings regarding the conduct of the defendants, could form the basis of allegations by other plaintiffs or additional judicial findings against cigarette manufacturers. In addition, the U.S. Supreme Court ruling in *Good v. Altria* could result in further "lights" litigation. Any such developments could have material adverse effects on the ability of the PMs to prevail in smoking and health litigation and could influence the filing of new suits against the PMs. The type or extent of litigation that could be brought against PMs in the future cannot be predicted.

The foregoing discussion of civil litigation against the domestic tobacco industry is not exhaustive and is not based upon the examination or analysis by the Issuer of the court records of the cases mentioned or of any other court records. It is based on SEC filings by Altria (as well as certain prior SEC filings of other OPMs) and on other publicly available information published by the OPMs or others. Prospective purchasers of the Series 2019 Bonds are referred to such SEC filings and applicable court records for additional descriptions thereof.

Litigation is subject to many uncertainties, and it is not possible to predict the outcome of litigation or estimate the possible loss or range of loss to the tobacco manufacturers. Altria has stated in its SEC filings that damages claimed in some tobacco-related and other litigation are or can be significant and, in certain cases, have ranged in the billions of dollars. Altria has further stated in its SEC filings that it is possible that the consolidated results of operations, cash flows or financial position of itself or one or more of its subsidiaries could be materially affected in a particular fiscal quarter or fiscal year by an unfavorable outcome or settlement of certain pending litigation. It can be expected that at any time and from time to time there will be developments in the litigation currently pending and filing of new litigation that could materially adversely affect the business of the PMs and the market for or prices of securities such as the Series 2019 Bonds payable from tobacco settlement payments made by the PMs under the MSA.

SUMMARY OF THE TOBACCO CONSUMPTION REPORT

The following is a brief summary of the Tobacco Consumption Report, a copy of which is attached hereto as APPENDIX A. This summary does not purport to be complete and the Tobacco Consumption Report should be read in its entirety for an understanding of the assumptions on which it is based and the conclusions it reaches. The Tobacco Consumption Report forecasts future United States cigarette consumption. The MSA payments are based in part on cigarettes shipped in and to the United States. Cigarette shipments and cigarette consumption may not match as a result of various factors such as inventory adjustments, but are substantially the same when compared over a period of time. IHS Global's forecasts, including, but not limited to, the forecast regarding future cigarette consumption, are estimates, which have been prepared by IHS Global on the basis of certain assumptions and hypotheses. No representation or warranty of any kind is or can be made with respect to the accuracy or completeness of and no representation or warranty should be inferred from, these forecasts. The cigarette consumption forecast contained in the Tobacco Consumption Report is based upon assumptions as to future events and, accordingly, is subject to varying degrees of uncertainty. Some assumptions inevitably will not materialize and, additionally, unanticipated events and circumstances may occur. Therefore, for example, actual cigarette consumption inevitably will vary from the forecast included in the Tobacco Consumption Report and the variations may be material and adverse. No assurance can be given that actual cigarette consumption in the United States during the term of the Series 2019 Bonds will be as assumed. See "RISK FACTORS" herein.

General

IHS Global Inc. prepared the Tobacco Consumption Report for the Issuer. IHS Global provided the following description to the Issuer for use in this Offering Circular: "IHS Global is an internationally recognized econometric and forecasting firm with over 600 economists located in more than 30 countries. IHS Global is a subsidiary of IHS Markit, Inc., a publicly traded company on the NASDAQ (NASDAQ: INFO). IHS Markit is a leading source of information, insight and advisory services in the areas of finance, economics, energy, chemicals, technology, transportation, healthcare, geopolitical risk, sustainability and supply chain management."

IHS Global has developed an econometric model of cigarette consumption in the United States based on historical United States data between 1965 and 2018, and what IHS Global describes as widely accepted economic principles and IHS Global's experience in building econometric forecasting models. IHS Global considered the impact of demographics, cigarette prices, disposable income, employment and unemployment, industry advertising expenditures, the future effect of the incidence of smoking amongst underage youth, and qualitative variables that captured the impact of anti-smoking regulations, legislation, health warnings, and the availability of alternative tobacco and nicotine products. After determining which variables were effective in building this cigarette consumption model (including real cigarette prices, real per capita disposable personal income, the impact of workplace smoking restrictions, stricter restrictions on smoking in public places, and the trend over time in individual behavior and preferences), IHS Global employed standard multivariate regression analysis to determine the nature of the economic relationship between these variables and per capita cigarette consumption in the United States.

IHS Global's model, coupled with its long-term forecast of the United States economy, was then used to project total United States cigarette consumption from 2019 through 2038 (the "**Tobacco Consumption Forecast**"). The Tobacco Consumption Forecast indicates that the total consumption of cigarettes in the United States is projected to fall at an average annual rate of 3.1% from 2019 through 2038, resulting in a forecast of total U.S. cigarette consumption in 2038 of 136.2 billion cigarettes including a roll-your-own equivalent of 0.0325 ounces per cigarette (a 47% decline from the 2018 level), as set forth in the Tobacco Consumption Report. According to IHS Global, the assumptions on which the Tobacco Consumption Forecast is based are reasonable.

Historical Cigarette Consumption

The U.S. Department of Agriculture, which has compiled data on cigarette consumption since 1900, reports that consumption (which is defined as taxable United States consumer sales, plus shipments to overseas armed forces, ship stores, Puerto Rico and other United States possessions, and small tax-exempt categories, as reported by the Bureau of Alcohol, Tobacco, Firearms and Explosives) grew from 2.5 billion in 1900 to a peak of 640 billion in 1981. Following the release of the Surgeon General's Report in 1964, cigarette consumption continued to increase at an average annual rate of 1.2% between 1965 and 1981. Between 1981 and 1990, however, U.S. cigarette

consumption declined at an average annual rate of 2.2%. From 1990 to 1998, the average annual rate of decline in cigarette consumption was 1.5%; but for 1998 the decline increased to 3.1% and increased further to 6.5% for 1999. These declines are correlated with large price increases in 1998 and 1999 following the MSA and the Previously Settled States Settlements. In 2000 and 2001, the rate of decline moderated, to 1.2%. Coincident with a large number of state excise tax increases, the rate of decline accelerated in 2002 and 2003 to an average annual rate of 3.0%. The decline moderated for the next four years, through 2007, averaging 2.3%. The rate of decline accelerated dramatically in 2008 through 2010 (due to indoor smoking bans, recession and the increases in the federal and state excise taxes), before finally decelerating in 2011 and 2012. In 2013 the decline sharpened to nearly 5%. This decline has been attributed by the industry to a weak economy, the rapid increase in usage of electronic cigarettes, and to an unfavorable comparison with a surprisingly strong 2012. In addition, some of the decline was due to a reduction in wholesale inventories late in the year, some of which was reversed in 2014. In 2015, cigarette shipment declines stopped, and manufacturers reported increased shipments for most of the year. Cigarette shipment decline resumed in 2016 and continued in 2017. Industry reports indicate that market volume fell an additional 4.5% in 2018.

Factors Affecting Cigarette Consumption

Most empirical studies have found a common set of variables that are relevant in building a model of cigarette demand. These conventional analyses usually evaluate one or more of the following factors: (i) general population growth, (ii) price increases, (iii) changes in disposable income, (iv) youth consumption, (v) trend over time, (vi) workplace smoking bans, (vii) smoking bans in public places, (viii) nicotine dependence, and (ix) health warnings. While some of these factors were not found to have a measurable impact on changes in demand for cigarettes, all of these factors are thought to affect smoking in some manner and to be incorporated into current levels of consumption. IHS Global's analysis includes a time trend variable in order to capture the impact of changing health trends and the effects of other such variables, which are difficult to quantify.

Comparison with Prior Forecast

On August 3, 2007, in connection with the issuance of the Series 2007 Bonds, IHS Global projected that total cigarette consumption in 2036 would be 218 billion cigarettes, a 58% decline from the 2006 level. From 2004 through 2036 the average annual rate of decline was projected to be 1.78%. The current Tobacco Consumption Report states that, through 2006, the 2007 study accurately projected consumption declines, but the sharp acceleration in the decline rate thereafter resulted in a substantial forecast error. The current Tobacco Consumption Report projects an average annual decline rate of 3.1% through 2038, to an annual consumption level of 133.2 billion sticks. The new forecast was developed with consideration of the large federal tax increase in 2009 and of the negative effects of the proliferation on smoking ban legislation across the U.S.

DEPARTMENT OF FINANCE POPULATION FORECAST

Projections of County population are based on the Population Forecast published by the Department of Finance in January, 2018. The Department of Finance is not an independent econometric consultant.

The Population Forecast and related materials (including assumptions and methodology) are available by accessing the following website of the Department of Finance:

<http://www.dof.ca.gov/Forecasting/Demographics/projections/>

The Population Forecast and the materials published by the Department of Finance in connection therewith, including the Department of Finance's methodology and assumptions, are accessible at the website specified above, should be read in their entirety for an understanding of the assumptions on which the Population Forecast is based and the conclusions it reaches. The projections are estimates which have been prepared by the Department of Finance on the basis of certain assumptions and hypotheses. No representation or warranty of any kind is or can be made with respect to the accuracy or completeness of, and no representation or warranty should be inferred from, these projections. The Population Forecast is based upon assumptions as to future events and, accordingly, is subject to varying degrees of uncertainty. Some assumptions inevitably will not materialize and, additionally, unanticipated events and circumstances may occur. Therefore, for example, actual State and County population inevitably will

vary from the Population Forecast and the variations may be material and adverse to the County. No assurance can be given that actual population of the State and the County during the term of the Series 2019 Bonds will be as assumed, or that the other assumptions underlying the Population Forecast will be consistent with future events.

CONTINUING DISCLOSURE UNDERTAKING

In order to assist the Underwriters in complying with Rule 15c2-12 (the “**Rule**”) of the SEC promulgated under the Securities Exchange Act of 1934, as amended, the Issuer will execute a Continuing Disclosure Undertaking (the “**Continuing Disclosure Undertaking**”) for the benefit of the holders and beneficial owners of the Series 2019 Bonds. Pursuant to the Continuing Disclosure Undertaking, the Issuer will provide, or cause to be provided by a dissemination agent, to the Municipal Securities Rulemaking Board, on its Electronic Municipal Market Access (“**EMMA**”) system, certain annual financial information and operating data and, in a timely manner, notices of certain specified events (but in no event in excess of ten business days after the occurrence of the event). The form of the Continuing Disclosure Undertaking is attached hereto as APPENDIX H. During the past five years the Issuer has not failed to comply in any material respect with any of its continuing disclosure undertakings.

LITIGATION

There is no litigation pending in any State or federal court to restrain or enjoin the issuance or delivery of the Series 2019 Bonds or questioning the creation, organization or existence of the Issuer or the Corporation, the validity or enforceability of the Indenture, the Loan Agreement, the Purchase and Sale Agreement or the sale of the Sold County Tobacco Assets by the County to the Corporation, the proceedings for the authorization, execution, authentication and delivery of the Series 2019 Bonds or the validity of the Series 2019 Bonds. For a discussion of other legal matters, including certain pending litigation involving the MSA and the PMs, see “**RISK FACTORS,**” “**CERTAIN INFORMATION RELATING TO THE TOBACCO INDUSTRY**” and “**LEGAL CONSIDERATIONS**” herein.

TAX MATTERS

Characterization of the Series 2019 Bonds as Debt

Although Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer (“**Bond Counsel**”), is not aware of any authorities directly addressing securities, such as the Series 2019 Bonds, secured and payable by collateral similar to the TSRs where the Issuer has little or no remaining economic interest in such collateral, and, although the matter is not free from doubt, Bond Counsel believes it is reasonable to treat the Series 2019 Bonds as debt of the Issuer for U.S. federal and State of California income tax purposes, rather than an ownership interest in the TSR revenues. Owners of Series 2019 Bonds should consult their own tax advisors in that regard. The remainder of this discussion assumes that the Series 2019 Bonds are properly treated as debt.

Tax Treatment of the Series 2019 Bonds

In the opinion of Bond Counsel, and subject to the discussion above under “**Characterization of the Series 2019 Bonds as Debt,**” based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, the accuracy of certain representations and compliance with certain covenants, (1) interest on the Series 2019 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the “**Code**”), and (2) interest on the Series 2019 Bonds is exempt from State of California personal income taxes. Bond Counsel expresses no opinion regarding any other tax consequences relating to the ownership or disposition of, or the amount, accrual, or receipt of interest on, the Series 2019 Bonds. The proposed form of opinion of Bond Counsel is contained in APPENDIX E hereto.

The following discussion summarizes certain U.S. federal income tax considerations generally applicable to U.S. Holders (as defined below) of the Series 2019 Bonds that acquire their Series 2019 Bonds in the initial offering. The discussion below is based upon laws, regulations, rulings, and decisions in effect and available on the date hereof, all of which are subject to change, possibly with retroactive effect. Prospective investors should note that no rulings have been or are expected to be sought from the U.S. Internal Revenue Service (the “**IRS**”) with

respect to any of the U.S. federal income tax considerations discussed below, and no assurance can be given that the IRS will not take contrary positions. Further, the following discussion does not deal with U.S. tax consequences applicable to any given investor, nor does it address the U.S. tax considerations applicable to all categories of investors, some of which may be subject to special taxing rules (regardless of whether or not such investors constitute U.S. Holders), such as certain U.S. expatriates, banks, REITs, RICs, insurance companies, tax-exempt organizations, dealers or traders in securities or currencies, partnerships, S corporations, estates and trusts, investors that hold their Series 2019 Bonds as part of a hedge, straddle or an integrated or conversion transaction, or investors whose “functional currency” is not the U.S. dollar. Furthermore, it does not address (i) alternative minimum tax consequences, (ii) the net investment income tax imposed under Section 1411 of the Code, or (iii) the indirect effects on persons who hold equity interests in a holder. This summary also does not consider the taxation of the Series 2019 Bonds under state, local or non-U.S. tax laws. In addition, this summary generally is limited to U.S. tax considerations applicable to investors that acquire their Series 2019 Bonds pursuant to this offering for the issue price that is applicable to such Series 2019 Bonds (i.e., the price at which a substantial amount of the Series 2019 Bonds are sold to the public) and who will hold their Series 2019 Bonds as “capital assets” within the meaning of Section 1221 of the Code. The following discussion does not address tax considerations applicable to any investors in the Series 2019 Bonds other than investors that are U.S. Holders.

As used herein, “**U.S. Holder**” means a beneficial owner of a Series 2019 Bond that for U.S. federal income tax purposes is an individual citizen or resident of the United States, a corporation or other entity taxable as a corporation created or organized in or under the laws of the United States or any state thereof (including the District of Columbia), an estate the income of which is subject to U.S. federal income taxation regardless of its source or a trust where a court within the United States is able to exercise primary supervision over the administration of the trust and one or more United States persons (as defined in the Code) have the authority to control all substantial decisions of the trust (or a trust that has made a valid election under U.S. Treasury Regulations to be treated as a domestic trust). If a partnership holds Series 2019 Bonds, the tax treatment of such partnership or a partner in such partnership generally will depend upon the status of the partner and upon the activities of the partnership. Partnerships holding Series 2019 Bonds, and partners in such partnerships, should consult their own tax advisors regarding the tax consequences of an investment in the Series 2019 Bonds (including their status as U.S. Holders).

Notwithstanding the rules described below, it should be noted that certain taxpayers that are required to prepare certified financial statements or file financial statements with certain regulatory or governmental agencies may be required to recognize income, gain and loss with respect to the Series 2019 Bonds at the time that such income, gain or loss is recognized on such financial statements instead of under the rules described below (in the case of original issue discount, such requirements are only effective for tax years beginning after December 31, 2018).

Prospective investors should consult their own tax advisors in determining the U.S. federal, state, local or non-U.S. tax consequences to them from the purchase, ownership and disposition of the Series 2019 Bonds in light of their particular circumstances.

U.S. Holders

Interest. Interest on the Series 2019 Bonds generally will be taxable to a U.S. Holder as ordinary interest income at the time such amounts are accrued or received, in accordance with the U.S. Holder’s method of accounting for U.S. federal income tax purposes.

To the extent that the issue price of any maturity of the Series 2019 Bonds is less than the amount to be paid at maturity of such Series 2019 Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Series 2019 Bonds) by more than a de minimis amount, the difference may constitute original issue discount (“**OID**”). U.S. Holders of Series 2019 Bonds will be required to include OID in income for U.S. federal income tax purposes as it accrues, in accordance with a constant yield method based on a compounding of interest (which may be before the receipt of cash payments attributable to such income). Under this method, U.S. Holders generally will be required to include in income increasingly greater amounts of OID in successive accrual periods.

Series 2019 Bonds purchased for an amount in excess of the principal amount payable at maturity (or, in some cases, at their earlier call date) will be treated as issued at a premium. A U.S. Holder of a Series 2019 Bond issued at a premium may make an election, applicable to all debt securities purchased at a premium by such U.S. Holder, to amortize such premium, using a constant yield method over the term of such Series 2019 Bond.

Sale or Other Taxable Disposition of the Series 2019 Bonds. Unless a nonrecognition provision of the Code applies, the sale, exchange, redemption, retirement (including pursuant to an offer by the Issuer) or other disposition of a Series 2019 Bond will be a taxable event for U.S. federal income tax purposes. In such event, in general, a U.S. Holder of a Series 2019 Bond will recognize gain or loss equal to the difference between (i) the amount of cash plus the fair market value of property received (except to the extent attributable to accrued but unpaid interest on the Series 2019 Bond, which will be taxed in the manner described above) and (ii) the U.S. Holder's adjusted U.S. federal income tax basis in the Series 2019 Bond (generally, the purchase price paid by the U.S. Holder for the Series 2019 Bond, decreased by any amortized premium, and increased by the amount of any OID previously included in income by such U.S. Holder with respect to such Series 2019 Bond). Any such gain or loss generally will be capital gain or loss. In the case of a non-corporate U.S. Holder of the Series 2019 Bonds, the maximum marginal U.S. federal income tax rate applicable to any such gain will be lower than the maximum marginal U.S. federal income tax rate applicable to ordinary income if such U.S. holder's holding period for the Series 2019 Bonds exceeds one year. The deductibility of capital losses is subject to limitations.

Defeasance of the Series 2019 Bonds. If the Issuer defeases any Series 2019 Bond, the Series 2019 Bond may be deemed to be retired and "reissued" for U.S. federal income tax purposes as a result of the defeasance. In that event, in general, a holder will recognize taxable gain or loss equal to the difference between (i) the amount realized from the deemed sale, exchange or retirement (less any accrued qualified stated interest which will be taxable as such) and (ii) the holder's adjusted tax basis in the Series 2019 Bond.

Information Reporting and Backup Withholding. Payments on the Series 2019 Bonds generally will be subject to U.S. information reporting and possibly to "backup withholding." Under Section 3406 of the Code and applicable U.S. Treasury Regulations issued thereunder, a non-corporate U.S. Holder of the Series 2019 Bonds may be subject to backup withholding at the current rate of 24% with respect to "reportable payments," which include interest paid on the Series 2019 Bonds and the gross proceeds of a sale, exchange, redemption, retirement or other disposition of the Series 2019 Bonds. The payor will be required to deduct and withhold the prescribed amounts if (i) the payee fails to furnish a U.S. taxpayer identification number ("TIN") to the payor in the manner required, (ii) the IRS notifies the payor that the TIN furnished by the payee is incorrect, (iii) there has been a "notified payee underreporting" described in Section 3406(c) of the Code or (iv) the payee fails to certify under penalty of perjury that the payee is not subject to withholding under Section 3406(a)(1)(C) of the Code. Amounts withheld under the backup withholding rules may be refunded or credited against the U.S. Holder's federal income tax liability, if any, provided that the required information is timely furnished to the IRS. Certain U.S. holders (including among others, corporations and certain tax-exempt organizations) are not subject to backup withholding. A holder's failure to comply with the backup withholding rules may result in the imposition of penalties by the IRS.

Foreign Account Tax Compliance Act ("FATCA")

Sections 1471 through 1474 of the Code impose a 30% withholding tax on certain types of payments made to foreign financial institutions, unless the foreign financial institution enters into an agreement with the U.S. Treasury to, among other things, undertake to identify accounts held by certain U.S. persons or U.S.-owned entities, annually report certain information about such accounts, and withhold 30% on payments to account holders whose actions prevent it from complying with these and other reporting requirements, or unless the foreign financial institution is otherwise exempt from those requirements. In addition, FATCA imposes a 30% withholding tax on the same types of payments to a non-financial foreign entity unless the entity certifies that it does not have any substantial U.S. owners or the entity furnishes identifying information regarding each substantial U.S. owner. Under current guidance, failure to comply with the additional certification, information reporting and other specified requirements imposed under FATCA could result in the 30% withholding tax being imposed on payments of interest on the Series 2019 Bonds. In general, withholding under FATCA currently applies to payments of U.S. source interest (including OID) and, under current guidance, will apply to certain "passthru" payments no earlier than the date that is two years after publication of final U.S. Treasury Regulations defining the term "foreign passthru payments." Prospective investors should consult their own tax advisors regarding FATCA and its effect on them.

The foregoing summary is included herein for general information only and does not discuss all aspects of U.S. federal taxation that may be relevant to a particular holder of Series 2019 Bonds in light of the holder's particular circumstances and income tax situation. Prospective investors are urged to consult their own tax advisors as to any tax consequences to them from the purchase, ownership and disposition of Series 2019 Bonds, including the application and effect of state, local, non-U.S., and other tax laws.

RATING

It is a condition to the obligation of the Underwriters to purchase the Series 2019 Bonds, that, at the date of delivery thereof to the Underwriters, S&P Global Ratings (“**S&P**”) has assigned the Series 2019 Bonds a rating of “A- (sf).”

The rating addresses S&P's assessment of the ability of the Issuer to pay the principal of such Series 2019 Bonds on the Maturity Date therefor set forth on the inside cover page of this Offering Circular. However, projections of Turbo Redemptions Payments for such Series 2019 Bonds have not been rated by S&P. The rating of such Series 2019 Bonds by S&P reflect only the views of such organization and any desired explanation of the significance of such rating and any outlooks or other statements given by S&P with respect thereto should be obtained from S&P at the following address: S&P Global Ratings, 55 Water Street, New York, New York 10041.

There is no assurance that the initial rating assigned to the Series 2019 Bonds will continue for any given period of time or that such rating will not be revised downward, suspended or withdrawn entirely by S&P. Any such downward revision, suspension or withdrawal of such rating may have an adverse effect on the availability of a market for or the market price of the Series 2019 Bonds.

VERIFICATION OF MATHEMATICAL COMPUTATIONS

Upon delivery of the Series 2019 Bonds, the arithmetical accuracy of certain computations included in the schedules relating to the adequacy of the amounts to be applied to the refunding and defeasance of the Refunded Bonds will be verified by Causey Demgen & Moore P.C., independent certified public accountants (the “**Verification Agent**”). In addition, the Verification Agent will verify the arithmetical accuracy of certain computations included in the schedules relating to the projections of debt service coverage of the Series 2019 Bonds and breakeven consumption decline under various consumption decline scenarios. The verifications will be based solely upon information and assumptions supplied to the Verification Agent. The Verification Agent has not made a study or evaluation of the information and assumptions on which such computations are based and, accordingly, has not expressed an opinion on the data used, the reasonableness of the assumptions or the achievability of the forecasted outcome.

UNDERWRITING

Jefferies LLC, as representative of the Underwriters set forth on the cover page hereof, has agreed, subject to certain conditions, to purchase all, but not less than all, of the Series 2019 Bonds from the Issuer at an underwriters' discount of \$731,651.44. The Underwriters will be obligated to purchase all of the Series 2019 Bonds if any are purchased. The initial public offering prices of the Series 2019 Bonds may be changed from time to time by the Underwriters. The Series 2019 Bonds may be offered and sold to certain dealers (including the Underwriters and other dealers depositing Series 2019 Bonds into investment trusts) at prices lower than such public offering prices.

Citigroup Global Markets Inc. is an affiliate of Citibank, N.A. which is acting as MSA Escrow Agent under the MSA and as California Escrow Agent under the California Escrow Agreement.

LEGAL MATTERS

The validity of the Series 2019 Bonds and certain other legal matters are subject to the approving opinion of Orrick, Herrington & Sutcliffe LLP, as Bond Counsel to the Issuer. A complete copy of the Form of Opinion of Bond Counsel is contained in APPENDIX E hereto. Bond Counsel undertakes no responsibility for the accuracy, completeness or fairness of this Offering Circular. Certain legal matters with respect to the Issuer, the Corporation and the County will be passed upon by County Counsel and Bond Counsel. Certain legal matters will be passed upon for the Issuer by Hawkins Delafield & Wood LLP, San Francisco, California, as Disclosure Counsel to the Issuer, and for the Underwriters by their counsel, Nixon Peabody LLP.

RATING COVENANT COMPLIANCE

At the time of issuance of the Series 2007 Bonds, the Issuer covenanted to maintain a rating by at least one rating agency on the Series 2007 Bonds other than the Series 2007F Bonds (the “**Series 2007 Bonds Previously Rated**”), and obtained a rating from Fitch Ratings in compliance with that covenant. On May 16, 2016, Fitch Ratings issued a press release announcing its intent to withdraw all ratings in the tobacco sector effective June 15, 2016, including its ratings on the Series 2007 Bonds Previously Rated, and on such date Fitch Ratings withdrew all such ratings. The Fitch Ratings withdrawal resulted in the Issuer’s non-compliance with its ratings maintenance covenant. On May 10, 2019, the Issuer obtained a rating from S&P Global Ratings on the Series 2007 Bonds Previously Rated, and thereby cured the rating covenant non-compliance.

OTHER PARTIES

IHS Global

IHS Global has been retained on behalf of the Issuer as an independent econometric consultant. The Tobacco Consumption Report attached as APPENDIX A is included herein in reliance on IHS Global as experts in such matters. IHS Global’s fees for acting as independent econometric consultant are not contingent upon the issuance of the Series 2019 Bonds. The Tobacco Consumption Report should be read in its entirety.

Municipal Advisor

Columbia Capital Management, LLC, Glendale, California, has served as Municipal Advisor to the Issuer in connection with the issuance of the Series 2019 Bonds. The Municipal Advisor has not undertaken to make an independent verification or assume responsibility for the accuracy, completeness or fairness of the information contained in this Offering Circular.

INLAND EMPIRE TOBACCO SECURITIZATION AUTHORITY

By _____ /s/ George Johnson
Chair

OTHER PARTIES

IHS Global

IHS Global has been retained on behalf of the Issuer as an independent econometric consultant. The Tobacco Consumption Report attached as APPENDIX D is included herein in reliance on IHS Global as experts in such matters. IHS Global's fees for acting as independent econometric consultant are not contingent upon the issuance of the Series 2019 Bonds. The Tobacco Consumption Report should be read in its entirety.

Municipal Advisor

Columbia Capital Management, LLC, Glendale, California, has served as Municipal Advisor to the Issuer in connection with the issuance of the Series 2019 Bonds. The Municipal Advisor has not undertaken to make an independent verification or assume responsibility for the accuracy, completeness or fairness of the information contained in this Offering Circular.

**INLAND EMPIRE TOBACCO
SECURITIZATION AUTHORITY**

By  Chair

APPENDIX A

TOBACCO CONSUMPTION REPORT

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A Forecast of U.S. Cigarette Consumption (2019-2038) **Inland Empire Tobacco Securitization Authority**

Submitted to:

The Inland Empire Tobacco Securitization Authority

Prepared by:

IHS Global Inc.

May 21, 2019



James Diffley
Executive Director

IHS Global Inc.
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Executive Summary

IHS Global Inc. has developed a cigarette consumption model based on historical U.S. data between 1965 and 2018. This econometric model, coupled with our long-term forecast of the U.S. economy, has been used to project total U.S. cigarette consumption from 2019 through 2038. Our forecast indicates that total consumption in 2038 will be 126.1 billion cigarettes (or 136.2 billion including roll-your-own (“RYO”) tobacco equivalents at 0.0325 ounces per cigarette), a 47% decline from the 2018 level. From 2019 through 2038 the average annual rate of decline is projected to be approximately 3.1%.

Our model was constructed based on widely accepted economic principles and IHS Global Inc.’s considerable experience in building econometric forecasting models. A review of the economic research literature indicates that our model is consistent with the prevalent consensus among economists concerning cigarette demand. We considered the impact of demographics, cigarette prices, disposable income, employment and unemployment, industry advertising expenditures, the future effect of the incidence of smoking amongst underage youth, and qualitative variables that captured the impact of anti-smoking regulations, legislation, health warnings, and the availability of alternative tobacco and nicotine products. After extensive analysis, we found the following variables to be effective in building an empirical model of per capita cigarette consumption: real cigarette prices, real per capita disposable personal income, the impact of workplace smoking restrictions first instituted widely in the 1980s, the stricter restrictions on smoking in public places instituted over the last decade, the rapid increase in consumption of electronic cigarettes, especially the JUUL brand, and the trend over time in individual behavior and preferences. This forecast is based on reasonable assumptions regarding the future paths of these factors.

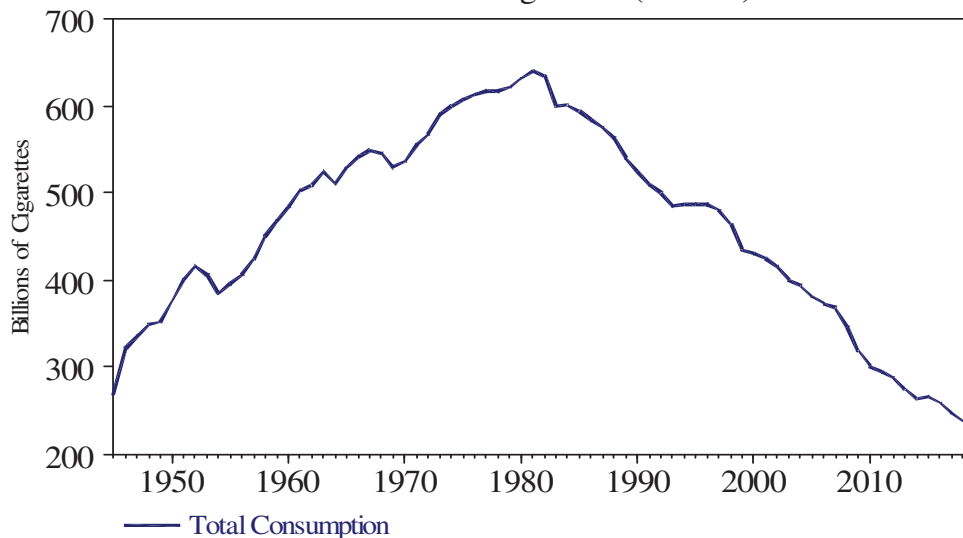
Disclaimer

The forecasts included in this report, including, but not limited to, those regarding future cigarette consumption, are estimates, which have been prepared on the basis of certain assumptions and hypotheses. No representation or warranty of any kind is or can be made with respect to the accuracy or completeness of, and no representation or warranty should be inferred from, these forecasts. The cigarette consumption forecast contained in this report is based upon assumptions as to future events and, accordingly, is subject to varying degrees of uncertainty. Some assumptions inevitably will not materialize and, additionally, unanticipated events and circumstances may occur. Therefore, for example, actual cigarette consumption inevitably will vary from the forecasts included in this report and the variations may be material and adverse.

Cigarette Use in the United States

People have used tobacco products for centuries. Tobacco was first brought to Europe from America in the late 15th century and became America's major cash crop in the 17th and 18th centuries¹. Prior to 1900, tobacco was most frequently used in pipes, cigars, and snuff. With the widespread production of manufactured cigarettes (as opposed to hand-rolled cigarettes) in the United States in the early 20th century, cigarette consumption expanded dramatically. Consumption is defined as taxable U.S. consumer sales, plus shipments to overseas armed forces, ship stores, Puerto Rico, and other U.S. possessions, and small tax-exempt categories² as reported by the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The USDA, which compiled data on cigarette consumption between 1900 and 2007, reports that consumption grew from 2.5 billion cigarettes in 1900 to a peak of 640 billion in 1981³. Consumption declined in the 1980s, 1990s, and 2000s, reaching a level of 465 billion cigarettes in 1998 and decreased to less than 400 billion cigarettes in 2003⁴ and under 300 billion in 2011⁵. Cigarette consumption has now declined through three decades, reversing four decades of increases from the 1940s.

Historical U.S. Cigarette Consumption: 1945-2018
Number of Cigarettes (Billions)



¹ Source: "Tobacco Timeline," Gene Borio (1998).

² Bureau of Alcohol, Tobacco, Firearms, and Explosives reports as categories such as transfer to export warehouses, use of the U.S., and personal consumption/experimental.

³ Source: "Tobacco Situation and Outlook", U.S. Department of Agriculture-Economic Research Service, September 1999 (USDA-ERS).

⁴ Source: USDA-ERS. April 2005.

⁵ Source: US Tobacco and Tax Bureau, MSAI

While the historical trend in consumption prior to 1981 was increasing, there was a decline in cigarette consumption of 9.8% during the Great Depression between 1931 and 1932. Notwithstanding, this steep decline, consumption rapidly increased after 1932, exceeding previous levels by 1934. Following the release of the Surgeon General's Report in 1964, cigarette consumption continued to increase at an average annual rate of 1.2% between 1965 and 1981. Between 1981 and 1990, however, U.S. cigarette consumption declined at an average annual rate of 2.2%. From 1990 to 1998, the average annual rate of decline in cigarette consumption was 1.5%; but in 1998 the rate of decline increased to 3.1% and increased further to 6.5% for 1999. These declines are correlated with large price increases in 1998 and 1999 following the Master Settlement Agreement ("MSA") and previously settled states agreements. In 2000 and 2001, the rate of decline moderated, to 1.2%. In the early part of the decade, coincident with a large number of state excise tax increases, the rate of decline accelerated in 2002 and 2003 to an annual rate of 3.0%. The decline moderated for the next four years, through 2007, averaging 2.3%.

The rate of decline accelerated dramatically beginning in 2008, with a 3.8% decline in the number of cigarettes (including RYO equivalents to cigarettes as defined by the MSA at 0.0325 ounces of loose tobacco per cigarette) for that year, 9.1% in 2009, and 6.4% in 2010.

There was a confluence of factors which led to the dramatically reduced consumption in 2009. First, indoor smoking bans spread rapidly across the country in the latter half of the decade. We now estimate that their impact on decreased smoking and cigarette consumption was approximately 6 billion cigarettes in 2009. Second, the latter months of 2008 saw a very deep recession. Our model projects that, given the lower realized levels of household income in 2009, consumption was negatively impacted by about 8 billion cigarettes. Third, the increase in the federal excise tax to \$1.01 per pack, effective April 1, 2009 decreased cigarette demand by about 10 billion in 2009 according to our model of price elasticity. Fourth, the acceleration of state excise tax increases, prompted by the recession, similarly reduced consumption by a further 4 billion cigarettes.

The consumption declines finally decelerated to 2.8% in 2011 and 1.9% in 2012. In 2013 the decline sharpened to nearly 5%. This decline has been attributed by the industry to a weak economy, the rapid increase in usage of electronic cigarettes ("e-cigarettes"), and to an unfavorable comparison with a surprisingly strong 2012. In addition, some of the decline was due to a reduction in wholesale inventories late in the year, part of which was reversed in 2014.

Full year 2014 shipments reported by Management Science Associates, Inc. ("MSAI") were 3.2% lower than 2013, with actual consumption net of the inventory change estimated to be down 3.4%. The National Association of Attorneys General ("NAAG"), in its report for 2015 MSA Payments, reported shipments of 264.2 billion cigarettes (265.8 billion including RYO).

In 2015 cigarette shipment declines stopped, and indeed manufacturers reported increased shipments for most of the year. The Alcohol and Tobacco Tax and Trade Bureau (“TTB”) reported that shipments of 267.0 billion cigarettes exceeded the 2014 level by 1.7%, while NAAG ultimately certified an increase of 1.9% to 269.1 billion. But Reynolds American Inc. (“RAI”), in its 2015 earnings release, indicated that MSAI estimated total industry shipments at 264.3 billion cigarettes, a 0.1% increase from 2014. In 2016 reported shipments were much less divergent, with MSAI reporting 258.0 billion and NAAG 258.6 billion, a decline of 3.96% from its higher 2015 estimate. The decline rate per MSAI was 2.4%. In April 2018 NAAG reported that 2017 market volume fell to 248.5 billion cigarette equivalents (-4.47% from 2016). In April 2019 NAAG reported an industry volume decline of 4.7%, to 236.7 billion. This acceleration in the industry decline rate coincided with the extraordinary growth of JUUL, a recent entrant to the e-cigarette market.

The following table sets forth United States domestic cigarette consumption, with and without roll-your-own equivalents, for the twenty years ended December 31, 2018. The data in this table vary from statistics on cigarette shipments in the United States. While this Report is based on consumption, payments made under the MSA dated November 23, 1998 between certain cigarette manufacturers and certain settling states are computed based in part on shipments in or to the fifty United States, the District of Columbia and Puerto Rico. The quantities of cigarettes shipped, and cigarettes consumed may not match at any given point in time as a result of various factors such as inventory adjustments, but are substantially the same when compared over a period of time.

U.S. Cigarette Consumption

Year Ended December 31	Consumption (Billions of Cigarettes)	Percentage Change	Consumption (Billions of Cigarettes with roll-your-own equivalents)	Percentage Change
2018	237	-4.65	236	-4.72
2017	248	-4.37	247	-4.46
2016	259	-3.89	260	-4.06
2015	269	1.84	271	1.87
2014	264	-3.76	266	-3.73
2013	275	-4.76	276	-4.86
2012	288	-1.79	291	-1.90
2011	294	-2.57	296	-2.75
2010	301	-5.52	305	-6.36
2009	319	-8.03	325	-9.09
2008	348	-4.35	358	-3.79
2007	368	-2.28	372	-4.97
2006	377	-1.93	391	0.26
2005	384	-2.69	390	-3.51
2004	395	-1.28	404	0.09
2003	400	-3.66	404	-3.30
2002	415	-2.35	418	-2.68
2001	425	-1.16	429	-1.51
2000	430	-1.15	436	-1.30
1999	435	-6.45	442	
1998	465	-3.13		

The U.S. Cigarette Industry

The domestic cigarette market is an oligopoly which, through 2016 had been dominated by two leading manufacturers, Altria and Reynolds American, who account for more than three-quarters of the market. On October 21, 2017, British American Tobacco (“BAT”) completed its acquisition of Reynolds American. BAT does not separately report US market share, but NAAG reports that the Original Participating Manufacturers (“OPMs”) share in 2018 was 83.3%, down from 84.5% in 2015. The market share of the leading manufacturers has declined from over 96% in 1998 due to inroads by smaller manufacturers and importers following the MSA and other state settlement agreements. For 2018 NAAG determined that total shipments by the remaining OPMs, which is the basis for the computation of MSA payments in 2018 equaled 197 billion cigarettes, down from 210 billion cigarettes in 2017, a 5.9% decline.

The United States government has raised revenue through tobacco taxes since the Civil War. Although the federal excise taxes have risen throughout the years, excise taxes as a percentage of total federal revenue have fallen from 3.4% in 1950 to approximately 0.4% prior to the 2009 federal excise tax increase. In fiscal year 2018, the federal government received \$13.0 billion in excise tax revenue from tobacco sales. In addition, state governments also raised significant revenues from excise taxes (\$19.5 billion in 2018). Cigarettes constitute the majority of revenues, which also include revenues from sales of cigars and other tobacco products.

Regulation

Since June 22, 2009, when President Obama signed the Family Smoking Prevention and Tobacco Control Act, the FDA has had broad authority over the sale, distribution, and advertising of tobacco products. Such legislation significantly restricts tobacco marketing and sales to youth, requires the disclosure of cigarette ingredients, bigger and bolder health warnings, and bans labels thought to be deceptive, such as "light", and "low-tar" from cigarettes.

Nicotine Reduction

Whether FDA regulation will result in a significantly faster rate of decline of smoking in the U.S. cannot be determined at this time. But it clearly does have that potential to do so if regulators take an aggressive and effective approach towards that goal. One of the most profound actions it is empowered to take is to mandate the reduction of nicotine levels in cigarettes. Nicotine is widely believed to be an addictive substance. The Surgeon General⁶ and the American Medical Association⁷ (AMA) both conclude that nicotine is an addictive drug that produces dependence. The American Psychiatric Association has determined that cigarette smoking causes nicotine dependence in smokers and nicotine

⁶ *Source:* Surgeon General’s 1988 Report, “The Health Consequences of Smoking – Nicotine Addiction”.

⁷ *Source:* Council on Scientific Affairs, “Reducing the Addictiveness of Cigarettes,” Report to the AMA House of Delegates, June 1998.

withdrawal in those who stop smoking. The American Medical Association Council on Scientific Affairs found that one-third to one-half of all people who experiment with smoking become smokers⁸.

On March 15, 2018, the FDA issued an advance notice of proposed rulemaking to explore a product standard to lower nicotine in cigarettes to minimally or non-addictive levels. As a very low nicotine product has never been introduced into a large consumer market, there is no economic data available with which to statistically estimate its impact on the US market. In a recent 6-week study, reduced-nicotine cigarettes versus standard-nicotine cigarettes reduced nicotine exposure, dependence, and the number of cigarettes smoked.⁸ Other research has also concluded that smokers of reduced nicotine products do not increase the number of cigarettes smoked to compensate for the reduction per cigarette.⁹ Most recently, the FDA commissioned a study, published in the *New England Journal of Medicine* in March 2018¹⁰ that evaluated one possible policy scenario for a nicotine product standard. If this scenario were implemented, this analysis suggests that approximately 5 million additional adult smokers could quit smoking within one year of implementation, and 13 million after five years. The authors acknowledge a great deal of uncertainty in the results of their simulation, which is developed from the views of a panel of health experts on smoker behavior if nicotine levels are reduced. They offer a wide range of potential outcomes. For instance, their estimate of 13 million fewer smokers after five years is the average value from a range of simulated results as low as 0.4 million to as high as 30 million fewer smokers.

Menthol Cigarettes

A significant issue before the FDA is the role of menthol cigarettes. It has been argued that menthol flavoring serves as an inducement to youth smoking and that its prevalence is especially high among minority groups, raising a call for a ban on its manufacture and sale. In an August 2016 letter, the African American Tobacco Control Leadership Council asked President Obama to direct the FDA to issue a proposed rule to remove all flavored tobacco products, including mentholated cigarettes, from the marketplace. Menthol cigarette sales represent approximately 35% of total cigarette sales. Moreover, menthol smoking rates among young adults have increased during the past decade. In September 2012 the *American Journal of Public Health* published the first peer-reviewed data on menthol smokers. It reported the results of a national survey of those smokers showing that nearly 40% of menthol smokers say they would quit smoking if menthol cigarettes were no longer available. While an outright ban would no doubt prompt a significant number of these smokers to switch to other brands, any significant amount of quitting as a result would have a large negative effect on total consumption and sales. This survey suggests that the effect might be as large as a 12% reduction in cigarette

⁸ Eric C. Donny, Ph.D., et al. *N Engl J Med* 2015; 373:1340-1349 October 1, 2015 DOI: 0.1056/NEJMs1502403

⁹ Neal L Benowitz¹ and Jack E Henningfield² *Tob Control*. 2013 May; 22(Suppl 1): i14-i17. doi: 10.1136/tobaccocontrol-2012-050860

¹⁰ Benjamin J. Apelberg et al. *N Engl J Med* 2018; 373:1340-1349 March 15; 0.1056/NEJMs1714617.

consumption. In 2011, the FDA's Tobacco Products Scientific Advisory Committee ("TPSAC") determined that menthol use is most prevalent among younger smokers and among African Americans. It concludes that the availability of menthol cigarettes more likely than not: 1) increases experimentation and regular smoking, 2) increases the likelihood and degree of addiction in youth smokers and, 3) results in lower likelihood of smoking cessation success in African Americans. The FDA, in July 2013, released its review, "Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes". It concluded that menthol in cigarettes is likely to be associated with: 1) altered physiological responses to tobacco smoke, 2) increased dependence, 3) reduced success in smoking cessation, and 4) increased smoking initiation by youth. Though the report did not constitute a decision about regulatory action, the FDA did conclude that it is likely that menthol cigarettes pose a public health risk above that seen with nonmenthol cigarettes. In August 2013, the American Academy of Family Physicians advocated a menthol ban in an open letter to the FDA and in November 2013, twenty-five state attorneys general asked U.S. public health regulators to ban menthol cigarettes. No regulatory action has been taken, though in 2017 the San Francisco City Council banned the sale of menthol cigarettes beginning in 2018. In 2018, legislation was introduced in California and New Jersey which would ban menthol cigarette sales in those states.

On March 20, 2018, the FDA issued an advance notice of proposed rulemaking seeking comments, data, research results, or other information related to the role that flavors, including menthol, play in tobacco product use and potential regulatory options the agency could take, such as tobacco product standards and measures related to the sale and distribution of flavored tobacco products. Specifically, the FDA wanted input on the extent to which flavorings promote initiation and affect patterns of tobacco use, particularly among youth and young adults. It is possible that the subsequent rulemaking would include a ban on menthol cigarette sales.

Recent research has supported the efficacy of a menthol ban, that it results in an increase in those attempting to quit, and an increase in use of other flavored tobacco or electronic-cigarette use.¹¹ The researchers found that before the ban in Canada, 59.7% of menthol smokers said that they would switch to or only use nonmenthol cigarettes; at follow-up, only 28.2% had done so. In contrast, 29.1% attempted to quit at follow-up, compared with 14.5% who intended to do so before the ban. Compared with pre-ban plans (5.8%), a larger proportion (29.1%) reported using other flavored tobacco or e-cigarette products. Participants were less likely to anticipate using other flavored products after the ban. Of those who made a quit attempt, 80.0% of those who primarily smoked menthol cigarettes at baseline versus 25.6% of those who smoked menthol cigarettes only occasionally suggested that the ban affected their decision to quit.

¹¹ Michael Chaiton, et al. Association of Ontario's Ban on Menthol Cigarettes With Smoking Behavior 1 Month After Implementation, March 5, 2018 JAMA Internal Medicine.

The smaller manufacturers believe that FDA regulation will strengthen the role of the major producers, as the regulation raises costs of compliance and narrows price gaps of discount cigarettes. In October 2011, the FDA and the U.S. National Institutes of Health announced a national study of the effects of new tobacco regulation on smokers. The study will examine, by following more than 40,000 smokers, susceptibility to tobacco use, use patterns, resulting health problems, and will evaluate how regulations affect tobacco-related attitudes and behaviors. Initial data, on the first wave of data collection, began to be published in 2017.

Research has indicated, and our model incorporates, a negative impact on cigarette consumption due to tobacco tax increases, and a negative trend decline in levels of smoking since the Surgeon General's 1964 warning, subsequent anti-smoking initiatives, and regulations which restrict smoking. Our model and forecast acknowledge the efficacy of these activities in reducing smoking and assumes that the effectiveness of such anti-smoking efforts will continue.

Plain packaging, absent brand names has also been used as a tobacco control policy. Australia, in 2001 introduced plain-packaging requirements. A recent study concluded that a significant decline in smoking prevalence followed the introduction of plain packaging (3.7% over 2001-2013), after adjusting for the impact of other tobacco control measures.¹²

As the prevalence of smoking declines, it is likely that the achievement of further declines will require either a greater level of spending, or more effective programs. This is the common economic principle of diminishing returns.

Survey of the Economic Literature on Smoking

Many organizations have conducted studies on U.S. cigarette consumption. These studies have utilized a variety of methods to estimate levels of smoking, including interviews and/or written questionnaires. Although these studies have tended to produce varying estimates of consumption levels due to a number of factors—including different survey methods and different definitions of smoking—taken together such studies provide a general approximation of consumption levels and trends. Set forth below is a brief summary of some of the more recent studies on cigarette consumption levels.

Incidence of Smoking

Approximately 34 million American adults were current smokers in 2017, representing approximately 14.0% of the population age 18 and older, a decline from 15.5% in 2016, 16.8% in 2014, 17.8% in 2013, and 19.4% in 2010, according to a Centers for Disease

¹² Dietheim P. Farley T. "Refuting tobacco-industry funded research: empirical data shows a decline in smoking prevalence following the introduction of plain packaging in Australia". Tobacco Prevention & Cessation. 2015; 1 November.

Control and Prevention ("CDC") study released in 2018. The National Health Interview Survey defines "current smokers" as those persons who have smoked at least 100 cigarettes in their lifetime and who smoked every day or some days at the time of the survey. Although the percentage of adults who smoke (incidence) declined from 42.4% in 1965 to 25.5% in 1990 and 24.1% in 1998, the incidence rate had declined relatively slowly since 1998. The decline accelerated between 2002 and 2004, when the incidence rate dropped from 22.5% to 20.9%, but remained as high as 20.6% in 2009. The 2014 CDC report also indicated that the percentage of smokers who smoked less than 30 cigarettes per day had declined from 12.6% in 2005 to 7.0%. In 2018 the CDC added that the proportion of daily smokers was 76.1% in 2016, which declined from 80.8% in 2005. And the mean number of cigarettes smoked per day declined from 2005 (16.7) to 2016 (14.1). Among daily smokers the percentage of those who had smoked and quit smoking increased from 50.8% to 59.0%.

A recent trend, likely influenced by extensive indoor smoking bans in the U.S., is growing numbers of "light smokers", those who smoke just a few cigarettes per day. Thus, the decline in the overall prevalence of smoking has slowed while the rate of decline of the volume of cigarettes consumed has accelerated. In a similar fashion, e-cigarettes have replaced cigarette consumption in locations subject to indoor smoking bans, to the extent that e-cigarettes are not similarly excluded (see p 18 below).

Youth Smoking

Certain studies have focused in whole or in part on youth cigarette consumption. Surveys of youth typically define a "current smoker" as a person who has smoked a cigarette on one or more of the 30 days preceding the survey. The CDC's Youth Risk Behavior Surveillance System ("YRBSS") estimated that from 1991 to 1999 incidence among high school students (grades 9 through 12) rose from 27.5% to 34.8%, representing an increase of 26.5%. By 2003, incidence had fallen to 21.9%, a decline of 37.1% over four years. The rate of decline has continued, though at a slower pace. By 2011, the prevalence was 18.1%¹³. It declined to 15.7% in 2013 and 10.8% in 2015.

According to the Monitoring the Future Study, a school-based study of cigarette consumption and drug use conducted by the Institute for Social Research at the University of Michigan, smoking incidence over the prior 30 days among twelfth graders was, for the eleventh consecutive year, lower in 2018 than in 2017, continuing trends that began in 1996. Smoking incidence in all grades has been below 1991 levels since 2001 for eighth graders and 2002 for tenth and twelfth graders.

¹³ Source: CDC. Morbidity and Mortality Weekly Report. "Quitting Smoking Among Adults – United States, 2000-2015". January 2017.

Prevalence of Cigarette Use Among 8th, 10th, and 12th Graders

Grade	1991 (%)	2016 (%)	2017 (%)	2018 (%)	'91-'18 Change (%)
8 th	14.3	2.6	1.9	2.2	-84.6%
10 th	20.8	4.9	5.0	4.2	-79.8
12 th	28.3	10.5	9.7	7.6	-73.1%

The study also reports that marijuana use among teens exceeds tobacco use. A number of states have, or are considering, relaxing the legal prohibition on marijuana use. The effects of legalized marijuana on cigarettes were studied in Australia following the country's marijuana legalization. The study concluded that marijuana was, if anything, complementary to cigarette smoking, and was more likely to result in an increase in tobacco use rather than a reduction. However, a recent study published in the journal, *Addictive Behaviors*, found that one of the chemical compounds found in marijuana can decrease the craving for nicotine and hence potentially help smokers quit tobacco use.

The 2013 National Survey on Drug Use and Health (formerly called National Household Survey on Drug Abuse) conducted by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services ("SAMHSA") estimated that approximately 55.8 million Americans age 12 and older were current cigarette smokers (defined by this survey to mean they had smoked cigarettes at least once during the 30 days prior to the interview). The survey found that an estimated 5.6% of youths ages 12 to 17 were current cigarette smokers in 2013, down from 8.4% in 2010 and 13.0% in 2002. In 2016 the survey indicated that the percentage of youths ages 12 to 17 who were current smokers declined to 3.4% from 4.2% in 2015.

The CDC reported on June 8, 2018 that the National Youth Tobacco Survey found that in 2017 the prevalence of tobacco product use among middle and high school students was 5.6% and 19.6%, respectively. For cigarettes the prevalence was 2.1% and 7.6%, respectively, falling from 2.2% and 8.0% in 2016. Electronic cigarettes were the most commonly used tobacco product, by 11.7% of high school students, and 3.3% of middle school students.

In most of the nation the minimum legal age to purchase cigarettes is 18. In 2013, New York City increased that age to 21, and the Campaign for Tobacco-Free Kids now reports that at least 340 localities have also raised the minimum legal age to 21. Hawaii became the first state to raise its legal age to 21 on January 1, 2016, and California's legislation to do the same went into effect on June 9, 2016. In 2017, Maine, Oregon and New Jersey did the same, and in 2018 Massachusetts became the sixth state to do so. In 2019 Arkansas, Illinois, Maryland, Virginia and Washington have raised their legal age to 21 as well, and Alabama, Alaska, and Utah set the age at 19. In addition, Delaware and Utah will raise the legal age to 21 effective July 2019, and July 2021, respectively. A similar proposal to raise the smoking age to 21 has also been introduced in at least twenty states. In November 2017, US Congresswoman Diana DeGette introduced the Tobacco to 21 Act (H.R.4273), legislation that would prohibit the sale of tobacco products to anyone under age 21, and in May 2019 Senators McConnell and Kaine introduced similar

legislation in the Senate. Also, in May 2019 Walmart announced that it would prohibit cigarette purchases by individual under age 21 in its stores.

Approximately 90% of smokers indicate that they began smoking before the age of 19. In March 2015, the Institute of Medicine of the National Academies published a study, “Public Health Implications of Raising the Minimum Age of Legal Access to Tobacco Products” which concluded that there would be a 3 percent decrease in prevalence of tobacco use if the minimum legal age was raised to 19, and a 12 percent decrease if raised to 21.

Price Elasticity of Cigarette Demand

The price elasticity of demand reflects the impact of changes in price on the demand for a product. Based on recent research studies, cigarette price elasticities have generally fallen between an interval of -0.3 to -0.5, meaning as the price of cigarettes increases by 1.0%, the quantity demanded decreases by 0.3% to 0.5%. A few researchers have estimated price elasticity as high as -1.23. Research focused on youth smoking has found price elasticity levels of up to -1.41.

Two studies published by the National Bureau of Economic Research also examine the price elasticity of youth smoking. In their study on youth smoking in the United States, Gruber and Zinman estimate an elasticity of smoking participation (defined as smoking any cigarettes in the past 30 days) of -0.67 for high school seniors in the period from 1991 to 1997.¹⁴ The study’s findings state that the decrease in cigarette prices in the early 1990’s can explain 26% of the upward trend in youth smoking during that time period. The study also found that price has little effect on the smoking habits of younger teens (8th grade through 11th grade), but that youth access restrictions have a significant impact on limiting the extent to which younger teens smoke. Tauras and Chaloupka also found an inverse relationship between price and cigarette consumption among high school seniors.¹⁵ Their estimates imply that a 1% increase in the real price of cigarettes will result in an increase in the probability of smoking cessation for high school senior males and females of 1.12% and 1.19%, respectively. A study utilizing more recent data, from 1975 to 2003, by Grossman, estimated an elasticity of smoking participation of just -0.12 .¹⁶ Nevertheless it concludes that price increases subsequent to the 1998 MSA explain almost the entire 12% drop in youth smoking over that time.

In another study, Czart et al. (2001) looked at several factors which they felt could influence smoking among college students. These factors included price, school policies

¹⁴ Source: Gruber, Jonathon and Zinman, Jonathon. “Youth Smoking in the U.S.: Evidence and Implications”. Working Paper No. W7780. National Bureau of Economic Research. 2000.

¹⁵ Source: Tauras, John A. and Chaloupka, Frank, J. “Determinants of Smoking Cessation: An Analysis of Young Adult Men and Women”. Working Paper No. W7262. National Bureau of Economic Research. 1999.

¹⁶ Michael Grossman. "Individual Behaviors and Substance Use: The Role of Price". Working Paper No. W10948. National Bureau of Economic Research. December 2004.

regarding tobacco use on campus, parental education levels, student income, student marital status, sorority/fraternity membership, and state policies regarding smoking. The authors considered two ways in which smoking behavior could be affected: (1) smoking participation; and (2) the amount of cigarettes consumed per smoker. The results of the study suggest that, (1) the average estimated price elasticity of smoking participation is -0.26 , and (2), the average conditional demand elasticity is -0.62 . These results indicate that a 1% increase in cigarette prices, will reduce smoking participation among college students by 0.26% and will reduce the level of smoking among current college students by 0.62%.¹⁷

Tauras et al. (2001) conducted a study that looked at the effects of price on teenage smoking initiation.¹⁸ The authors used data from the Monitoring the Future study which examines smoking habits, among other things, of 8th, 10th, and 12th graders. They defined smoking initiation in three different ways: smoking any cigarettes in the last 30 days, smoking at least one to five cigarettes per day on average, or smoking at least one-half of a pack per day on average. The results suggest that the estimated price elasticities of initiation are -0.27 for any smoking, -0.81 for smoking at least one to five cigarettes, and -0.96 for smoking at least one-half of a pack of cigarettes. These results above indicate that a 10% increase in the price of cigarettes will decrease the probability of smoking initiation between approximately 3% and 10%, depending on the definition of initiation. In a related study, Powell et al. (2003) estimated a price elasticity of youth smoking participation of -0.46 .¹⁹

In conclusion, economic research suggests the demand for cigarettes is relatively price inelastic, with an elasticity generally found to be between -0.3 and -0.5 .

Nicotine Replacement Products

In January 2017, the CDC released the results of a study on quitting smoking²⁰. It found that, in 2015, 68.0% of smokers wanted to stop smoking, 55.4% had made a quit attempt in the past year, 7.4% had recently quit, 57.2% had been advised by a health professional to quit, and 31.2% had used counseling and/or medications when they tried to quit.

Nicotine replacement products, such as Nicorette Gum and Nicoderm patches, are used to aid those who are attempting to quit smoking. Before 1996, these products were only available with a doctor's prescription. Currently, they are available as over-the-counter

¹⁷ Czart et al. "The impact of prices and control policies on cigarette smoking among college students". Contemporary Economic Policy. Western Economic Association. Copyright April 2001.

¹⁸ Tauras et al. "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis". University of Chicago Press. Copyright 2001.

¹⁹ Powell et al. "Peer Effects, Tobacco Control Policies, and Youth Smoking Behavior". *Impacteen*. February 2003.

²⁰ Source: CDC. Morbidity and Mortality Weekly Report. "Quitting Smoking Among Adults – United States, 2000-2015". January 2017.

products. Many researchers now recommend that those trying to quit smoking use a variety of these methods in combination.

A study, by Hu et al., (2000) examines the effects of nicotine replacement products on cigarette consumption in the United States.²¹ Among other things, the study found that, “a 0.076% reduction in cigarette consumption is associated with the availability of nicotine patches after 1992.” In 2002, the Food and Drug Administration (“FDA”) approved the Commit lozenge for over-the-counter sale. This product is similar to the gum and patch nicotine replacement products. NicoBloc, a liquid applied to cigarettes to block tar and nicotine from being inhaled, is another cessation product on the market since 2003. It has been available for purchase without a prescription since October 2015, and a wholesale distribution marketing campaign is underway. Zyban is a non-nicotine cessation drug that has been available since 2000. It has been shown to be effective when combined with intensive behavioral support.²²

In 2006, the FDA approved varenicline, a Pfizer product marketed as Chantix, for use as a prescription medicine. It is intended to satisfy nicotine cravings without being pleasurable or addictive. The drug binds to the same brain receptor as nicotine. Tests indicate that it is more effective as a cessation aid than Zyban. Pfizer introduced Chantix with a novel marketing program, GETQUIT, an integrated consumer support system which emphasizes personalized treatment advice with regular phone and e-mail contact. The drug debuted with strong sales in 2007 but suffered a reversal the following year due to safety concerns. It has since seen increased sales and marketing success. Free & Clear, a provider of tobacco treatment services, reported in June 2008, that Chantix has achieved higher average quit rates than Zyban, patches, gum, and lozenges. Though Pfizer reported additional positive results in 2009, the FDA required that Pfizer update the Chantix label with the most restrictive, “Black Box”, safety labeling describing the risks. But the FDA does conclude: “The Agency continues to believe that the drug’s benefits outweigh the risks and the current warnings in the Chantix label are appropriate.” These warnings include changes in behavior, hostility, agitation, depressed mood, and suicidal thoughts or actions, as well as serious skin reactions and heart and blood vessel problems. Nevertheless, the FDA said on October 24, 2011 that it will continue to evaluate the risk of mood changes and other psychiatric events associated with its use. In March 2013, researchers at the University of Texas M.D. Anderson Cancer Center reported a better quitting experience with varenicline than other treatments. In 2018, further research determined that Chantix and Zyban posed no heart risks.

In September 2013 researchers in a Pfizer sponsored study concluded that the drug does help some patients, already suffering from depression or mood disorders to quit smoking without worsening their depression or anxiety symptoms. In September 2016 however, a preliminary review by the FDA expressed doubts about the trial. The FDA, in December

²¹ Hu et al. “Cigarette consumption and sales of nicotine replacement products”. TC Online. Tobacco Control. Summer 2000. <http://tc.bmjournals.com>.

²² Roddy, Elin. “Bupropion and Other Non-nicotine Pharmacotherapies”. *British Medical Journal*. 28 February 2004.

2016, announced that the Black Box labeling is no longer required, as the risk of serious side effects is lower than previously suspected. Also, in October 2013 researchers at the University of Bristol reported in the British Medical Journal that cessation drugs do not increase suicide risk. This was followed by a 2015 study in Sweden which reached the same conclusion. In January 2016, a study concluded that the relative effectiveness of Chantix was equal to that of nicotine patches.

In September 2011, the New England Journal of Medicine reported positive smoking cessation efficacy and safety tests for Cytisine, an inexpensive cessation aid long sold in Eastern Europe as Tabex.

In 2011, the FDA cleared an Investigational New Drug Application to conduct a Phase II-B trial of X-22, a smoking cessation kit of very low nicotine cigarettes made by the 22nd Century Group. The company has continued its development plans, and in 2016 the New Zealand Medical Journal recommend the low-nicotine cigarettes as a smoking reduction tool.

In 2012, a team from Weill Cornell Medical College reported the development of an anti-nicotine vaccine using a genetically engineered virus. The vaccine was successful when tested in mice, though it will take several years before it can be tested in humans. In January 2015, a team from the Scripps Research Institute reported in the Journal of Medicinal Chemistry that the new vaccine design had yielded positive results and recommended its further development. Also, in 2015, early phase drug development was reported by the Scripps Research Institute. They discovered an enzyme, NicA2, which they hope will destroy nicotine in the body, serving as an alternative to other smoking cessation aids. In October 2018, Scripps announced that they have created NicA2-J1, a modification, and have found that it reduced nicotine dependence in rats.

In October 2015, Invion Limited completed a successful Phase 2 trial of INV102 (Nadolol), an inhaled respiratory drug for smoking cessation. The company has requested that the FDA move this drug to Phase 3 development.

It is expected that products such as these will continue to be developed and that their introduction and use will contribute to the continued trend decline in smoking. Our forecast includes a strong negative trend in smoking rates which incorporates the influence of these factors. On August 2, 2018, the FDA announced efforts to re-evaluate and modernize its approach to the development and regulation of NRT products, aiming to open new pathways for the development of improved products, regulated as new drugs, that demonstrate that they are safe and effective for the purpose of helping smokers quit.

Further aiding sales of these products is the decision by 45 state Medicaid programs to offer cessation benefits to Medicaid beneficiaries. Additionally, at least ten states (California, Colorado, Maryland, New Jersey, New Mexico, New York, North Dakota, Oregon, Rhode Island, and Vermont) have established minimum standards for private insurance coverage of cessation products and services. In October 2010, Medicare

coverage was expanded to provide cessation counseling to seniors without tobacco-related disease. Recent research indicates this benefits expansion increased cessation product prescriptions by 36%.²³ The Affordable Care Act now mandates that new private health insurance plans cover tobacco cessation, and effective January 2014, that tobacco cessation medications can no longer be excluded from state Medicaid coverage. Recent research found that the Medicaid expansion may have increased smoking cessation among low-income adults.²⁴

Electronic Cigarettes

E-cigarettes, which are not subject to the MSA, have also gained in popularity in recent years. 2018 sales in the U.S. were estimated at over \$7 billion, with rapid growth once again in the past two years. The National Health Survey of the CDC reports that in 2016, 15.4% of adults had tried e-cigs and 3.2% were current users. In June 2016, the CDC released the YRBSS survey results indicating that 45% of high school students had tried e-cigarettes and only 32% in 2015, had tried cigarettes. In April 2016, the CDC's National Youth Tobacco Survey found that e-cigarette use among high school students had increased to 16% in 2015, from 1.5% in 2011. It was 5.3% among middle school students in 2015. Growth of e-cigarette use increased dramatically in 2017 and 2018, led by sales of the JUUL brand, introduced in 2015, and now the most popular electronic cigarette with approximately three-fourths of the market. As a result, the incidence of e-cigarette tobacco use by 12th grade high school students increased from 11.7% in 2017 to 20.8% in 2018. The report from the Monitoring the Future Survey also found usage among 10th graders increased from 8.2% to 16.1%, and among 8th graders from 3.5% to 6.1%. In December U.S. Surgeon General Jerome Adams, MD, officially declared youth vaping an epidemic.

On the one hand, e-cigarettes are alternatives to cigarettes, as smokers cope with indoor and outdoor bans. On the other hand, they are cessation devices whose nicotine content can be controlled. Their role in smoking, and smoking cessation, is ambiguous. When they can be used as a cessation device to wean a smoker away from cigarettes they serve as a substitute for cigarettes, and therefore result in lower cigarette consumption. A new British study provides evidence that e-cigarettes are more effective as a smoking cessation aid than other forms of nicotine replacement products. The study reported that after a year, 18 percent of the vapers were no longer smoking, compared to 9.9 percent of the NRT users.²⁵ And a large study from the Centre for Substance Use Research in the UK found that at least 28.3% of adult smokers had quit smoking cigarettes completely

²³ MacLean, Pesko, Hill, National Bureau of Economic Research. Working Paper No. 3450. May 2017.

²⁴ Jonathan W. Koma, et al. Medicaid Coverage Expansions and Cigarette Smoking Cessation Among Low-income Adults Medical Care. Oct 2017.

²⁵ Peter Hajek , “A randomized trial of E-Cigarettes versus Nicotine-Replacement Therapy” N Engl J Med 2019; 380:629-637

after using a JUUL vaporizer for 3 months.²⁶ Moreover, a study on vaping safety has confirmed that vapers are exposed to far fewer toxic chemicals than smokers.²⁷ The study suggests that current smokers who try using an e-cigarette may experience reductions in dependence on combustible cigarettes. And a new peer-reviewed study²⁸ published in the *Journal of Environmental Research and Public Health* of 72 adult smokers willing to try vaping as an alternative to smoking found that after 90 days, 37% of them had completely replaced their cigarettes and switched to vaping products.

Alternatively, in the presence of indoor smoking bans where e-cigarettes are not also banned, e-cigarettes can also allow smokers to maintain a nicotine habit or addiction indoors, offsetting some of the bans' effectiveness in reducing smoking and consumption of cigarettes. In this case e-cigarettes are complements to cigarettes. Indoor smoking restrictions have reduced the consumption of cigarettes and created a demand for e-cigarettes. But e-cigarettes themselves do not further reduce consumption except to the extent that they are substitutes for cigarette usage. Nevertheless, a 2013 study in the United Kingdom found that 76% of e-cigarette users said they started using their devices to replace cigarettes entirely. Results of a clinical trial in Italy, published by the journal *Plos One* in June 2013, found that 8.7% of e-cigarette users stopped smoking cigarettes. In September 2013, *The Lancet* published a New Zealand study which concluded that smoking cessation attempts using e-cigarettes were at least as effective as those using nicotine patches. (In a sample, the quit rate after six months with e-cigarettes was 7.3%, versus 5.8% with patches). By 2016, the scientific consensus was that e-cigarette use was associated with quit attempts by smokers.²⁹ Others also conclude that youth use of e-cigarettes is unlikely to increase the ranks of future cigarette smokers.³⁰ In 2017 research concluded that the substantial increase in e-cigarette use among US adult smokers this decade was associated with a statistically significant increase in the smoking cessation rate at the population level.³¹ But in 2019, two new studies^{32 33}, found that teens who use e-cigarettes or other tobacco-related products are more likely to later initiate cigarette use.

²⁶ Christopher Russell et al. Factors associated with past 30-day abstinence from cigarette smoking in a non-probabilistic sample of 15,456 adult established current smokers in the United States who used JUUL vapor products for three months. *Harm Reduction Journal* 2019 **16**:22

²⁷ Maciej Goniewicz, Comparison of Nicotine and Toxicant Exposure in Users of Electronic Cigarettes and Combustible Cigarettes. *JAMA Netw Open*. 2018;1(8):e185937

²⁸ McKeganey, Miller, and Haseen, The Value of Providing Smokers with Free E-Cigarettes: Smoking Reduction and Cessation Associated with the Three-Month Provision to Smokers of a Refillable Tank-Style E-Cigarette. *Int. J. Environ. Res. Public Health* 2018

²⁹ Zhu SH, et al, "E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys, *BMJ* 2017;358:j3262,

³⁰ Kozlowski, L. T., & Warner, K. E. (2017). Adolescents and e-cigarettes: Objects of concern may appear larger than they are. *Drug and Alcohol Dependence*, 174, 209-214.

³¹ Zhu, hu-Hong et al. E-cigarette use and associated changes in population smoking cessation: evidence from US current population surveys. *BMJ* 2017;358:j3262

³² Berry et al. "Deciphering the Correlation Between Youth e-Cigarette and Tobacco Use". *JAMA Netw Open*. 2019;2(2):e187794. doi:10.1001/jamanetworkopen.2018.779

³³ Berry et al. Association of electronic cigarette use with subsequent initiation of tobacco cigarettes in US youths. *JAMA Netw Open*. 2019;2(2): e187794. doi:10.1001/jamanetworkopen.2018.7794.

In terms of price, e-cigarettes are generally a less expensive alternative for the consumer, as they are not taxed as cigarettes. However, Minnesota has imposed a 95% tax on the wholesale cost, North Carolina in 2014 added a 5 cent per milliliter tax on liquid nicotine, and the District of Columbia, Kansas, and Louisiana added millimeter taxes in 2015. Though smoking habits vary, a 5 cent/mL tax is approximately equivalent to a 2.5 cent tax per pack of cigarettes. A cartridge and battery for an e-cigarette would cost less than half as much as an equivalent pack of cigarettes in an average tax state. JUUL, for instance, costs as little as \$4 per pod, which is the nicotine equivalent of a pack of cigarettes.

Researchers have reported several safety concerns with the products, including concerns on the variability in delivered nicotine content. In March 2016, the U.S. Department of Transportation implemented a ban on e-cigarettes on all flights to and from the U.S., a prohibition already enacted by Amtrak on its trains. The states of California, Connecticut, Delaware, Hawaii, Maine, New Jersey, New York, North Dakota, Oregon, Utah, and Vermont prohibit e-cigarette use in workplaces, restaurants, and bars. Arkansas, Colorado, New Hampshire, and Oklahoma restrict e-cigarette use at state workplaces and school grounds. Based on data from the American Nonsmokers' Rights Foundation ("ANRF"), there are e-cigarette restrictions at indoor smoke-free venues in 841 localities in the U.S. In 2014, Chicago, New York, and San Francisco extended public places smoking bans to include e-cigarettes. In September 2013 forty state attorneys general sent a letter to the FDA urging the agency to regulate e-cigarettes in the same way it regulates tobacco products. In 2014, the state of Rhode Island banned e-cig sales to those under 18 years of age.

In 2010, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the FDA could not regulate e-cigarettes as a drug, rather it must regulate them as tobacco products. On May 5, 2016, the FDA released its final rule which subjects manufactures, importers and/or retailers of e-cigarettes and certain other tobacco related products to the same regulations applicable to cigarettes, cigarette tobacco, roll-your-own tobacco and smokeless tobacco, with respect to the following; (i) enforcement action against product determined to be adulterated or misbranded; (ii) required submission of ingredient listing and reporting; (iii) required registration of tobacco product manufacturing establishments and product listing; (iv) prohibition against sale and distribution of products with modified risk descriptors (e.g. "light", "low" or "mild") and claims unless authorized by the FDA; (v) placing health warnings on product packages and advertisements; (vi) prohibition on the distribution of free samples; and (vii) premarket review requirements. In addition, the final rule established additional restriction for e-cigarettes and certain other tobacco products, as follows: (i) restriction on sales to persons under the age of 18 and requiring age verification; (ii) prohibition of sales in vending machines unless in adult-only facilities; and (iii) prohibition against free samples.

In August 2013, the Consumer Advocates for Smoke-free Alternatives Association released a study it funded by the Drexel University School of Public Health. It found that chemicals in e-cigarettes pose no health concern for users or bystanders. In August 2014, the American Health Association backed the use of e-cigarettes as a last resort (after other cessation methods) to help smokers quit.

On July 28, 2017, FDA Commissioner Scott Gottlieb announced that new regulations would not be imposed on e-cigarettes at this time, stating that electronic products may have a positive role to play in reducing the harmful effects of nicotine addiction.

On April 24, 2018 the FDA announced that as part of its Youth Tobacco Prevention Plan, that it would take actions to reduce the use of e-cigarettes by youth. First, it is conducting a large-scale, undercover nationwide blitz to crack down on the illicit sale of e-cigarettes. Second, it contacted eBay to raise concerns over several listings for JUUL products on its website, which eBay subsequently removed. Third, the FDA also sent an official request for information directly to JUUL Labs, requiring the company to submit important documents to better understand the reportedly high rates of youth use and the particular youth appeal of these products. Fourth, it is planning additional enforcement actions focused on companies that they think are marketing products in ways that are misleading to kids.

A New Product - Heat not Burn

Altria plans to market IQOS, a tobacco product as being less harmful than traditional cigarette. The product, developed by Philip Morris International (“PMI”), heats tobacco without burning, and is already on sale in key cities in 37 countries around the world. In Japan, IQOS sales have expanded rapidly since launching nationwide last summer and now account for about 10% of the overall cigarette market. The product’s advantage over e-cigarettes is that, unlike the latter, it delivers a “throat-hit” sensation like combustible cigarettes. Following the FDA’s scientific review of PMI’s Modified Risk Tobacco Product Application for its IQOS device, the agency announced on April 30, 2019 that it would approve Altria’s request to market IQOS in the US. Also in April, Imperial Brands announced it would begin to market Pulze, its heat-not-burn product, in Japan. In July 2018, BAT had received approval under the substantial equivalence application process, from the U.S. Food and Drug Administration to begin selling its Neocore heated-tobacco device, which was formerly known as Eclipse. Neocore is a carbon-tipped product that is lit with a match yet doesn’t burn the tobacco.

Different from e-cigarettes, the electronic device is used with mini tobacco sticks as opposed to a nicotine-laced liquid. These are then placed into the device before being heated, rather than burned, which is claimed to make them less harmful because they aren’t burning the tobacco. The concept behind ‘Heat-not-Burn’ is that heating tobacco, rather than burning it, reduces or eliminates the formation of many of the harmful compounds that are produced at the high temperatures associated with combustion. However, concerns have been raised in the scientific community that IQOS and other heat-not-burn products still pose a significant health risk to users. Altria has stated that it expects the tobacco sticks to be considered as cigarettes for purposes of the MSA computations.

Workplace Restrictions

In their 1996 study on the effect of workplace smoking bans on cigarette consumption, Evans, Farrelly, and Montgomery found that between 1986 and 1993 smoking participation rates among workers fell 2.6% more than non-workers.³⁴ Their results suggest that workplace smoking bans reduce smoking prevalence by 5% and reduce consumption by nearly 10%. The authors also found a positive correlation between hours worked and the impact on smokers in workplaces that have smoking bans. The more hours per day a smoker spent working in a smoking restricted environment, the greater the decline in the quantity of cigarettes that smoker consumed.

Factors Affecting Cigarette Consumption

Most empirical studies have found a common set of variables that are relevant in building a model of cigarette demand. These conventional analyses usually evaluate one or more of the following factors: (i) general population growth, (ii) price increases, (iii) changes in disposable income, (iv) youth consumption, (v) trend over time, (vi) workplace smoking bans, (vii) smoking bans in public places, (viii) nicotine dependence and (ix) health warnings. While some of these factors were not found to have a measurable impact on changes in demand for cigarettes, all these factors are thought to affect smoking in some manner and to be incorporated into current levels of consumption.

Price Elasticity of Demand. Based on recent conventional research studies cigarette price elasticities have generally fallen between an interval of -0.3 to -0.5. IHS Global's multivariate regression analysis using U.S. data from 1965 to 2016 shows that the long-run price elasticity of consumption for the entire population is -0.33; meaning a 1.0% increase in the price of cigarettes decreases consumption by 0.33%.

In 1998, the average price of a pack of cigarettes in the U.S. in nominal terms was \$2.20. This increased to \$2.88 per pack in 1999, representing a nominal growth in the price of cigarettes of 30.9% from 1998. During 1999, consumption declined by 6.45%. This was primarily due to a \$0.45 per pack increase in November 1998 which was intended to offset the costs of the MSA and agreements with previously settled states. Over the next several years, the cigarette manufacturers continued to increase wholesale prices, and state excise taxes rose dramatically across the nation. By 2008, the weighted average state excise tax was \$1.23 per pack and cigarette prices averaged \$5 per pack.

The 2008-2009 recession and its stress on state budget revenues prompted acceleration in excise tax increases, as sixteen states increased taxes, resulting in an average tax of \$1.34

³⁴ *Source:* Evans, William N.; Farrelly, Matthew C.; and Montgomery, Edward. "Do Workplace Smoking Bans Reduce Smoking?". Working Paper No. W5567, National Bureau of Economic Research, 1996.

at the end of 2009. In 2010, Hawaii, New Mexico, New York, South Carolina, Utah, and Washington, raised excise taxes. In 2011, excise tax increases went into effect in Connecticut, again in Hawaii, and in Vermont. In 2012, Illinois and Rhode Island raised cigarette excise taxes by \$1.00 and \$0.04 per pack per pack, respectively.

In 2013, Cook County, Illinois increased its cigarette excise tax by \$1.00 per pack, and in November of that year, Chicago increased its excise tax by \$0.50 to push city, county, and state taxes in Chicago to \$7.17 per pack. Also, in 2013, cigarette excise tax increases were enacted in Minnesota, by \$1.60 per pack, Massachusetts, by \$1.00 per pack, Oregon, by \$0.13 per pack, and New Hampshire, by \$0.10 per pack. Puerto Rico also enacted increases in its excise taxes in 2014 and 2015. New York City now sets a minimum retail price of a pack of cigarettes at \$13.00 and prohibits the use of coupons and promotions to discount that price. In September 2014, the City of Philadelphia enacted a \$2.00 per pack tax.

The increases in New Hampshire and Oregon were the only state excise tax increases in 2014, bringing the average state cigarette excise tax rate in December 2014 to \$1.53. Eight states also raised cigarette taxes in 2015: Alabama by \$0.25 per pack, Connecticut by \$0.25, Kansas by \$0.50, Louisiana by \$0.32, Nevada by \$1.00, Ohio by \$0.35, Rhode Island by \$0.25, and Vermont by \$0.33.

In 2016, the excise tax was increased in Minnesota, by \$0.10, and Oregon, by \$0.01, on January 1, in Louisiana, by \$0.22 on April 1, and in Connecticut, by \$0.25, and in West Virginia, by \$0.65, on July 1. The Pennsylvania budget enacted on July 14 increased its excise tax by \$1.00 per pack effective August 1, 2016.

In November 2016 a ballot initiative for excise tax increases passed in California (\$2.00, effective April 2017). The average state cigarette excise tax increased from \$1.63 to \$1.89 in 2017, following increases in California, Delaware, Oklahoma, and Rhode Island. In 2018 Oklahoma enacted legislation to raise its excise tax by \$1.00, Kentucky increased its tax by \$0.50, and the District of Columbia increased its tax by \$2 to \$4.50 per pack, bringing the average state rate to \$1.92 per pack.

The federal excise tax had remained constant, at \$0.39 per pack, from 2002 until 2009 when the U.S. Congress adopted legislation which raised the tax by \$0.62, to \$1.01, effective April 1, 2009. As a result, the total state and federal excise tax now equals an average of \$2.92 in the U.S.

Purchases of roll-your-own cigarette tobacco were discouraged by 2009 legislation that substantially raised its excise tax. However, the excise tax changes also had the effect of encouraging the use of pipe tobacco, combined with the availability of roll-your-own machines to circumvent the higher excise taxes. Legislation introduced by Senator Richard Durbin on January 31, 2013, and most recently in September 2017, the Tobacco Tax Equity Act, would similarly equalize federal excise tax rates on all tobacco products.

During much of the period following the MSA, the major manufacturers refrained from wholesale price increases and actively pursued extensive promotional and dealer and retailer discounting programs which served to hold down retail prices. They did this in part due to the state tax increases, but primarily to maintain their market share from its erosion by a deep discount segment which grew rapidly following the MSA. The major manufacturers were finally successful in stemming the increase in the deep discount market share, which stabilized in 2004. The major manufacturers have raised prices or reduced discounts and promotions in each year since 2004. In 2017, the manufacturers raised prices by \$0.08 in March, and in September, by \$0.10 per pack. In March 2018, and in March 2019, Altria and Reynolds announced list price increases of \$0.09 per pack. In December 2018, the average price, including excise taxes, was \$8.76 per pack, a 3.4% increase from a year before.

Over the longer term, our forecast expects price increases to continue to exceed the general rate of inflation due to increases in the manufacturers' prices as well as further increases in excise taxes.

Premium brands are typically \$1.00 to \$2.00 more expensive per pack than discount brands, allowing a margin for consumers to switch to less costly discount brands in the event of price increases. The availability of cigarette outlets on Indian reservations, where some sales are typically exempt from taxes, provides another opportunity for consumers to reduce the cost of smoking. Similarly, Internet sales of cigarettes initially grew rapidly, though credit card companies and shippers including the U.S. Postal Service have now put significant restrictions on shipping of cigarettes, and the federal government has enacted the Prevent All Cigarette Trafficking ("PACT") Act which requires the collection of all applicable taxes on Internet and mail-order cigarette shipments. Under the MSA, volume adjustments to payments are based on the quantity (and not the price or type) of cigarettes shipped. The availability of lower price alternatives lessens the negative impact of price increases on cigarettes volume, but it may negatively impact MSA receipts if non-participating manufacturers gain sales.

Changes in Disposable Income. Analyses from many conventional models also include the effect of real personal disposable income. Most studies have found cigarette consumption in the United States increases as disposable income increases.³⁵ However, a few studies found cigarette consumption decreases as disposable income increases.³⁶ Based on our multivariate regression analysis, the income elasticity of consumption is 0.27, meaning a 1.0% increase in real disposable income per capita increases per capita cigarette consumption by 0.27%. In normal periods of economic growth, this factor contributes a positive impact to cigarette demand, offsetting some of the negative impacts previously discussed. However, with the recession of 2008-2009, this factor also impacted cigarette demand and consumption in a negative way.

³⁵ Ippolito, et al.; Fuji.

³⁶ Wasserman, et al.; Townsend et al.

Youth Consumption. The number of teenagers who smoke is another likely determinant of future adult consumption. While this variable has been largely ignored in empirical studies of cigarette consumption,³⁷ almost all adult smokers first use cigarettes by high school, and very little first use occurs after age 20.³⁸ One study examines the effects of youth smoking on future adult smoking.³⁹ The study found that between 25% and 50% of any increase or decrease in youth smoking would persist into adulthood. According to the study, several factors may alter future correlation between youth and adult smoking: there are better means for quitting smoking than in the past, and there are more workplace bans in effect that those who are currently in their teen years will face as they age.

We have compiled U.S. data from the CDC that measures the incidence of smoking in the 12-17 age group as the percentage of the population in this category that first become daily smokers. This percentage, after falling since the early 1970s, began to increase in 1990 and increased through the decade. We assume that this recent trend peaked in the late 1990s and youth smoking has resumed its long term decline.

In 2012, the Surgeon General issued a report, "Preventing Tobacco Use among Youth and Young Adults." Among its major conclusions were, 1) that prevention efforts must focus on both adolescents and young adults, 2) that advertising and promotional activities by tobacco companies have been shown to cause the onset and continuation of smoking among youth, 3) that after years of steady progress, declines in tobacco use by the young have slowed, and 4) that coordinated, multi-component interventions that combine mass media campaigns, price increases, school-based programs, and community wide smoke-free policies and norms are effective in reducing tobacco use. Also in 2012, the CDC produced a mass-media advertising campaign featuring graphic descriptions of the adverse health effects of smoking. In August 2012, the CDC declared the campaign a major success, as the agency concluded that the ads helped to double the amount of calls to their telephone quit line. New CDC campaigns, with graphic adverse health images began in March 2013, and again in July 2014. In September 2013, the CDC announced survey results which concluded that cessation attempts increased from 31.1% to 34.8% of smokers who had seen the graphic ads, which the CDC extrapolated to 100,000 sustained quitters, approximately 0.25% of U.S. smokers. In 2001, Canada began requiring cigarette labels to include large graphic depictions of adverse health consequences of smoking. Early research suggested that these warnings have some effectiveness, as one-fifth of the participants in a survey reported smoking less as a result of the labels.⁴⁰ In November 2013, the journal *Tobacco Control* published research from the University of Illinois at Chicago which concluded that the FDA has underestimated the impact of graphic labels. Examining the experience in Canada, the researchers concluded that

³⁷ Except for those such as Wasserman, et al. that studied the price elasticity for different age groups.

³⁸ Source: Surgeon General's 1994 Report, "Preventing Tobacco Use Among Young People."

³⁹ Source: Gruber, Jonathon and Zinman, Jonathon. "Youth Smoking in the U.S.: Evidence and Implications". Working Paper No. W7780, National Bureau of Economic Research, 2000.

⁴⁰ Hammond, Fong, McDonald, Brown, and Cameron. "Graphic Canadian Warning Labels and Adverse Outcomes: Evidence from Canadian Smokers". *American Journal of Public Health*. August 2004.

graphic warning labels reduced smoking rates in Canada by 3% to 5%.⁴¹ In 2015 the Rand Corporation reported results of a convenience store experiment where cigarette displays were hidden from view. The researchers found that teen smoking susceptibility was reduced by 11% by the hidden placement.

In December 2014, research was published on the effectiveness of youth-targeted anti-smoking public service announcements. It was found that a 100-ad increase in the yearly volume of ads was associated with a 0.1 percentage point drop in youth smoking rates in the following year. A 2016 study determined that smoke-free laws in workplaces are associated with a lower prevalence of youth smoking.⁴² It estimated that youth smoking initiation declined by 34%.

Trend Over Time. Since 1964 there has been a significant decline in adult per capita cigarette consumption. The Surgeon General's health warning (1964) and numerous subsequent health warnings, together with the increased health awareness of the population over the past thirty years, may have contributed to decreases in cigarette consumption levels. If, as we assume, the awareness of the adult population continues to change in this way, overall consumption of cigarettes will decline gradually over time. Our analysis includes a time trend variable in order to capture the impact of these changing health trends and the effects of other such variables, which are difficult to quantify.

Health Warnings. Categorical variables also have been used to capture the effect of different time periods on cigarette consumption. For example, some researchers have identified the United States Surgeon General's Report in 1964 and subsequent mandatory health warnings on cigarette packages as turning points in public attitudes and knowledge of the health effects of smoking. The Cigarette Labeling and Advertising Act of 1965 required a health warning to be placed on all cigarette packages sold in the United States beginning January 1, 1966. The Public Health Smoking Act of 1969 required all cigarette packages sold in the United States to carry an updated version of the warning, stating that it was a Surgeon General's warning, beginning November 1, 1970. The Comprehensive Smoking Education Act of 1984 led to even more specific health warnings on cigarette packages. The Family Smoking Prevention and Tobacco Control Act of 2009 requires that cigarette packages have larger and more visible graphic health warnings. Regulations that were to go into effect in September 2012 mandated that a series of nine graphic health warnings must appear on the upper portion of the front and rear panels of each cigarette package and comprise at least the top 50 percent of these panels. Five manufacturers challenged the implementation of these new warnings on First Amendment grounds, and on November 7, 2011 a federal judge issued a preliminary injunction blocking the FDA requirement. The judge ruled that the labels were not factual, but rather, "...calculated to provoke the viewer to quit..." In 2012, a federal

⁴¹ Huang J, Chaloupka FJ, Fong GT. Cigarette graphic warning labels and smoking prevalence in Canada: a critical examination and reformulation of the FDA regulatory impact analysis. *Tobacco Control* 2013.

⁴² Song, Dutra, Nielands, Glantz. Association of Smoke-Free Laws with Lower Percentages of New and Current Smokers Among Adolescents and Young Adults. *Journal of American Medical Association*, 2015:169.

judge in Washington blocked the new requirement, while an appeals court in Ohio ruled to uphold parts of the Act. In March 2013, the Attorney General decided not to ask the U.S. Supreme Court to review the case. Instead, the FDA announced on March 19, 2013 that it would undertake research to support new rulemaking. On April 22, 2013, the Supreme Court upheld the provisions of the 2009 law, allowing the FDA to develop and implement new graphic warning labels. In October 2018, the FDA said in court documents that the earliest it can produce the new labels is summer 2021.

In October 2016, eight public health groups, including the American Academy of Pediatrics, the American Cancer Society, the American Heart Association, and the American Lung Association, filed suit in federal court to force the FDA to issue final rules requiring graphic warnings on cigarette packs and advertising. On May 1, 2018, a court order issued by the U.S. District Court for the District of Columbia, mandated that new statements must be published on cigarette packaging by November 21, 2018. The statements address five areas where tobacco companies deliberately misled the public: the health risks of smoking, the addictiveness of smoking and nicotine, that there are no significant health benefits from smoking cigarettes labeled as low-tar, light, ultra-light, mild and natural, and the risks of secondhand smoke.

Smoking Bans in Public Places. Beginning in the 1970s, numerous states passed laws banning smoking in public places as well as private workplaces. In 2003, Alabama joined the other 49 states and the District of Columbia in requiring smoke-free indoor air to some degree or in some public places.

The most comprehensive bans, extending to restaurants and bars, have been enacted since 1998 in 39 states and a number of large cities. Restrictions to all workplaces, restaurants, and bars cover 66.1% of the U.S population, according to the ANRF. In 2012 North Dakota became the most recent state to adopt these bans in public places. In 2015, smoking ban legislation was introduced in Kentucky, and New Orleans passed an ordinance banning smoking in bars and casinos.

The ANRF documents clean indoor air ordinances by local governments throughout the U.S. As of April 1, 2019, there were 1,537 municipalities with local laws that require 100% smoke-free non-hospitality workplaces or restaurants or bars, of which 1,051 municipalities (including the District of Columbia) have local laws that require 100% smoke-free non-hospitality workplaces and restaurants and bars. The number of such ordinances has grown rapidly in the past two decades. Ordinances completely restricting smoking in restaurants and bars have generally appeared in the past decade. In 1993 only 13 municipalities prohibited all smoking in restaurants, and 6 in bars.⁴³

Based on the regression analysis using data from 1965 to 2015, the restrictions on workplace smoking that proliferated in the 1980s appear to have an independent effect on per capita cigarette consumption. We estimated that the restrictions instituted beginning in the late 1970s have reduced smoking by about 2%. Nevertheless, the timing of the

⁴³ Source: American Nonsmokers' Rights Foundation. <http://www.no-smoke.org>. July 2018.

restrictions within and across states makes such statistical identification difficult. Bauer, et al. estimates that U.S. workers in smoke-free workplaces from 1993 to 2001 decreased their average daily consumption by 2.6 cigarettes.⁴⁴ Research in Canada, by the Ontario Tobacco Research Unit, concluded that consumption drops in workplaces where smoking is banned by almost five cigarettes per person per day. Tauras, in a study based on a large survey of smokers, found that the more restrictive smoke-free air laws decrease average smoking but have little influence on prevalence.⁴⁵ The study predicted that moving from no smoking restrictions at all to the most restrictive bans reduces average smoking from 5% to 8%. In September 2015, the American Medical Association published research examining 11 years of smoke-free laws which concluded that they are associated with a lower prevalence of smoking among adolescents and young adults.⁴⁶

The extension of the indoor bans to restaurants and bars in the last decade began largely in the Northeast and did not appear, in our econometric analysis, to have a significant independent impact on smoking there. Nevertheless, with data available from later in the decade across a wider geography, econometric analysis reveals that the bans did have a significant impact, and we have added a variable quantifying the effect in our consumption model.

The first extensive outdoor smoking restrictions were instituted in March 2006 in Calabasas, California. The cities of Los Angeles and Oakland, Contra Costa County, and the California municipalities of Belmont, Beverly Hills, Campbell, Concord, Dublin, El Cajon, Emeryville, Hayward, Loma Linda, Santa Cruz, San Rafael, Santa Monica, and Walnut Creek have also established extensive outdoor restrictions, as have Boulder, Colorado, and Davis County and the City of Murray in Utah. In 2007, San Diego City and Los Angeles, Santa Cruz and San Mateo Counties banned smoking at beaches and parks, joining over 30 other Southern California cities in prohibiting smoking on the beach. In 2011, the New York City Council approved a bill to ban smoking in all city parks, beaches and pedestrian plazas. That ban went into effect on May 23, 2011. In January 2014, a smoking ban went into effect in Boston's parks, and on Hawaii's beaches. On July 20, 2018, New Jersey banned smoking at state beaches and parks. A bill was introduced in 2016 in California to ban smoking on all state beaches. It passed the legislature but was vetoed by the Governor. According to ANRF, as of October 2017, 1,531 municipalities prohibit smoking in city parks, and 317 municipalities mandate smoke-free city beaches.

Additional restrictions are being placed in residential units as well. First, many hotels, including the Marriott, Sheraton, and Westin chains have adopted completely smoke-free room standards. And multi-family residential buildings have been increasingly subject to restrictions, beginning in 2008 in the California cities of Belmont and Calabasas,

⁴⁴ Bauer, Hyland, Li, Steger, and Cummings. "A Longitudinal Assessment of the Impact of Smoke-Free Worksite Policies on Tobacco Use". *American Journal of Public Health*. June 2005

⁴⁵ Tauras, John A. "Smoke-Free Air Laws, Cigarette Prices, and Adult Cigarette Demand" *Economic Inquiry*, April 2006.

⁴⁶ Song, Dutra, Neilands, and Glantz. "Association of Smoke-Free Laws with Lower Percentages of New and Current Smokers Among Adolescents and Young Adults". *JAMA Pediatrics*. September 2015

approved ordinances restricting smoking anywhere in the city except for single-family detached homes. Alameda, Oakland, Pasadena, Santa Monica, and Thousand Oaks are among eight other California cities with such extensive bans. In September 2011, Sonoma County imposed a similar ban, effective June 2012. In August 2011, the California Legislature passed legislation enabling landlords to ban smoking in residential rental units. In June 2012, the Towbes Group of Santa Barbara became the largest apartment portfolio, with 2,000 units, to impose a smoking ban. In April 2013, California Assembly Bill 746 was defeated; it would have prohibited smoking in, and within 20 feet of entrances of, condominiums, duplexes, and apartment units throughout the state. A similar bill has also been introduced in Massachusetts.

New York City's first non-smoking apartment building opened in late 2009. Many landlords and condominium associations in California and New York City, have also established smoke-free apartment policies. In 2013 Related Companies, which manages 40,000 rental units across the country, announced a ban on smoking for all new tenants. In July 2011, the San Antonio Housing Authority announced a ban, effective in January 2012, on smoking in its 6,175 rental units. Similar bans went into effect in 2012 for public housing in Boston and Minneapolis. The U.S. Department of Housing and Urban Development in November 2015 announced plans to make all public housing smoke-free. The proposal would cover about 940,000 units. The plan went into effect in February 2017 and will be fully implemented by July 2018. ANRF reports that there are 51 municipalities in the U.S. that have enacted laws prohibiting smoking in all multi-unit housing, and 619 municipalities that have in publicly-owned housing.

New Jersey has prohibited smoking in college dormitories since 2005. At least 2,212 colleges nationwide now prohibit smoking everywhere on campus. In 2013 the California and Louisiana state college and university systems banned tobacco use, joining Arkansas and Oklahoma with no-smoking restrictions at public colleges and universities, and Iowa, which prohibits smoking at all colleges and universities. Twenty states have banned smoking, indoors and outdoors, at state prisons. Since February 2015, smoking has been prohibited in all federal prisons. Arkansas, California, Louisiana, Maine, Puerto Rico, Texas, Virginia, and Rockland County, NY prohibit smoking in a car where there are children present, and similar legislation has been proposed in Alabama, Connecticut, Florida, Illinois, Maryland, New York, Ohio, Oregon, Utah, Vermont, and other states.

In June 2006, the Office of The Surgeon General released a report, "The Health Consequences of Involuntary Exposure to Tobacco Smoke". It is a comprehensive review of health effects of involuntary exposure to tobacco smoke. It concludes definitively that secondhand smoke causes disease and adverse respiratory effects. It also concludes that policies creating completely smoke-free environments are the most economical and efficient approaches to providing protection to non-smokers. We expect that the report will strengthen arguments in favor of further smoking restrictions across the country. Further ammunition for activists for smoke-free environments was provided by the California Environmental Protection Agency Air Resources Board, which in 2006 declared environmental tobacco smoke to be a toxic air contaminant.

Electronic Cigarettes. The introduction of e-cigarettes followed the enactment of many indoor smoking restrictions throughout the US. Together, these two factors contributed to a sharper decline in cigarette consumption. In the past two years, however, the use of e-cigarettes, especially of JUUL, accelerated sharply, particularly among teenagers. This has significantly increased the rate of decline and is expected to continue to do so. We have added this impact to our forecast going forward.

Smokeless Tobacco Products. Unlike e-cigarettes, smokeless tobacco products have been available for centuries. As cigarette consumption expanded in the last century, the use of smokeless products declined. Chewing tobacco and snuff are the most significant components. Snuff is a ground or powdered form of tobacco that is placed under the lip to dissolve. It delivers nicotine effectively to the body. Moist snuff is both smoke-free and potentially spit-free. Chewing tobacco and dry snuff consumption had been declining in the U.S. into this century, but moist snuff consumption has increased at an annual rate of more than 5% since 2002. Snuff is now being marketed to adult cigarette smokers as an alternative to cigarettes. UST (purchased by Altria in 2009), was the largest producer of moist smokeless tobacco, and explicitly targeted adult smoker conversion in its growth strategy over the last decade. As with e-cigarettes, the leading cigarette manufacturers soon added smokeless products to their offerings, responding to both the proliferation of indoor smoking bans and to a perception that smokeless use is a less harmful mode of tobacco and nicotine usage than cigarettes. Philip Morris USA now markets Marlboro Snus and Reynolds American offers Camel Snus. On December 18, 2017, Reynolds American announced that the FDA accepted, and filed for substantive review, Modified Risk Tobacco Product applications covering Camel Snus, thus requesting FDA authorization to market Camel Snus as a modified risk tobacco product. Following a Feb. 2019 hearing, the Tobacco Products Scientific Advisory Committee voted that the manufacturer's proposed "modified risk" claim for Copenhagen Snuff Fine Cut is scientifically accurate.

In 2014, according to SAMHSA's National Survey on Drug Use & Health, 3.3% of adults used smokeless tobacco products. Among young adults, who had been more likely to use smokeless products, 2.0% used smokeless tobacco. A Massachusetts survey in 2011 found that in snus test markets 29% of male smokers aged 18-24 had tried snus products.

Advocates of the use of snuff as part of a harm reduction strategy, point to Sweden, where "snus", a moist snuff manufactured by Swedish Match, use has increased sharply since 1970, and cigarette smoking incidence among males has declined to levels well below that of other countries. A review of the literature on the Swedish experience concludes that snus, relative to cigarettes, delivers lower concentrations of some harmful chemicals, and does not appear to cause cancer or respiratory diseases. They conclude that snus use appears to have contributed to the unusually low rates of smoking among Swedish men.⁴⁷ The Sweden experience is unique, even with respect to its Northern European neighbors, and it is not clear whether it could be replicated elsewhere. A May

⁴⁷ Foulds, Ramstrom, Burke, and Fagerstrom. "Effect of Smokeless Tobacco (Snus) on Smoking and Public Health in Sweden". Tobacco Control. Vol. 12, 2003.

2008 study using data from the 2000 National Health Interview Survey reported that U.S. men who used smokeless tobacco as a smoking cessation method achieved significantly higher quit rates than those who used other cessation aids.⁴⁸ A 2009 study concluded however that young males who used smokeless tobacco products were more likely to be concurrent smokers.⁴⁹ Public health advocates in the U.S. emphasize that smokeless use results in both nicotine dependence and increased risks of oral cancer, among other health concerns. Snuff use is also often criticized as a gateway to cigarette use. In February 2019 the Tobacco Products Scientific Advisory Committee voted that Altria's proposed "modified risk" claim for Copenhagen Snuff Fine Cut is scientifically accurate.

Other Considerations. At least six states - Alabama, Georgia, Idaho, Kentucky, South Carolina, and West Virginia - charge higher health insurance premiums to state employee smokers than non-smokers, and many states have implemented legislation that allows employers to provide incentives to employees who do not smoke. Several large corporations, including Meijer Inc., Gannett Co., American Financial Group Inc., JP Morgan Chase, PepsiCo Inc., Northwest Airlines, Safeway, Tribune Co., and Whirlpool, are now charging smokers higher premiums.

In September 2014, CVS Caremark ceased selling cigarettes at its nationwide chain of more than 7,600 pharmacy stores.

An Empirical Model of Cigarette Consumption

An econometric model is a set of mathematical equations which statistically best describes the available historical data. It can be applied, with assumptions on the projected path of independent explanatory variables, to predict the future path of the dependent variable being studied, in this case adult per capita cigarette consumption. After extensive analysis of available data measuring all of the above-mentioned factors which influence smoking, we found the following variables to be effective in building an empirical model of adult per capita cigarette consumption for the United States:

- 1) the real price of cigarettes
- 2) the level of real disposable income per capita
- 3) the impact of restrictions on smoking in public places
- 4) the trend over time in individual behavior and preferences

We used the tools of standard multivariate regression analysis to determine the nature of the economic relationship between these variables and adult per capita cigarette consumption in the U.S. Then, using that relationship, along with IHS Global Insight's standard population growth forecast, we projected actual cigarette consumption (in

⁴⁸ Rodu and Phillips, "Switching to Smokeless Tobacco as a Smoking Cessation Method: Evidence from the 2000 National Health Interview Survey". Harm Reduction Journal. 23 May 2008.

⁴⁹ Tomar, Alpert, and Connolly, "Patterns of Dual Use of Cigarettes and Smokeless Tobacco among US Males: Findings from National Surveys". Tobacco Control. 11 December 2009.

billions of cigarettes) out to 2038. It should also be noted that since our entire dataset incorporates the effect of the Surgeon General's health warning (1964), the impact of that variable is also accounted for in the forecast. Similarly, the effect of nicotine dependence is incorporated into our entire dataset and influences the trend decline.

Using U.S. data from 1965 through 2018 on the variables described above, we developed the following regression equation.

$$\begin{aligned} \log(\text{per capita consumption}) &= 54.1 \\ &- 0.024 * \text{trend} \\ &- 0.223 * \log(\text{cigarette price}) \\ &- 0.104 * \log(\text{cigarette price last year}) \\ &+ 0.274 * \log(\text{per capita disposable income}) \\ &- 0.001 * \text{percentage of U.S. with strong indoor smoking ban} \\ &- 0.002 * \text{percentage of U.S. with strong indoor smoking ban last year.} \end{aligned}$$

This model has an R-square in excess of 0.99, meaning that it explains more than 99 percent of the variation in U.S. adult per capita cigarette consumption over the 1965 to 2016 period. In terms of explanatory power this indicates a very strong model with a high level of statistical significance.

According to the regression equation specified above, cigarette consumption per capita (CPC) displays a trend decline of 2.4% per year. The trend reflects the impact of a systematic change in the underlying data that is **not** explained by the included explanatory variables. In the case of cigarette consumption, the systematic change is in public attitudes toward smoking. The trend may also reflect the cumulative impact of health warnings, advertising restrictions, and other variables which are statistically insignificant when viewed in isolation. Some of the impact of the availability of e-cigarettes may be captured here, though it is also captured in the indoor smoking ban terms. This trend, primarily due to an increase in the health-conscious proportion of the population averse to smoking, would by itself account for 90.3% of the variation in consumption. This coefficient is estimated such that a statistical confidence interval of 95% for its value is from 0.0195 to 0.0269 (1.95% to 2.69%). This implies that there is a probability of 5% that the trend rate of decline is outside this range.

Forecast Assumptions

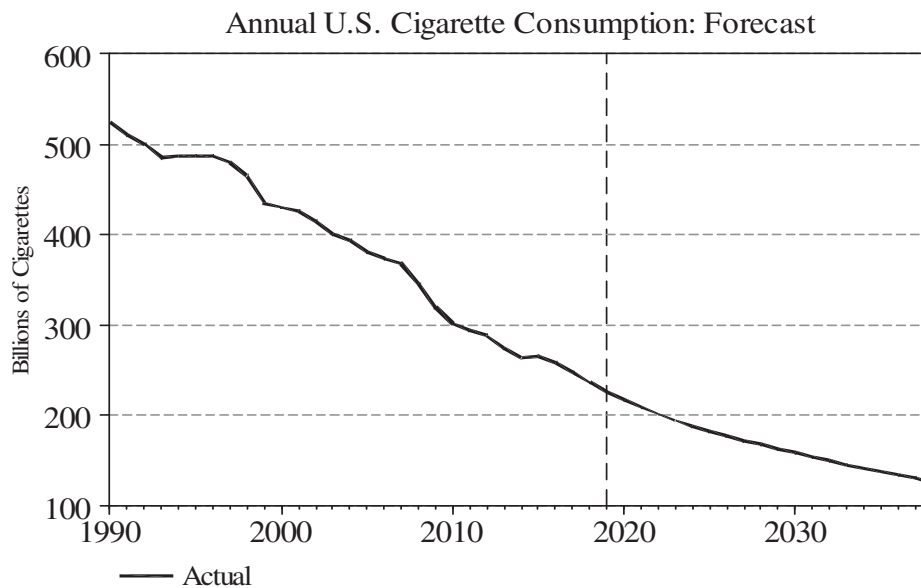
Our forecast is based on assumptions regarding the future path of the explanatory variables in the regression equation. Projections of U.S. population and real per capita personal disposable income are standard IHS Global forecasts. Annual population growth, based April 2018 Census Bureau projections, is projected to average 0.67% (0.075 percentage points less than our prior projection), and real per capita personal disposable income is projected to increase over the long term at just over 2.1% per year.

The projection of the real price of cigarettes is based upon its past behavior with an adjustment for the shock to prices due to the MSA and other state settlement agreements and subsequent excise tax increases. Cigarette prices increased dramatically in November 1998, as manufacturers raised prices by \$0.45 per pack. Subsequent increases by the manufacturers and numerous federal and state hikes in excise taxes brought prices to an average of \$3.84 per pack in 2004, to \$4.04 in 2005, to \$4.18 in 2006, \$4.47 in 2007, \$4.75 in 2008, and to \$5.99 in 2009, \$6.62 in 2010, \$6.85 in 2011, \$7.00 in 2012, \$7.19 in 2013, \$7.40 in 2014, \$7.60 in 2015, \$7.89 in 2016, \$8.41 in 2017, and \$8.76 in 2018. Our forecast assumptions have incorporated price increases in excess of general inflation to offset excise and other taxes. Relative to other goods, cigarette prices will rise by an average of 1.9% per year over the long term. The average real increase over the 30 years ending 1998 was 1.48% per year.

In addition, we assume that the prevalence of indoor and outdoor restrictions on smoking will continue to increase. It is assumed that by 2020, 100% of states and municipalities will completely restrict smoking in workplaces, restaurants and bars. At the same time, outdoor and residential restrictions will proliferate over this and the following decades. These bans are assumed to be as effective in reducing smoking as the indoor bans.

Forecast of Cigarette Consumption

The graph below illustrates total actual and projected cigarette consumption in the United States.



In addition to the expected trend decline in cigarette consumption, the sharp upward shock to cigarette prices in late 1998 and 1999 contributed to a 6.5% reduction in consumption in 1999. The rate of decline moderated considerably in the following years, averaging 2.1% from 1999 to 2007, before accelerating sharply in 2008.

The economic downturn in the US in 2008 turned into the deepest since the 1930s, with sharply negative effects on household disposable income. At the same time, a rapid increase in gasoline and energy prices significantly reduced the discretionary spending of consumers. In addition, cigarette price increases continued, the federal excise tax was raised dramatically, and indoor smoking bans continued to proliferate. Consumption fell by nearly 4% in 2008 and by over 9% in 2009. Cigarette shipment declines moderated after 2010, and in 2012 the rate of decline was slightly less than 2%. (Roll-your-own tobacco had represented as much as 3% of tobacco volume under the MSA, but has declined in volume by over 70% since 2008, after federal excise taxes were substantially increased.)

In 2013, shipments reported by MSAI were 4.6% lower than in 2012. For the full year, U.S. Tobacco and Tax Bureau (TTB) reported shipments 4.8% lower than in 2012. Weak per capita disposable income growth was responsible for part of the decline. In addition, the manufacturers reported that wholesale inventories declined by 1.4 billion cigarettes during the year. In 2014, MSAI estimated shipments of 264.6 billion cigarettes, a 3.2%

decline from 2013. The decline in consumption of cigarettes was somewhat greater, however, as inventories were rebuilt by 0.7 billion cigarettes to offset the 2013 decline. TTB has reported that 2014 shipments declined 4.1% compared with 2013. In its report for the 2015 MSA payments, NAAG estimated 264.2 billion cigarettes in 2014 (265.8 billion when including RYO).

For 2015, RAI reported that MSAI estimated industry shipments of 264.3 billion, a 0.1% decline from 2014. TTB reported shipments for the year to be 267.0 billion, an increase of 1.67% from 2014. The dramatic decline in oil prices, and hence gasoline prices, was coincident with higher than expected cigarette sales, most notably in convenience stores, who reported increased sales during 2015.

RAI in its 2016 fourth quarter report indicated that industry shipments declined 1.8% from 2015. After adjusting for inventory movement, TTB data for the year indicated a 3.5% decline, and NAAG certified that in 2017.

In February 2018, Altria reported estimates that industry shipments in 2017 declined by 4% for the full year, noting one fewer shipping day during the year. And the Vector Group reported MSAI estimates of a 4.1% decline for 2017. On March 6, 2018 TTB reported full year 2017 shipments of 247.2 billion cigarettes, a 3.99% decline from 2016 (excluding RYO). The official 2017 results as reported by NAAG on April 15 were that 2017 shipments, including RYO equivalents, were 248.5 billion, a 4.47% decline from 2016.

For 2018, NAAG reported an industry decline of 4.7%. The heightened rate of decline was driven by the rapid sales expansion of JUUL. It is also the case that gasoline prices, to which we have found cigarette sales quite sensitive, increased by 13% on average in 2018.

Altria also announced in April that it expects consumption declines of 4.5% to 5% over the next five years. It also projected that its newly acquired JUUL e-cigarette brand will contribute an additional 0.4% per year to the decline rate of combustible cigarette consumption in the US. IHS Global has incorporated this into the forecast and has adjusted its model by that amount. In 2019 we project that the consumption decline will equal 4.2%, followed by 4.9% in 2020. Over the longer term, our model also includes estimates of the negative impact of indoor smoking bans, which we anticipate will ultimately be enacted in all states. For instance, in 2011 legislation to establish indoor bans in Texas and Louisiana made significant advances before being defeated. We also assume that stringent restrictions on smoking will continue to be enacted, including their gradual extension to outdoor public places, as well as to private indoor residential spaces such as in multi-family housing.

From 2019 through 2038 the average annual rate of decline is projected to be 3.1%.

Forecast U.S. Consumption of Cigarettes

	Total Consumption	Decline Rate	Consumption including Roll- Your-Own	Decline Rate
	<i>(billions)</i>	<i>(%)</i>	<i>(billions)</i>	<i>(%)</i>
2011	293.5	-2.6%	296.2	-2.8%
2012	288.3	-1.9%	290.5	-1.9%
2013	274.5	-4.7%	276.4	-4.9%
2014	264.2	-3.8%	266.1	-3.7%
2015	269.1	1.9%	271.1	1.9%
2016	258.6	-3.9%	260.1	-4.1%
2017	247.3	-4.4%	248.5	-4.5%
2018	235.8	-4.6%	236.7	-4.7%
		FORECAST		
2019	226.0	-4.2%	226.9	-4.2%
2020	217.0	-4.0%	217.8	-4.0%
2021	208.8	-3.8%	209.6	-3.8%
2022	201.3	-3.6%	202.0	-3.6%
2023	194.2	-3.5%	195.0	-3.5%
2024	187.9	-3.3%	188.6	-3.3%
2025	182.2	-3.1%	182.9	-3.1%
2026	176.9	-2.9%	177.6	-2.9%
2027	172.0	-2.7%	172.7	-2.7%
2028	167.3	-2.7%	168.0	-2.7%
2029	162.7	-2.8%	163.3	-2.8%
2030	158.2	-2.8%	158.8	-2.8%
2031	153.8	-2.8%	154.4	-2.8%
2032	149.6	-2.8%	150.2	-2.8%
2033	145.4	-2.8%	145.9	-2.8%
2034	141.2	-2.8%	141.8	-2.8%
2035	137.2	-2.9%	137.7	-2.9%
2036	133.2	-2.9%	133.8	-2.9%
2037	129.4	-2.9%	129.9	-2.9%
2038	125.6	-2.9%	126.1	-2.9%

Comparison with Prior Forecast

On August 3, 2007, our Base Case Forecast projected that total consumption in 2036 will be 218 billion cigarettes, a 58% decline from the 2006 level. From 2004 through 2036 the average annual rate of decline was projected to be 1.780%. In this forecast, through 2006, the 2007 study accurately projected consumption declines, but the sharp acceleration in the decline rate thereafter resulted in a substantial forecast error. The current forecast projects an average decline rate of 3.1% through 2036, to an annual consumption level of 133.2 billion sticks. The new forecast was developed with consideration of the large federal tax increase in 2009 and of the negative effects of the proliferation on smoking ban legislation across the US.

APPENDIX B

MASTER SETTLEMENT AGREEMENT

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MASTER SETTLEMENT AGREEMENT

This Master Settlement Agreement is made by the undersigned Settling State officials (on behalf of their respective Settling States) and the undersigned Participating Manufacturers to settle and resolve with finality all Released Claims against the Participating Manufacturers and related entities as set forth herein. This Agreement constitutes the documentation effecting this settlement with respect to each Settling State, and is intended to and shall be binding upon each Settling State and each Participating Manufacturer in accordance with the terms hereof.

I. RECITALS

WHEREAS, more than 40 States have commenced litigation asserting various claims for monetary, equitable and injunctive relief against certain tobacco product manufacturers and others as defendants, and the States that have not filed suit can potentially assert similar claims;

WHEREAS, the Settling States that have commenced litigation have sought to obtain equitable relief and damages under state laws, including consumer protection and/or antitrust laws, in order to further the Settling States' policies regarding public health, including policies adopted to achieve a significant reduction in smoking by Youth;

WHEREAS, defendants have denied each and every one of the Settling States' allegations of unlawful conduct or wrongdoing and have asserted a number of defenses to the Settling States' claims, which defenses have been contested by the Settling States;

WHEREAS, the Settling States and the Participating Manufacturers are committed to reducing underage tobacco use by discouraging such use and by preventing Youth access to Tobacco Products;

WHEREAS, the Participating Manufacturers recognize the concern of the tobacco grower community that it may be adversely affected by the potential reduction in tobacco consumption resulting from this settlement, reaffirm their commitment to work cooperatively to address concerns about the potential adverse economic impact on such community, and will, within 30 days after the MSA Execution Date, meet with the political leadership of States with grower communities to address these economic concerns;

WHEREAS, the undersigned Settling State officials believe that entry into this Agreement and uniform consent decrees with the tobacco industry is necessary in order to further the Settling States' policies designed to reduce Youth smoking, to promote the public health and to secure monetary payments to the Settling States; and

WHEREAS, the Settling States and the Participating Manufacturers wish to avoid the further expense, delay, inconvenience, burden and uncertainty of continued litigation (including appeals from any verdicts), and, therefore, have agreed to settle their respective lawsuits and potential claims pursuant to terms which will achieve for the Settling States and their citizens significant funding for the advancement of public health, the implementation of important tobacco-related public health measures, including the enforcement of the mandates and restrictions related to such measures, as well as funding for a national Foundation dedicated to significantly reducing the use of Tobacco Products by Youth;

NOW, THEREFORE, BE IT KNOWN THAT, in consideration of the implementation of tobacco-related health measures and the payments to be made by the Participating Manufacturers, the release and discharge of all claims by the Settling States, and such other consideration as described herein, the sufficiency of which is hereby acknowledged, the Settling States and the Participating Manufacturers, acting by and through their authorized agents, memorialize and agree as follows:

II. DEFINITIONS

- (a) "Account" has the meaning given in the Escrow Agreement.
- (b) "Adult" means any person or persons who are not Underage.
- (c) "Adult-Only Facility" means a facility or restricted area (whether open-air or enclosed) where the operator ensures or has a reasonable basis to believe (such as by checking identification as required under state law, or by checking the identification of any person appearing to be under the age of 27) that no Underage person is present. A facility or restricted area need not be permanently restricted to Adults in order to constitute an Adult-Only Facility, provided that the operator ensures or has a reasonable basis to believe that no Underage person is present during the event or time period in question.
- (d) "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 10 percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.
- (e) "Agreement" means this Master Settlement Agreement, together with the exhibits hereto, as it may be amended pursuant to subsection XVIII(j).
- (f) "Allocable Share" means the percentage set forth for the State in question as listed in Exhibit A hereto, without regard to any subsequent alteration or modification of such State's percentage share agreed to by or among any States; or, solely for the purpose of calculating payments under subsection IX(c)(2) (and corresponding payments under subsection

IX(1), the percentage disclosed for the State in question pursuant to subsection IX(c)(2)(A) prior to June 30, 1999, without regard to any subsequent alteration or modification of such State's percentage share agreed to by or among any States.

(g) "Allocated Payment" means a particular Settling State's Allocable Share of the sum of all of the payments to be made by the Original Participating Manufacturers in the year in question pursuant to subsections IX(c)(1) and IX(c)(2), as such payments have been adjusted, reduced and allocated pursuant to clause "First" through the first sentence of clause "Fifth" of subsection IX(1), but before application of the other offsets and adjustments described in clauses "Sixth" through "Thirteenth" of subsection IX(1).

(h) "Bankruptcy" means, with respect to any entity, the commencement of a case or other proceeding (whether voluntary or involuntary) seeking any of (1) liquidation, reorganization, rehabilitation, receivership, conservatorship, or other relief with respect to such entity or its debts under any bankruptcy, insolvency or similar law now or hereafter in effect; (2) the appointment of a trustee, receiver, liquidator, custodian or similar official of such entity or any substantial part of its business or property; (3) the consent of such entity to any of the relief described in (1) above or to the appointment of any official described in (2) above in any such case or other proceeding involuntarily commenced against such entity; or (4) the entry of an order for relief as to such entity under the federal bankruptcy laws as now or hereafter in effect. Provided, however, that an involuntary case or proceeding otherwise within the foregoing definition shall not be a "Bankruptcy," if it is or was dismissed within 60 days of its commencement.

(i) "Brand Name" means a 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, those used for any domestic brand of Tobacco Products. Provided, however, that the term "Brand Name" shall not include the corporate name of any Tobacco Product Manufacturer that does not after the MSA Execution Date sell a brand of Tobacco Products in the States that includes such corporate name.

(j) "Brand Name Sponsorship" means an athletic, musical, artistic, or other social or cultural event as to which payment is made (or other consideration is provided) in exchange for use of a Brand Name or Names (1) as part of the name of the event or (2) to identify, advertise, or promote such event or an entrant, participant or team in such event in any other way. Sponsorship of a single national or multi-state series; or tour (for example, NASCAR (including any number of NASCAR races)), or of one or more events within a single national or multi-state series or tour, or of an entrant, participant, or team taking part in events sanctioned by a single approving organization (e.g., NASCAR or CART), constitutes one Brand Name Sponsorship. Sponsorship of an entrant, participant, or team by a Participating Manufacturer using a Brand Name or Names in an event that is part of a series or tour that is sponsored by such Participating Manufacturer or that is part of a series or tour in which any one or more events are sponsored by such Participating Manufacturer does not constitute a separate Brand Name Sponsorship. Sponsorship of an entrant, participant, or team by a Participating Manufacturer using a Brand Name or Names in any event (or series of events) not sponsored by such Participating Manufacturer constitutes a Brand Name Sponsorship. The term "Brand Name Sponsorship" shall not include an event in an Adult-Only Facility.

(k) "Business Day" means a day which is not a Saturday or Sunday or legal holiday on which banks are authorized or required to close in New York, New York.

(l) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

- (1) the use of comically exaggerated features;
- (2) the attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
- (3) the attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

The term "Cartoon" includes "Joe Camel," but does not include any drawing or other depiction that on July 1, 1998, was in use in any State in any Participating Manufacturer's corporate logo or in any Participating Manufacturer's Tobacco Product packaging.

(m) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). Except as provided in subsections II(z) and II(mm), 0.0325 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(n) "Claims" means any and all manner of civil (i.e., non-criminal): claims, demands, actions, suits, causes of action, damages (whenever incurred), liabilities of any nature including civil penalties and punitive damages, as well as costs, expenses and attorneys' fees (except as to the Original Participating Manufacturers' obligations under section XVII), known or unknown, suspected or unsuspected, accrued or unaccrued, whether legal, equitable, or statutory.

(o) "Consent Decree" means a state-specific consent decree as described in subsection XIII(b)(1)(B) of this Agreement.

(p) "Court" means the respective court in each Settling State to which this Agreement and the Consent Decree are presented for approval and/or entry as to that Settling State.

(q) "Escrow" has the meaning given in the Escrow Agreement.

(r) "Escrow Agent" means the escrow agent under the Escrow Agreement.

(s) "Escrow Agreement" means an escrow agreement substantially in the form of Exhibit B.

(t) "Federal Tobacco Legislation Offset" means the offset described in section X.

(u) "Final Approval" means the earlier of:

- (1) the date by which State-Specific Finality in a sufficient number of Settling States has occurred; or
- (2) June 30, 2000.

For the purposes of this subsection (u), "State-Specific Finality in a sufficient number of Settling States" means that State-Specific Finality has occurred in both:

- (A) a number of Settling States equal to at least 80% of the total number of Settling States; and
- (B) Settling States having aggregate Allocable Shares equal to at least 80% of the total aggregate Allocable Shares assigned to all Settling States.

Notwithstanding the foregoing, the Original Participating Manufacturers may, by unanimous written agreement, waive any requirement for Final Approval set forth in subsections (A) or (B) hereof.

(v) "Foundation" means the foundation described in section VI.

(w) "Independent Auditor" means the firm described in subsection XI(b).

(x) "Inflation Adjustment" means an adjustment in accordance with the formulas for inflation adjustments set forth in Exhibit C.

(y) "Litigating Releasing Parties Offset" means the offset described in subsection XII(b).

(z) "Market Share" means a Tobacco Product Manufacturer's respective share (expressed as a percentage) of the total number of individual Cigarettes sold in the fifty United States, the District of Columbia and Puerto Rico during the applicable calendar year, as measured by excise taxes collected by the federal government and, in the case of sales in Puerto Rico, arbitros de cigarrillos collected by the Puerto Rico taxing authority. For purposes of the definition and determination of "Market Share" with respect to calculations under subsection IX(f), 0.09 ounces of "roll your own" tobacco shall constitute one individual Cigarette; for purposes of the definition and determination of "Market Share" with respect to all other calculations, 0.0325 ounces of "roll your own" tobacco shall constitute one individual Cigarette.

(aa) "MSA Execution Date" means November 23, 1998.

(bb) "NAAAG" means the National Association of Attorneys General, or its successor organization that is directed by the Attorneys General to perform certain functions under this Agreement.

(cc) "Non-Participating Manufacturer" means any Tobacco Product Manufacturer that is not a Participating Manufacturer.

(dd) "Non-Settling States Reduction" means a reduction determined by multiplying the amount to which such reduction applies by the aggregate Allocable Shares of those States that are not Settling States on the date 15 days before such payment is due.

(ee) "Notice Parties" means each Participating Manufacturer, each Settling State, the Escrow Agent, the Independent Auditor and NAAAG.

(ff) "NPM Adjustment" means the adjustment specified in subsection IX(d).

(gg) "NPM Adjustment Percentage" means the percentage determined pursuant to subsection IX(d).

(hh) "Original Participating Manufacturers" means the following: Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated and R.J. Reynolds Tobacco Company, and the respective successors of each of the foregoing. Except as expressly provided in this Agreement, once an entity becomes an Original Participating Manufacturer, such entity shall permanently retain the status of Original Participating Manufacturer.

(ii) "Outdoor Advertising" means (1) billboards, (2) signs and placards in arenas, stadiums, shopping malls and Video Game Arcades (whether any of the foregoing are open air or enclosed) (but not including any such sign or placard located in an Adult-Only Facility), and (3) any other advertisements placed (A) outdoors, or (B) on the inside surface of a window facing outward. Provided, however, that the term "Outdoor Advertising" does not mean (1) an advertisement on the outside of a Tobacco Product manufacturing facility; (2) an individual advertisement that does not occupy an area larger than 14 square feet (and that neither is placed in such proximity to any other such advertisement so as to create a single "mosaic"-type advertisement larger than 14 square feet, nor functions solely as a segment of a larger advertising unit or series), and that is placed (A) on the outside of any retail establishment that sells Tobacco Products (other than solely through a vending machine), (B) outside (but on the property of) any such establishment, or (C) on the inside surface of a window facing

outward in any such establishment; (3) an advertisement inside a retail establishment that sells Tobacco Products (other than solely through a vending machine) that is not placed on the inside surface of a window facing outward; or (4) an outdoor advertisement at the site of an event to be held at an Adult-Only Facility that is placed at such site during the period the facility or enclosed area constitutes an Adult-Only Facility, but in no event more than 14 days before the event, and that does not advertise any Tobacco Product (other than by using a Brand Name to identify the event).

(jj) **"Participating Manufacturer"** means a Tobacco Product Manufacturer that is or becomes a signatory to this Agreement, provided that (1) in the case of a Tobacco Product Manufacturer that is not an Original Participating Manufacturer, such Tobacco Product Manufacturer is bound by this Agreement and the Consent Decree (or, in any Settling State that does not permit amendment of the Consent Decree, a consent decree containing terms identical to those set forth in the Consent Decree) in all Settling States in which this Agreement and the Consent Decree binds Original Participating Manufacturers (provided, however, that such Tobacco Product Manufacturer need only become bound by the Consent Decree in those Settling States in which the Settling State has filed a Released Claim against it), and (2) in the case of a Tobacco Product Manufacturer that signs this Agreement after the MSA Execution Date, such Tobacco Product Manufacturer, within a reasonable period of time after signing this Agreement, makes any payments (including interest thereon at the Prime Rate) that it would have been obligated to make in the intervening period had it been a signatory as of the MSA Execution Date. "Participating Manufacturer" shall also include the successor of a Participating Manufacturer. Except as expressly provided in this Agreement, once an entity becomes a Participating Manufacturer such entity shall permanently retain the status of Participating Manufacturer. Each Participating Manufacturer shall regularly report its shipments of Cigarettes in or to the fifty United States, the District of Columbia and Puerto Rico to Management Science Associates, Inc. (or a successor entity as set forth in subsection (mm)). Solely for purposes of calculations pursuant to subsection 1X(d), a Tobacco Product Manufacturer that is not a signatory to this Agreement shall be deemed to be a "Participating Manufacturer" if the Original Participating Manufacturers unanimously consent in writing.

(kk) **"Previously Settled States Reduction"** means a reduction determined by multiplying the amount to which such reduction applies by 12.450000%, in the case of payments due in or prior to 2007; 12.2375756%, in the case of payments due after 2007 but before 2018; and 11.0666667%, in the case of payments due in or after 2018.

(ll) **"Prime Rate"** shall mean the prime rate as published from time to time by the Wall Street Journal or, in the event the Wall Street Journal is no longer published or no longer publishes such rate, an equivalent successor reference rate determined by the Independent Auditor.

(mm) **"Relative Market Share"** means an Original Participating Manufacturer's respective share (expressed as a percentage) of the total number of individual Cigarettes shipped in or to the fifty United States, the District of Columbia and Puerto Rico by all the Original Participating Manufacturers during the calendar year immediately preceding the year in which the payment at issue is due (regardless of when such payment is made), as measured by the Original Participating Manufacturers' reports of shipments of Cigarettes to Management Science Associates, Inc. (or a successor entity acceptable to both the Original Participating Manufacturers and a majority of those Attorneys General who are both the Attorney General of a Settling State and a member of the NAAAG executive committee at the time in question). A Cigarette shipped by more than one Participating Manufacturer shall be deemed to have been shipped solely by the first Participating Manufacturer to do so. For purposes of the definition and determination of "Relative Market Share," 0.09 ounces of "roll your own" tobacco shall constitute one individual Cigarette.

(nn) **"Released Claims"** means:

(1) for past conduct, acts or omissions (including any damages incurred in the future arising from such past conduct, acts or omissions), those Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to (A) the use, sale, distribution, manufacture, development, advertising, marketing or health effects of, (B) the exposure to, or (C) research, statements, or warnings regarding, Tobacco Products (including, but not limited to, the Claims asserted in the actions identified in Exhibit D, or any comparable Claims that were, could be or could have been asserted now or in the future in those actions or in any comparable action in federal, state or local court brought by a Settling State or a Releasing Party (whether or not such Settling State or Releasing Party has brought such action)), except for claims not asserted in the actions identified in Exhibit D for outstanding liability under existing licensing (or similar) fee laws or existing tax laws (but not excepting claims for any tax liability of the Tobacco-Related Organizations or of any Released Party with respect to such Tobacco-Related Organizations, which claims are covered by the release and covenants set forth in this Agreement);

(2) for future conduct, acts or omissions, only those monetary Claims directly or indirectly based on, arising out of or in any way related to, in whole or in part, the use of or exposure to Tobacco Products manufactured in the ordinary course of business, including without limitation any future Claims for reimbursement of health care costs allegedly associated with the use of or exposure to Tobacco Products.

(oo) **"Released Parties"** means all Participating Manufacturers, their past, present and future Affiliates, and the respective divisions, officers, directors, employees, representatives, insurers, lenders, underwriters, Tobacco-Related Organizations, trade associations, suppliers, agents, auditors, advertising agencies, public relations entities, attorneys, retailers and distributors of any Participating Manufacturer or of any such Affiliate (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing). Provided, however, that "Released Parties" does not include any person or entity (including, but not limited to, an Affiliate) that is itself a Non-Participating Manufacturer at any time after the MSA Execution Date, unless such person or entity becomes a Participating Manufacturer.

(pp) **"Releasing Parties"** means each Settling State and any of its past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions; and also means, to the full extent of the power of the signatories hereto to release past, present and future claims, the following: (1) any Settling State's subdivisions (political or otherwise, including, but not limited to, municipalities, counties, parishes, villages, unincorporated districts and hospital districts), public entities, public instrumentalities and public educational institutions; and (2) persons or entities acting in a parents patriae, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or any other capacity, whether or not any of them participate in this settlement. (A) to the extent that any such person or entity is seeking relief on behalf of or generally applicable to the general public in such Settling State or the people of the State, as opposed solely to private or individual relief for separate and distinct injuries, or (B) to the extent that any such entity (as opposed to an individual) is seeking recovery of health-care expenses (other than premium or capitation payments for the benefit of present or retired state employees) paid or reimbursed, directly or indirectly, by a Settling State.

(qq) **"Settling State"** means any State that signs this Agreement on or before the MSA Execution Date. Provided, however, that the term "Settling State" shall not include (1) the States of Mississippi, Florida, Texas and Minnesota; and (2) any State as to which this Agreement has been terminated.

(rr) **"State"** means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Marianas.

(ss) **"State-Specific Finality"** means, with respect to the Settling State in question:

(1) this Agreement and the Consent Decree have been approved and entered by the Court as to all Original Participating Manufacturers, or, in the event of an appeal from or review of a decision of the Court to withhold its approval and entry of this Agreement and the Consent Decree, by the court hearing such appeal or conducting such review;

(2) entry by the Court has been made of an order dismissing with prejudice all claims against Released Parties in the action as provided herein; and

(3) the time for appeal or to seek review of or permission to appeal ("Appeal") from the approval and entry as described in subsection (1) hereof and entry of such order described in subsection (2) hereof has expired; or, in the event of an Appeal from such approval and entry, the Appeal has been dismissed, or the approval and entry described in (1) hereof and the order described in subsection (2) hereof have been affirmed in all material respects by the court of last resort to which such Appeal has been taken and such dismissal or affirmation has become no longer subject to further Appeal (including, without limitation, review by the United States Supreme Court).

(tt) **"Subsequent Participating Manufacturer"** means a Tobacco Product Manufacturer (other than an Original Participating Manufacturer) that: (1) is a Participating Manufacturer, and (2) is a signatory to this Agreement, regardless of when such Tobacco Product Manufacturer became a signatory to this Agreement. "Subsequent Participating Manufacturer" shall also include the successors of a Subsequent Participating Manufacturer. Except as expressly provided in this Agreement, once an entity becomes a Subsequent Participating Manufacturer such entity shall permanently retain the status of Subsequent Participating Manufacturer, unless it agrees to assume the obligations of an Original Participating Manufacturer as provided in subsection XVIII(c).

(uu) **"Tobacco Product Manufacturer"** means an entity that after the MSA Execution Date directly (and not exclusively through any Affiliate):

(1) manufactures Cigarettes anywhere that such manufacturer intends to be sold in the States, including Cigarettes intended to be sold in the States through an importer (except where such importer is an Original Participating Manufacturer that will be responsible for the payments under this Agreement with respect to such Cigarettes as a result of the provisions of subsections II(mm) and that pays the taxes specified in subsection II(z) on such Cigarettes, and provided that the manufacturer of such Cigarettes does not market or advertise such Cigarettes in the States);

(2) is the first purchaser anywhere for resale in the States of Cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the States; or

(3) becomes a successor of an entity described in subsection (1) or (2) above.

The term "Tobacco Product Manufacturer" shall not include an Affiliate of a Tobacco Product Manufacturer unless such Affiliate itself falls within any of subsections (1) - (3) above.

(vv) **"Tobacco Products"** means Cigarettes and smokeless tobacco products.

(ww) **"Tobacco-Related Organizations"** means the Council for Tobacco Research-U.S.A., Inc., The Tobacco Institute, Inc. ("TI"), and the Center for Indoor Air Research, Inc. ("CIAR"); and the successors, if any, of TI or CIAR.

(xx) **"Transit Advertisements"** means advertising on or within private or public vehicles and all similar locations, on or within any bus stop, taxi stand, transportation waiting area, train station, airport or any similar location. Notwithstanding the foregoing, the term "Transit Advertisements" does not include (1) any advertisement placed in, on or outside the premises of any retail establishment that sells Tobacco Products (other than solely through a vending machine) (except if such individual advertisement (A) occupies an area larger than 14 square feet; (B) is placed in such proximity to any other such advertisement so as to create a single "mosaic"-type advertisement larger than 14 square feet; or (C) functions solely as a segment of a larger advertising unit or series); or (2) advertising at the site of an event to be held at an Adult-Only Facility that is placed at such site during the period the facility or enclosed area constitutes an Adult-Only Facility, but in no

event more than 14 days before the event, and that does not advertise any Tobacco Product (other than by using a Brand Name to identify the event).

- (yy) "Underage" means younger than the minimum age at which it is legal to purchase or possess (whichever minimum age is older) Cigarettes in the applicable Settling State.
- (zz) "Video Game Arcade" means an entertainment establishment primarily consisting of video games (other than video games intended primarily for use by persons 18 years of age or older) and/or pinball machines.
- (aaa) "Volume Adjustment" means an upward or downward adjustment in accordance with the formula for volume adjustments set forth in Exhibit E.
- (bbb) "Youth" means any person or persons under 18 years of age.

III. PERMANENT RELIEF

- (a) Prohibition on Youth Targeting. No Participating Manufacturer may take any action, directly or indirectly, to target Youth within any Settling State in the advertising, promotion or marketing of Tobacco Products, or take any action the primary purpose of which is to initiate, maintain or increase the incidence of Youth smoking within any Settling State.
- (b) Ban on Use of Cartoons. Beginning 180 days after the MSA Execution Date, no Participating Manufacturer may use or cause to be used any Cartoon in the advertising, promoting, packaging or labeling of Tobacco Products.
- (c) Limitation of Tobacco Brand Name Sponsorships.

(1) Prohibited Sponsorships. After the MSA Execution Date, no Participating Manufacturer may engage in any Brand Name Sponsorship in any State consisting of:

- (A) consents; or
- (B) events in which the intended audience is comprised of a significant percentage of Youth; or
- (C) events in which any paid participants or contestants are Youth; or
- (D) any athletic event between opposing teams in any football, basketball, baseball, soccer or hockey league.

(2) Limited Sponsorships.

(A) No Participating Manufacturer may engage in more than one Brand Name Sponsorship in the States in any twelve-month period (such period measured from the date of the initial sponsored event).

(B) Provided, however, that

- (i) nothing contained in subsection (2)(A) above shall require a Participating Manufacturer to breach or terminate any sponsorship contract in existence as of August 1, 1998 (until the earlier of (x) the current term of any existing contract, without regard to any renewal or option that may be exercised by such Participating Manufacturer or (y) three years after the MSA Execution Date); and
 - (ii) notwithstanding subsection (1)(A) above, Brown & Williamson Tobacco Corporation may sponsor either the GPC country music festival or the Kool jazz festival as its one annual Brand Name Sponsorship permitted pursuant to subsection (2)(A) as well as one Brand Name Sponsorship permitted pursuant to subsection (2)(B)(i).
- (3) Related Sponsorship Restrictions. With respect to any Brand Name Sponsorship permitted under this subsection (c):

- (A) advertising of the Brand Name Sponsorship event shall not advertise any Tobacco Product (other than by using the Brand Name to identify such Brand Name Sponsorship event);
- (B) no Participating Manufacturer may refer to a Brand Name Sponsorship event or to a celebrity or other person in such an event in its advertising of a Tobacco Product;
- (C) nothing contained in the provisions of subsection III(e) of this Agreement shall apply to actions taken by any Participating Manufacturer in connection with a Brand Name Sponsorship permitted pursuant to the provisions of subsections (2)(A) or (2)(B)(i); the Brand Name Sponsorship permitted by subsection (2)(B)(ii) shall be subject to the restrictions of subsection III(e) except that such restrictions shall not prohibit use of the Brand Name to identify the Brand Name Sponsorship;

(D) nothing contained in the provisions of subsections III(f) and III(i) shall apply to apparel or other merchandise: (i) marketed, distributed, offered, sold, or licensed at the site of a Brand Name Sponsorship permitted pursuant to subsections (2)(A) or (2)(B)(i); the person to which the relevant Participating Manufacturer has provided payment in exchange for the use of the relevant Brand Name in the Brand Name Sponsorship or a third-party that does not receive payment from the relevant Participating Manufacturer (or any Affiliate of such Participating Manufacturer) in connection with the marketing, distribution, offer, sale or license of such apparel or other merchandise; or (ii) used at the site of a Brand Name Sponsorship permitted pursuant to subsection (2)(A) or (2)(B)(i) (during such event) that are not distributed (by sale or otherwise) to any member of the general public; and

(E) nothing contained in the provisions of subsection III(d) shall: (i) apply to the use of a Brand Name on a vehicle used in a Brand Name Sponsorship; or (ii) apply to Outdoor Advertising advertising the Brand Name

Sponsorship, to the extent that such Outdoor Advertising is placed at the site of a Brand Name Sponsorship no more than 90 days before the start of the initial sponsored event, is removed within 10 days after the end of the last sponsored event, and is not prohibited by subsection (3)(A) above.

(4) Corporate Name Sponsorships. Nothing in this subsection (c) shall prevent a Participating Manufacturer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entrant, participant or team in such event (or series of events) in the name of the corporation which manufactures Tobacco Products, provided that the corporate name does not include any Brand Name of domestic Tobacco Products.

(5) Naming Rights Prohibition. No Participating Manufacturer may enter into any agreement for the naming rights of any stadium or arena located within a Settling State using a Brand Name, and shall not otherwise cause a stadium or arena located within a Settling State to be named with a Brand Name.

(6) Prohibition on Sponsoring Teams and Leagues. No Participating Manufacturer may enter into any agreement pursuant to which payment is made (or other consideration is provided) by such Participating Manufacturer to any football, basketball, baseball, soccer or hockey league (or any team involved in any such league) in exchange for use of a Brand Name.

(d) Elimination of Outdoor Advertising and Transit Advertisements. Each Participating Manufacturer shall discontinue Outdoor Advertising and Transit Advertisements advertising Tobacco Products within the Settling States as set forth herein.

(1) Removal. Except as otherwise provided in this section, each Participating Manufacturer shall remove from within the Settling States within 150 days after the MSA Execution Date all of its (A) billboards (to the extent that such billboards constitute Outdoor Advertising) advertising Tobacco Products; (B) signs and placards (to the extent that such signs and placards constitute Outdoor Advertising) advertising Tobacco Products in arenas, stadiums, shopping malls and Video Game Arcades; and (C) Transit Advertisements advertising Tobacco Products.

(2) Prohibition on New Outdoor Advertising and Transit Advertisements. No Participating Manufacturer may, after the MSA Execution Date, place or cause to be placed any new Outdoor Advertising advertising Tobacco Products or new Transit Advertisements advertising Tobacco Products within any Settling State.

(3) Alternative Advertising. With respect to those billboards required to be removed under subsection (1) that are leased (as opposed to owned) by any Participating Manufacturer, the Participating Manufacturer will allow the Attorney General of the Settling State within which such billboards are located to substitute, at the Settling State's option, alternative advertising intended to discourage the use of Tobacco Products by Youth and their exposure to second-hand smoke for the remaining term of the applicable contract (without regard to any renewal or option term that may be exercised by such Participating Manufacturer). The Participating Manufacturer will bear the cost of the lease through the end of such remaining term. Any other costs associated with such alternative advertising will be borne by the Settling State.

(4) Ban on Agreements Inhibiting Anti-Tobacco Advertising. Each Participating Manufacturer agrees that it will not enter into any agreement that prohibits a third party from selling, purchasing or displaying advertising discouraging the use of Tobacco Products or exposure to second-hand smoke. In the event and to the extent that any Participating Manufacturer has entered into an agreement containing any such prohibition, such Participating Manufacturer agrees to waive such prohibition in such agreement.

(5) Designation of Contact Person. Each Participating Manufacturer that has Outdoor Advertising or Transit Advertisements advertising Tobacco Products within a Settling State shall, within 10 days after the MSA Execution Date, provide the Attorney General of such Settling State with the name of a contact person to whom the Settling State may direct inquiries during the time such Outdoor Advertising and Transit Advertisements are being eliminated, and from whom the Settling State may obtain periodic reports as to the progress of their elimination.

(6) Adult-Only Facilities. To the extent that any advertisement advertising Tobacco Products located within an Adult-Only Facility constitutes Outdoor Advertising or a Transit Advertisement, this subsection (d) shall not apply to such advertisement, provided such advertisement is not visible to persons outside such Adult-Only Facility.

(e) Prohibition on Payments Related to Tobacco Products and Media. No Participating Manufacturer may, beginning 30 days after the MSA Execution Date, make, or cause to be made, any payment or other consideration to any other person or entity to use, display, make reference to or use as a prop any Tobacco Product, Tobacco Product package, advertisement for a Tobacco Product, or any other item bearing a Brand Name in any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game ("Media"); provided, however, that the foregoing prohibition shall not apply to (1) Media where the audience or viewers are within an Adult-Only Facility (provided such Media are not visible to persons outside such Adult-Only Facility); (2) Media not intended for distribution or display to the public; or (3) instructional Media concerning non-conventional cigarettes viewed only by or provided only to smokers who are Adults.

(f) Ban on Tobacco Brand Name Merchandise. Beginning July 1, 1999, no Participating Manufacturer may, within any Settling State, market, distribute, offer, sell, license or cause to be marketed, distributed, offered, sold or licensed (including, without limitation, by catalogue or direct mail), any apparel or other merchandise (other than Tobacco Products, items the sole function of which is to advertise Tobacco Products, or written or electronic publications) which bears a Brand Name. Provided, however, that nothing in this subsection shall (1) require any Participating Manufacturer to breach or

terminate any licensing agreement or other contract in existence as of June 20, 1997 (this exception shall not apply beyond the current term of any existing contract, without regard to any renewal or option term that may be exercised by such Participating Manufacturer); (2) prohibit the distribution to any Participating Manufacturer's employee who is not Underage of any item described above that is intended for the personal use of such an employee; (3) require any Participating Manufacturer to retrieve, collect or otherwise recover any item that prior to the MSA Execution Date was marketed, distributed, offered, sold, licensed, or caused to be marketed, distributed, offered, sold or licensed by such Participating Manufacturer; (4) apply to coupons or other items used by Adults solely in connection with the purchase of Tobacco Products; or (5) apply to apparel or other merchandise used within an Adult-Only Facility that is not distributed (by sale or otherwise) to any member of the general public.

(g) Ban on Youth Access to Free Samples. After the MSA Execution Date, no Participating Manufacturer may, within any Settling State, distribute or cause to be distributed any free samples of Tobacco Products except in an Adult-Only Facility. For purposes of this Agreement, a "free sample" does not include a Tobacco Product that is provided to an Adult in connection with (1) the purchase, exchange or redemption for proof of purchase of any Tobacco Products (including, but not limited to, a free offer in connection with the purchase of Tobacco Products, such as a "two-for-one" offer), or (2) the conducting of consumer testing or evaluation of Tobacco Products with persons who certify that they are Adults.

(h) Ban on Gifts to Underage Persons Based on Proofs of Purchase. Beginning one year after the MSA Execution Date, no Participating Manufacturer may provide or cause to be provided to any person without sufficient proof that such person is an Adult any item in exchange for the purchase of Tobacco Products, or the furnishing of credits, proofs-of-purchase, or coupons with respect to such a purchase. For purposes of the preceding sentence only, (1) a driver's license or other government-issued identification (or legible photocopy thereof), the validity of which is certified by the person to whom the item is provided, shall by itself be deemed to be a sufficient form of proof of age; and (2) in the case of items provided (or to be redeemed) at retail establishments, a Participating Manufacturer shall be entitled to rely on verification of proof of age by the retailer, where such retailer is required to obtain verification under applicable federal, state or local law.

(i) Limitation on Third-Party Use of Brand Names. After the MSA Execution Date, no Participating Manufacturer may license or otherwise expressly authorize any third party to use or advertise within any Settling State any Brand Name in a manner prohibited by this Agreement if done by such Participating Manufacturer itself. Each Participating Manufacturer shall, within 10 days after the MSA Execution Date, designate a person (and provide written notice to NAAG of such designation) to whom the Attorney General of any Settling State may provide written notice of any such third-party activity that would be prohibited by this Agreement if done by such Participating Manufacturer itself. Following such written notice, the Participating Manufacturer will promptly take commercially reasonable steps against any such non-de minimis third-party activity. Provided, however, that nothing in this subsection shall require any Participating Manufacturer to (1) breach or terminate any licensing agreement or other contract in existence as of July 1, 1998 (this exception shall not apply beyond the current term of any existing contract, without regard to any renewal or option term that may be exercised by such Participating Manufacturer), or (2) retrieve, collect or otherwise recover any item that prior to the MSA Execution Date was marketed, distributed, offered, sold, licensed or caused to be marketed, distributed, offered, sold or licensed by such Participating Manufacturer.

(j) Ban on Non-Tobacco Brand Names. No Participating Manufacturer may, pursuant to any agreement requiring the payment of money or other valuable consideration, use or cause to be used as a brand name of any Tobacco Product any nationally recognized or nationally established brand name or trade name of any non-tobacco item or service or any nationally recognized or nationally established sports team, entertainment group or individual celebrity. Provided, however, that the preceding sentence shall not apply to any Tobacco Product brand name in existence as of July 1, 1998. For the purposes of this subsection, the term "other valuable consideration" shall not include an agreement between two entities who enter into such agreement for the sole purpose of avoiding infringement claims.

(k) Minimum Pack Size of Twenty Cigarettes. No Participating Manufacturer may, beginning 60 days after the MSA Execution Date and through and including December 31, 2001, manufacture or cause to be manufactured for sale in any Settling State any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco). No Participating Manufacturer may, beginning 150 days after the MSA Execution Date and through and including December 31, 2001, sell or distribute in any Settling State any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco). Each Participating Manufacturer further agrees that following the MSA Execution Date it shall not oppose, or cause to be opposed (including through any third party or Affiliate), the passage by any Settling State of any legislative proposal or administrative rule applicable to all Tobacco Product Manufacturers and all retailers of Tobacco Products prohibiting the manufacture and sale of any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco).

(l) Corporate Culture Commitments Related to Youth Access and Consumption. Beginning 180 days after the MSA Execution Date each Participating Manufacturer shall:

promulgate or reaffirm corporate principles that express and explain its commitment to comply with the provisions of this Agreement and the reduction of use of Tobacco Products by Youth, and clearly and regularly communicate to its employees and customers its commitment to assist in the reduction of Youth use of Tobacco Products;

designate an executive level manager (and provide written notice to NAAG of such designation) to identify methods to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products; and encourage its employees to identify additional methods to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products.

(m) Limitations on Lobbying. Following State-Specific Finality in a Settling State:

(1) No Participating Manufacturer may oppose, or cause to be opposed (including through any third party or Affiliate), the passage by such Settling State (or any political subdivision thereof) of those state or local legislative proposals or administrative rules described in Exhibit F hereto intended by their terms to reduce Youth access to, and the incidence of Youth consumption of, Tobacco Products. Provided, however, that the foregoing does not prohibit any Participating Manufacturer from (A) challenging enforcement of, or suing for declaratory or injunctive relief with respect to, any such legislation or rule on any grounds; (B) continuing, after State-Specific Finality in such Settling State, to oppose or cause to be opposed, the passage during the legislative session in which State-Specific Finality in such Settling State occurs of any specific state or local legislative proposals or administrative rules introduced prior to the time of State-Specific Finality in such Settling State; (C) opposing, or causing to be opposed, any excise tax or income tax provision or user fee or other payments relating to Tobacco Products or Tobacco Product Manufacturers; or (D) opposing, or causing to be opposed, any state or local legislative proposal or administrative rule that also includes measures other than those described in Exhibit F.

(2) Each Participating Manufacturer shall require all of its officers and employees engaged in lobbying activities in such Settling State after State-Specific Finality, contract lobbyists engaged in lobbying activities in such Settling State after State-Specific Finality, and any other third parties who engage in lobbying activities in such Settling State after State-Specific Finality on behalf of such Participating Manufacturer ("lobbyist" and "lobbying activities" having the meaning such terms have under the law of the Settling State in question) to certify in writing to the Participating Manufacturer that they:

(A) will not support or oppose any state, local or federal legislation, or seek or oppose any governmental action, on behalf of the Participating Manufacturer without the Participating Manufacturer's express authorization (except where such advance express authorization is not reasonably practicable);

(B) are aware of and will fully comply with this Agreement and all laws and regulations applicable to their lobbying activities, including, without limitation, those related to disclosure of financial contributions. Provided, however, that if the Settling State in question has in existence no laws or regulations relating to disclosure of financial contributions regarding lobbying activities, then each Participating Manufacturer shall, upon request of the Attorney General of such Settling State, disclose to such Attorney General any payment to a lobbyist that the Participating Manufacturer knows or has reason to know will be used to influence legislative or administrative actions of the state or local government relating to Tobacco Products or their use. Disclosures made pursuant to the preceding sentence shall be filed in writing with the Office of the Attorney General on the first day of February and the first day of August of each year for any and all payments made during the six month period ending on the last day of the preceding December and June, respectively, with the following information: (1) the name, address, telephone number and e-mail address (if any) of the recipient; (2) the amount of each payment; and (3) the aggregate amount of all payments described in this subsection (2)(B) to the recipient in the calendar year; and

(C) have reviewed and will fully abide by the Participating Manufacturer's corporate principles promulgated pursuant to this Agreement when acting on behalf of the Participating Manufacturer.

(3) No Participating Manufacturer may support or cause to be supported (including through any third party or Affiliate) in Congress or any other forum legislation or rules that would preempt, override, abrogate or diminish such Settling State's rights or recoveries under this Agreement. Except as specifically provided in this Agreement, nothing herein or taking any other positions on issues relating to tobacco.

(n) Restriction on Advocacy Concerning Settlement Proceeds. After the MSA Execution Date, no Participating Manufacturer may support or cause to be supported (including through any third party or Affiliate) the diversion of any proceeds of this settlement to any program or use that is neither tobacco-related nor health-related in connection with the approval of this Agreement or in any subsequent legislative appropriation of settlement proceeds.

(o) Dissolution of The Tobacco Institute, Inc., the Council for Tobacco Research-U.S.A., Inc. and the Center for Indoor Air Research, Inc.

(1) The Council for Tobacco Research-U.S.A., Inc. ("CTR") (a not-for-profit corporation formed under the laws of the State of New York) shall, pursuant to the plan of dissolution previously negotiated and agreed to between the Attorney General of the State of New York and CTR, cease all operations and be dissolved in accordance with the laws of the State of New York (and with the preservation of all applicable privileges held by any member company of CTR).

(2) The Tobacco Institute, Inc. ("TI") (a not-for-profit corporation formed under the laws of the State of New York) shall, pursuant to a plan of dissolution to be negotiated by the Attorney General of the State of New York and the Original Participating Manufacturers in accordance with Exhibit G hereto, cease all operations and be dissolved in

accordance with the laws of the State of New York and under the authority of the Attorney General of the State of New York (and with the preservation of all applicable privileges held by any member company of TI).

(3) Within 45 days after Final Approval, the Center for Indoor Air Research, Inc. ("CIAR") shall cease all operations and be dissolved in a manner consistent with applicable law and with the preservation of all applicable privileges (including, without limitation, privileges held by any member company of CIAR).

(4) The Participating Manufacturers shall direct the Tobacco-Related Organizations to preserve all records that relate in any way to issues raised in smoking-related health litigation.

(5) The Participating Manufacturers may not reconstitute CTR or its function in any form.

(6) The Participating Manufacturers represent that they have the authority to and will effectuate subsections (1) through (5) hereof.

(4) Regulation and Oversight of New Tobacco-Related Trade Associations.

(1) A Participating Manufacturer may form or participate in new tobacco-related trade associations (subject to all applicable laws), provided such associations agree in writing not to act in any manner contrary to any provision of this Agreement. Each Participating Manufacturer agrees that if any new tobacco-related trade association fails to so agree, such Participating Manufacturer will not participate in or support such association.

(2) Any tobacco-related trade association that is formed or controlled by one or more of the Participating Manufacturers after the MSA Execution Date shall adopt by-laws governing the association's procedures and the activities of its members, board, employees, agents and other representatives with respect to the tobacco-related trade association. Such by-laws shall include, among other things, provisions that:

(A) each officer of the association shall be appointed by the board of the association, shall be an employee of such association, and during such officer's term shall not be a director or employed by any member of the association or by an Affiliate of any member of the association;

(B) legal counsel for the association shall be independent, and neither counsel nor any member or employee of counsel's law firm shall serve as legal counsel to any member of the association or to a manufacturer of Tobacco Products that is an Affiliate of any member of the association during the time that it is serving as legal counsel to the association; and

(C) minutes describing the substance of the meetings of the board of directors of the association shall be prepared and shall be maintained by the association for a period of at least five years following their preparation.

(3) Without limitation on whatever other rights to access they may be permitted by law, for a period of seven years from the date any new tobacco-related trade association is formed by any of the Participating Manufacturers after the MSA Execution Date the antitrust authorities of any Settling State may, for the purpose of enforcing this Agreement, upon reasonable cause to believe that a violation of this Agreement has occurred, and upon reasonable prior written notice (but in no event less than 10 Business Days):

(A) have access during regular office hours to inspect and copy all relevant non-privileged, non-work-product books, records, meeting agenda and minutes, and other documents (whether in hard copy form or stored electronically) or such association insofar as they pertain to such believed violation; and

(B) interview the association's directors, officers and employees (who shall be entitled to have counsel present) with respect to relevant, non-privileged, non-work-product matters pertaining to such believed violation.

Documents and information provided to Settling State antitrust authorities shall be kept confidential by and among such authorities, and shall be utilized only by the Settling States and only for the purpose of enforcing this Agreement or the criminal law. The inspection and discovery rights provided to the Settling States pursuant to this subsection shall be coordinated so as to avoid repetitive and excessive inspection and discovery.

(4) **Prohibition on Agreements to Suppress Research.** No Participating Manufacturer may enter into any contract, combination or conspiracy with any other Tobacco Product Manufacturer that has the purpose or effect of: (1) limiting competition in the production or distribution of information about health hazards or other consequences of the use of their products; (2) limiting or suppressing research into smoking and health; or (3) limiting or suppressing research into the marketing or development of new products. Provided, however, that nothing in this subsection shall be deemed to (1) require any Participating Manufacturer to produce, distribute or otherwise disclose any information that is subject to any privilege or protection; (2) preclude any Participating Manufacturer from entering into any joint defense or joint legal interest agreement or arrangement (whether or not in writing), or from asserting any privilege pursuant thereto; or (3) impose any affirmative obligation on any Participating Manufacturer to conduct any research.

(5) **Prohibition on Material Misrepresentations.** No Participating Manufacturer may make any material misrepresentation of fact regarding the health consequences of using any Tobacco Product, including any tobacco additives, filters, paper or other ingredients. Nothing in this subsection shall limit the exercise of any First Amendment right or the assertion of any defense or position in any judicial, legislative or regulatory forum.

IV. PUBLIC ACCESS TO DOCUMENTS

(a) After the MSA Execution Date, the Original Participating Manufacturers and the Tobacco-Related Organizations will support an application for the dissolution of any protective orders entered in each Settling State's lawsuit identified in Exhibit D with respect only to those documents, indices and privilege logs that have been produced as of the MSA Execution Date and (1) as to which defendants have made no claim, or have withdrawn any claim, of attorney-client privilege, attorney work-product protection, common interest/joint defense privilege (collectively, "privilege"), trade-secret protection, or confidential or proprietary business information; and (2) that are not inappropriate for public disclosure because of personal privacy interests or contractual rights of third parties that may not be abrogated by the Original Participating Manufacturers or the Tobacco-Related Organizations.

(b) Notwithstanding State-Specific Finality, if any order, ruling or recommendation was issued prior to September 17, 1998 rejecting a claim of privilege or trade-secret protection with respect to any document or documents in a lawsuit identified in Exhibit D, the Settling State in which such order, ruling or recommendation was made may, no later than 45 days after the occurrence of State-Specific Finality in such Settling State, seek public disclosure of such document or documents by application to the court that issued such order, ruling or recommendation, and the court shall retain jurisdiction for such purposes. The Original Participating Manufacturers and Tobacco-Related Organizations do not consent to, and may object to, appeal from or otherwise oppose any such application for disclosure. The Original Participating Manufacturers and Tobacco-Related Organizations will not assert that the settlement of such lawsuit has divested the court of jurisdiction or that such Settling State lacks standing to seek public disclosure on any applicable ground.

(c) The Original Participating Manufacturers will maintain at their expense their Internet document websites accessible through "TobaccoResolution.com" or a similar website until June 30, 2010. The Original Participating Manufacturers will maintain the documents that currently appear on their respective websites and will add additional documents to their websites as provided in this section IV.

(d) Within 180 days after the MSA Execution Date, each Original Participating Manufacturer and Tobacco-Related Organization will place on its website copies of the following documents, except as provided in subsections IV(c) and IV(f) below:

(1) all documents produced by such Original Participating Manufacturer or Tobacco-Related Organization as of the MSA Execution Date in any action identified in Exhibit D or any action identified in section 2 of Exhibit H that was filed by an Attorney General. Among these documents, each Original Participating Manufacturer and Tobacco-Related Organization will give the highest priority to (A) the documents that were listed by the State of Washington as trial exhibits in the State of Washington v. American Tobacco Co., et al., No. 96-2-15056-8 SEA (Wash. Super. Ct., County of King); and (B) the documents as to which such Original Participating Manufacturer or Tobacco-Related Organization withdrew any claim of privilege as a result of the re-examination of privilege claims pursuant to court order in State of Oklahoma v. RJ. Reynolds Tobacco Company, et al., CI-96-2499-L (Dist. Ct., Cleveland County);

(2) all documents that can be identified as having been produced by, and copies of transcripts of depositions given by, such Original Participating Manufacturer or Tobacco-Related Organization as of the MSA Execution Date in the litigation matters specified in section 1 of Exhibit H; and

(3) all documents produced by such Original Participating Manufacturer or Tobacco-Related Organization as of the MSA Execution Date and listed by the plaintiffs as trial exhibits in the litigation matters specified in section 2 of Exhibit H.

(e) Unless copies of such documents are already on its website, each Original Participating Manufacturer and Tobacco-Related Organization will place on its website copies of documents produced in any production of documents that takes place on or after the date 30 days before the MSA Execution Date in any federal or state court civil action concerning smoking and health. Copies of any documents required to be placed on a website pursuant to this subsection will be placed on such website within the later of 45 days after the MSA Execution Date or within 45 days after the production of such documents in any federal or state court action concerning smoking and health. This obligation will continue until June 30, 2010. In placing such newly produced documents on its website, each Original Participating Manufacturer or Tobacco-Related Organization will identify, as part of its index to be created pursuant to subsection IV(b), the action in which it produced such documents and the date on which such documents were added to its website.

(f) Nothing in this section IV shall require any Original Participating Manufacturer or Tobacco-Related Organization to place on its website or otherwise disclose documents that: (1) it continues to claim to be privileged, a trade secret, confidential or proprietary business information, or that contain other information not appropriate for public disclosure because of personal privacy interests or contractual rights of third parties; or (2) continue to be subject to any protective order, sealing order or other order or ruling that prevents or limits a litigant from disclosing such documents.

(g) Oversized or multimedia records will not be required to be placed on the Website, but each Original Participating Manufacturer and Tobacco-Related Organization will make any such records available to the public by placing copies of them in the document depository established in The State of Minnesota, et al. v. Philip Morris Incorporated, et al., CI-94-8565 (County of Ramsey, District Court, 2d Judicial Cir.).

(b) Each Original Participating Manufacturer will establish an index and other features to improve searchable access to the document images on its website, as set forth in Exhibit I.

(i) Within 90 days after the MSA Execution Date, the Original Participating Manufacturers will furnish NAAG with a project plan for completing the Original Participating Manufacturers' obligations under subsection IV(h) with respect to documents currently on their websites and documents being placed on their websites pursuant to subsection IV(d). NAAG may engage a computer consultant at the Original Participating Manufacturers' expense for a period not to exceed two years and at a cost not to exceed \$100,000. NAAG's computer consultant may review such plan and make recommendations consistent with this Agreement. In addition, within 120 days after the completion of the Original Participating Manufacturers' obligations under subsection IV(d), NAAG's computer consultant may make final recommendations with respect to the websites consistent with this Agreement. In preparing these recommendations, NAAG's computer consultant may seek input from Settling State officials, public health organizations and other users of the websites.

(j) The expenses incurred pursuant to subsection IV(i), and the expenses related to documents of the Tobacco-Related Organizations, will be severally shared among the Original Participating Manufacturers (allocated among them according to their Relative Market Shares). All other expenses incurred under this section will be borne by the Original Participating Manufacturer that incurs such expense.

V. TOBACCO CONTROL AND UNDERAGE USE LAWS

Each Participating Manufacturer agrees that following State-Specific Finality in a Settling State it will not initiate, or cause to be initiated, a facial challenge against the enforceability or constitutionality of such Settling State's (or such Settling State's political subdivisions') statutes, ordinances and administrative rules relating to tobacco control enacted prior to June 1, 1998 (other than a statute, ordinance or rule challenged in any lawsuit listed in Exhibit M).

VI. ESTABLISHMENT OF A NATIONAL FOUNDATION

(a) **Foundation Purpose:** The Settling States believe that a comprehensive, coordinated program of public education and study is important to further the remedial goals of this Agreement. Accordingly, as part of the settlement of claims described herein, the payments specified in subsections VI(b), VI(c), and IX(c) shall be made to a charitable foundation, trust or similar organization (the "Foundation") and/or to a program to be operated within the Foundation (the "National Public Education Fund"). The purposes of the Foundation will be to support (1) the study of and programs to reduce Youth Tobacco Product usage and Youth substance abuse in the States, and (2) the study of and educational programs to prevent diseases associated with the use of Tobacco Products in the States.

(b) **Base Foundation Payments.** On March 31, 1999, and on March 31 of each subsequent year for a period of nine years thereafter, each Original Participating Manufacturer shall severally pay its Relative Market Share of \$25,000,000 to fund the Foundation. The payments to be made by each of the Original Participating Manufacturers pursuant to this subsection (b) shall be subject to no adjustments, reductions, or offsets, and shall be paid to the Escrow Agent (to be credited to the Subsection VI(b) Account), who shall disburse such payments to the Foundation only upon the occurrence of State-Specific Finality in at least one Settling State.

(c) National Public Education Fund Payments.

(1) Each Original Participating Manufacturer shall severally pay its Relative Market Share of the following base amounts on the following dates to the Escrow Agent for the benefit of the Foundation's National Public Education Fund to be used for the purposes and as described in subsections VI(f)(1), VI(g) and VI(h) below: \$250,000,000 on March 31, 1999; \$300,000,000 on March 31, 2000; \$300,000,000 on March 31, 2001; \$300,000,000 on March 31, 2002; and \$300,000,000 on March 31, 2003, as such amounts are modified in accordance with this subsection (c). The payment due on March 31, 1999 pursuant to this subsection (c)(1) is to be credited to the Subsection VI(c) Account (First). The payments due on or after March 31, 2000 pursuant to this subsection VI(c)(1) are to be credited to the Subsection VI(c) Account (Subsequent).

(2) The payments to be made by the Original Participating Manufacturers pursuant to this subsection (c), other than the payment due on March 31, 1999, shall be subject to the Inflation Adjustment, the Volume Adjustment and the offset for miscalculated or disputed payments described in subsection XI(f).

(3) The payment made pursuant to this subsection (c) on March 31, 1999 shall be disbursed by the Escrow Agent to the Foundation only upon the occurrence of State-Specific Finality in at least one Settling State. Each remaining payment pursuant to this subsection (c) shall be disbursed by the Escrow Agent to the Foundation only when State-Specific Finality has occurred in Settling States having aggregate Allocable Shares equal to at least 80% of the total aggregate Allocable Shares assigned to all States that were Settling States as of the MSA Execution Date.

(4) In addition to the payments made pursuant to this subsection (c), the National Public Education Fund will be funded (A) in accordance with subsection IX(e), and (B) through monies contributed by other entities directly to the Foundation and designated for the National Public Education Fund ("National Public Education Fund Contributions").

(5) The payments made by the Original Participating Manufacturers pursuant to this subsection (c) and/or subsection IX(e) and monies received from all National Public Education Fund Contributions will be deposited and invested in accordance with the laws of the state of incorporation of the Foundation.

(d) **Creation and Organization of the Foundation.** NAAG, through its executive committee, will provide for the creation of the Foundation. The Foundation shall be organized exclusively for charitable, scientific, and educational purposes within the meaning of Internal Revenue Code section 501(c)(3). The organizational documents of the Foundation shall specifically incorporate the provisions of this Agreement relating to the Foundation, and will provide for payment of the Foundation's administrative expenses from the funds paid pursuant to subsection VI(b) or VI(c). The Foundation shall be governed by a board of directors. The board of directors shall be comprised of eleven directors. NAAG, the National Governors' Association ("NGA"), and the National Conference of State Legislatures ("NCSL") shall each select from its membership two directors. These six directors shall select the five additional directors. One of these five additional directors shall have expertise in public health issues. Four of these five additional directors shall have expertise in medical, child psychology, or public health disciplines. The board of directors shall be nationally geographically diverse.

(e) **Foundation Affiliation.** The Foundation shall be formally affiliated with an educational or medical institution selected by the board of directors.

(f) **Foundation Functions.** The functions of the Foundation shall be:

(1) carrying out a nationwide sustained advertising and education program to (A) counter the use by Youth of Tobacco Products, and (B) educate consumers about the cause and prevention of diseases associated with the use of Tobacco Products;

(2) developing and disseminating model advertising and education programs to counter the use by Youth of substances that are unlawful for use or purchase by Youth, with an emphasis on reducing Youth smoking; monitoring and testing the effectiveness of such model programs; and, based on the information received from such monitoring and testing, continuing to develop and disseminate revised versions of such model programs, as appropriate;

(3) developing and disseminating model classroom education programs and curriculum ideas about smoking and substance abuse in the K-12 school system, including specific target programs for special at-risk populations; monitoring and testing the effectiveness of such model programs and ideas; and, based on the information received from such monitoring and testing, continuing to develop and disseminate revised versions of such model programs or ideas, as appropriate;

(4) developing and disseminating criteria for effective cessation programs; monitoring and testing the effectiveness of such criteria; and continuing to develop and disseminate revised versions of such criteria, as appropriate;

(5) commissioning studies, funding research, and publishing reports on factors that influence Youth smoking and substance abuse and developing strategies to address the conclusions of such studies and research;

(6) developing other innovative Youth smoking and substance abuse prevention programs;

(7) providing targeted training and information for parents;

(8) maintaining a library, open to the public, of Foundation-funded studies, reports and other publications related to the cause and prevention of Youth smoking and substance abuse;

(9) tracking and monitoring Youth smoking and substance abuse, with a focus on the reasons for any increases or failures to decrease Youth smoking and substance abuse and what actions can be taken to reduce Youth smoking and substance abuse;

(10) receiving, controlling, and managing contributions from other entities to further the purposes described in this Agreement; and

(11) receiving, controlling, and managing such funds paid by the Participating Manufacturers pursuant to subsections VI(b) and VI(c) above.

(g) **Foundation Grant-Making.** The Foundation is authorized to make grants from the National Public Education Fund to Settling States and their political subdivisions to carry out sustained advertising and education programs to (1) counter the use by Youth of Tobacco Products, and (2) educate consumers about the cause and prevention of diseases associated with the use of Tobacco Products. In making such grants, the Foundation shall consider whether the Settling State or political subdivision applying for such grant:

(1) demonstrates the extent of the problem regarding Youth smoking in such Settling State or political subdivision;

(2) either seeks the grant to implement a model program developed by the Foundation or provides the Foundation with a specific plan for such applicant's intended use of the grant monies, including demonstrating such applicant's ability to develop an effective advertising/education campaign and to assess the effectiveness of such advertising/education campaign;

(3) has other funds readily available to carry out a sustained advertising and education program to (A) counter the use by Youth of Tobacco Products, and (B) educate consumers about the cause and prevention of diseases associated with the use of Tobacco Products; and

(4) is a Settling State that has not severed this section VI from its settlement with the Participating Manufacturers pursuant to subsection VI(f) below, or is a political subdivision in such a Settling State.

(h) **Foundation Activities.** The Foundation shall not engage in, nor shall any of the Foundation's money be used to engage in, any political activities or lobbying, including, but not limited to, support of or opposition to candidates, ballot initiatives, referenda or other similar activities. The National Public Education Fund shall be used only for public education and advertising regarding the addictiveness, health effects, and social costs related to the use of tobacco products and shall not be used for any personal attack on, or vilification of, any person (whether by name or business affiliation), company, or governmental agency, whether individually or collectively. The Foundation shall work to ensure that its activities are carried out in a culturally and linguistically appropriate manner. The Foundation's activities (including the National Public Education Fund) shall be carried out solely within the States. The payments described in subsections VI(b) and VI(c) above are made at the direction and on behalf of Settling States. By making such payments in such manner, the Participating Manufacturers do not undertake and expressly disclaim any responsibility with respect to the creation, operation, liabilities, or tax status of the Foundation or the National Public Education Fund.

(i) **Severance of this Section.** If the Attorney General of a Settling State determines that such Settling State may not lawfully enter into this Section VI as a matter of applicable state law, such Attorney General may sever this section VI from its settlement with the Participating Manufacturers by giving written notice of such severance to each Participating Manufacturer and NAAG pursuant to subsection XVIII(k) hereof. If any Settling State exercises its right to sever this section VI, this section VI shall not be considered a part of the specific settlement between such Settling State and the Participating Manufacturers, and this section VI shall not be enforceable by or in such Settling State. The payment obligation of subsections VI(b) and VI(c) hereof shall apply regardless of a determination by one or more Settling States to sever section VI hereof; provided, however, that if all Settling States sever section VI hereof, the payment obligations of subsections (b) and (c) hereof shall be null and void. If the Attorney General of a Settling State that severed this section VI subsequently determines that such Settling State may lawfully enter into this section VI as a matter of applicable state law, such Attorney General may rescind such Settling State's previous severance of this section VI by giving written notice of such rescission to each Participating Manufacturer and NAAG pursuant to subsection XVIII(k). If any Settling State rescinds such severance, this section VI shall be considered a part of the specific settlement between such Settling State and the Participating Manufacturers (including for purposes of subsection (g)(4)), and this section VI shall be enforceable by and in such Settling State.

VII. ENFORCEMENT

(a) **Jurisdiction.** Each Participating Manufacturer and each Settling State acknowledge that the Court: (1) has jurisdiction over the subject matter of the action identified in Exhibit D in such Settling State and over each Participating Manufacturer; (2) shall retain exclusive jurisdiction for the purposes of implementing and enforcing this Agreement and the Consent Decree as to such Settling State; and (3) except as provided in subsections IX(d), XI(c) and XVII(d) and Exhibit O, shall be the only court to which disputes under this Agreement or the Consent Decree are presented as to such Settling State. Provided, however, that notwithstanding the foregoing, the Escrow Court (as defined in the Escrow Agreement) shall have exclusive jurisdiction, as provided in section 15 of the Escrow Agreement, over any suit, action or proceeding seeking to interpret or enforce any provision of, or based on any right arising out of, the Escrow Agreement.

(b) **Enforcement of Consent Decree.** Except as expressly provided in the Consent Decree, any Settling State or Released Party may apply to the Court to enforce the terms of the Consent Decree (or for a declaration construing any such term) with respect to alleged violations within such Settling State. A Settling State may not seek to enforce the Consent Decree of another Settling State; provided, however, that nothing contained herein shall affect the ability of any Settling State to (1) coordinate state enforcement actions or proceedings, or (2) file or join any amicus brief. In the event that the Court determines that any Participating Manufacturer or Settling State has violated the Consent Decree within such Settling State, the party that initiated the proceedings may request any and all relief available within such Settling State pursuant to the Consent Decree.

(c) Enforcement of this Agreement.

(1) Except as provided in subsections IX(d), XI(c), XVII(d) and Exhibit O, any Settling State or Participating Manufacturer may bring an action in the Court to enforce the terms of this Agreement (or for a declaration construing any such term ("Declaratory Order")) with respect to disputes, alleged violations or alleged breaches within such Settling State.

(2) Before initiating such proceedings, a party shall provide 30 days' written notice to the Attorney General of each Settling State, to NAAG, and to each Participating Manufacturer of its intent to initiate proceedings pursuant to this subsection. The 30-day notice period may be shortened in the event that the relevant Attorney General reasonably determines that a compelling time-sensitive public health and safety concern requires more immediate action.

(3) In the event that the Court determines that any Participating Manufacturer or Settling State has violated or breached this Agreement, the party that initiated the proceedings may request an order restraining such violation or breach, and/or ordering compliance within such Settling State (an "Enforcement Order").

(4) If an issue arises as to whether a Participating Manufacturer has failed to comply with an Enforcement Order, the Attorney General for the Settling State in question may seek an order for interpretation or for monetary, civil contempt or criminal sanctions to enforce compliance with such Enforcement Order.

(5) If the Court finds that a good-faith dispute exists as to the meaning of the terms of this Agreement or a Declaratory Order, the Court may in its discretion determine to enter a Declaratory Order rather than an Enforcement Order.

(6) Whenever possible, the parties shall seek to resolve an alleged violation of this Agreement by discussion pursuant to subsection XVIII(m) of this Agreement. In addition, in determining whether to seek an Enforcement Order, or in determining whether to seek an order for monetary, civil contempt or criminal sanctions for any claimed violation of an Enforcement Order, the Attorney General shall give good-faith consideration to whether the Participating Manufacturer that is claimed to have violated this Agreement has taken appropriate and reasonable steps to cause the claimed violation to be cured, unless such party has been guilty of a pattern of violations of like nature.

(d) **Right of Review.** All orders and other judicial determinations made by any court in connection with this Agreement or any Consent Decree shall be subject to all available appellate review, and nothing in this Agreement or any Consent Decree shall be deemed to constitute a waiver of any right to any such review.

(e) **Applicability.** This Agreement and the Consent Decree apply only to the Participating Manufacturers in their corporate capacity acting through their respective successors and assigns, directors, officers, employees, agents, subsidiaries, divisions, or other internal organizational units of any kind or any other entities acting in concert or participation with them. The remedies, penalties and sanctions that may be imposed or assessed in connection with a breach or violation of this Agreement or the Consent Decree (or any Declaratory Order or Enforcement Order issued in connection with this Agreement or the Consent Decree) shall only apply to the Participating Manufacturers, and shall not be imposed or assessed against any employee, officer or director of any Participating Manufacturer, or against any other person or entity as a consequence of such breach or violation, and the Court shall have no jurisdiction to do so.

(f) **Coordination of Enforcement.** The Attorneys General of the Settling States (through NAAG) shall monitor potential conflicting interpretations by courts of different States of this Agreement and the Consent Decrees. The Settling States shall use their best efforts, in cooperation with the Participating Manufacturers, to coordinate and resolve the effects of such conflicting interpretations as to matters that are not exclusively local in nature.

(g) **Inspection and Discovery Rights.** Without limitation on whatever other rights to access they may be permitted by law, following State-Specific Finality in a Settling State and for seven years thereafter, representatives of the Attorney General of such Settling State may, for the purpose of enforcing this Agreement and the Consent Decree, upon reasonable cause to believe that a violation of this Agreement or the Consent Decree has occurred, and upon reasonable prior written notice (but in no event less than 10 Business Days): (1) have access during regular office hours to inspect and copy all relevant non-privileged, non-work-product books, records, meeting agenda and minutes, and other documents (whether in hard copy form or stored electronically) of each Participating Manufacturer insofar as they pertain to such believed violation; and (2) interview each Participating Manufacturer's directors, officers and employees (who shall be entitled to have counsel present) with respect to relevant, non-privileged, non-work-product matters pertaining to such believed violation. Documents and information provided to representatives of the Attorney General of such Settling State pursuant to this section VII shall be kept confidential by the Settling States, and shall be utilized only by the Settling States and only for purposes of enforcing this Agreement, the Consent Decree and the criminal law. The inspection and discovery rights provided to such Settling State pursuant to this subsection shall be coordinated through NAAG so as to avoid repetitive and excessive inspection and discovery.

VIII. CERTAIN ONGOING RESPONSIBILITIES OF THE SETTLING STATES

(a) Upon approval of the NAAG executive committee, NAAG will provide coordination and facilitation for the implementation and enforcement of this Agreement on behalf of the Attorneys General of the Settling States, including the following:

(1) NAAG will assist in coordinating the inspection and discovery activities referred to in subsections III(p)(3) and VII(g) regarding compliance with this Agreement by the Participating Manufacturers and any new tobacco-related trade associations.

(2) NAAG will convene at least two meetings per year and one major national conference every three years for the Attorneys General of the Settling States, the directors of the Foundation and three persons designated by each Participating Manufacturer. The purpose of the meetings and conference is to evaluate the success of this Agreement and coordinate efforts by the Attorneys General and the Participating Manufacturers to continue to reduce Youth smoking.

(3) NAAG will periodically inform NGA, NCSL, the National Association of Counties and the National League of Cities of the results of the meetings and conferences referred to in subsection (a)(2) above.

(4) NAAG will support and coordinate the efforts of the Attorneys General of the Settling States in carrying out their responsibilities under this Agreement.

(5) NAAG will perform the other functions specified for it in this Agreement, including the functions specified in section IV.

(b) Upon approval by the NAAG executive committee to assume the responsibilities outlined in subsection VIII(a) hereof, each Original Participating Manufacturer shall cause to be paid, beginning on December 31, 1998, and on December 31 of each year thereafter through and including December 31, 2007, its Relative Market Share of \$150,000 per year to the Escrow Agent (to be credited to the Subsection VIII(b) Account), who shall disburse such monies to NAAG within 10 Business Days, to fund the activities described in subsection VIII(a).

(c) The Attorneys General of the Settling States, acting through NAAG, shall establish a fund ("The States' Antitrust/Consumer Protection Tobacco Enforcement Fund") in the form attached as Exhibit J, which will be maintained by

such Attorneys General to supplement the Settling States' (1) enforcement and implementation of the terms of this Agreement and the Consent Decrees, and (2) investigation and litigation of potential violations of laws with respect to Tobacco Products, as set forth in Exhibit J. Each Original Participating Manufacturer shall on March 31, 1999, severally pay its Relative Market Share of \$50,000,000 to the Escrow Agent (to be credited to the Subsection VIII(c) Account), who shall disburse such monies to NAAG upon the occurrence of State-Specific Finality in at least one Settling State. Such funds will be used in accordance with the provisions of Exhibit J.

IX. PAYMENTS

(a) **All Payments Into Escrow.** All payments made pursuant to this Agreement (except those payments made pursuant to section XVII) shall be made into escrow pursuant to the Escrow Agreement, and shall be credited to the appropriate Account established pursuant to the Escrow Agreement. Such payments shall be disbursed to the beneficiaries or returned to the Participating Manufacturers only as provided in section XI and the Escrow Agreement. No payment obligation under this Agreement shall arise (1) unless and until the Escrow Court has approved and retained jurisdiction over the Escrow Agreement or (2) if such approval is reversed (unless and until such reversal is itself reversed). The parties agree to proceed as expeditiously as possible to resolve any issues that prevent approval of the Escrow Agreement. If any payment (other than the first initial payment under subsection IX(b)) is delayed because the Escrow Agreement has not been approved, such payment shall be due and payable (together with interest at the Prime Rate) within 10 Business Days after approval of the Escrow Agreement by the Escrow Court.

(b) **Initial Payments.** On the second Business Day after the Escrow Court approves and retains jurisdiction over the Escrow Agreement, each Original Participating Manufacturer shall severally pay to the Escrow Agent (to be credited to the Subsection IX(b) Account (First)) its Market Capitalization Percentage (as set forth in Exhibit K) of the base amount of \$2,400,000,000. On January 10, 2000, each Original Participating Manufacturer shall severally pay to the Escrow Agent its Relative Market Share of the base amount of \$2,472,000,000. On January 10, 2001, each Original Participating Manufacturer shall severally pay to the Escrow Agent its Relative Market Share of the base amount of \$2,546,160,000. On January 10, 2002, each Original Participating Manufacturer shall severally pay to the Escrow Agent its Relative Market Share of the base amount of \$2,622,544,800. On January 10, 2003, each Original Participating Manufacturer shall severally pay to the Escrow Agent its Relative Market Share of the base amount of \$2,701,221,144. The payments pursuant to this subsection (b) due on or after January 10, 2000 shall be credited to the Subsection IX(b) Account (Subsequent). The foregoing payments shall be modified in accordance with this subsection (b). The payments made by the Original Participating Manufacturers pursuant to this subsection (b) (other than the first such payment) shall be subject to the Volume Adjustment, the Non-Settling States' Reduction and the offset for miscalculated or disputed payments described in subsection XI(f). The first payment due under this subsection (b) shall be subject to the Non-Settling States' Reduction, but such reduction shall be determined as of the date one day before such payment is due (rather than the date 15 days before).

(c) **Annual Payments and Strategic Contribution Payments.**

(1) On April 15, 2000 and on April 15 of each year thereafter, in perpetuity, each Original Participating Manufacturer shall severally pay to the Escrow Agent (to be credited to the Subsection IX(c)(1) Account) its Relative Market Share of the base amounts specified below, as such payments are modified in accordance with this subsection (c)(1):

Year	Base Amount
2000	\$4,500,000,000
2001	\$5,000,000,000
2002	\$6,500,000,000
2003	\$6,500,000,000
2004	\$8,000,000,000
2005	\$8,000,000,000
2006	\$8,000,000,000
2007	\$8,000,000,000
2008	\$8,139,000,000
2009	\$8,139,000,000
2010	\$8,139,000,000
2011	\$8,139,000,000
2012	\$8,139,000,000
2013	\$8,139,000,000
2014	\$8,139,000,000
2015	\$8,139,000,000
2016	\$8,139,000,000
2017	\$8,139,000,000
2018 and each year thereafter	\$9,000,000,000

The payments made by the Original Participating Manufacturers pursuant to this subsection (c)(1) shall be subject to the Inflation Adjustment, the Volume Adjustment, the Previously Settled States' Reduction, the Non-Settling States' Reduction, the NPM Adjustment, the offset for miscalculated or disputed payments described in subsection XI(f), the Federal

Tobacco Legislation Offset, the Litigating Releasing Parties Offset, and the offsets for claims over described in subsections XII(a)(4)(B) and XII(a)(8).

(2) On April 15, 2008 and on April 15 of each year thereafter through 2017, each Original Participating Manufacturer shall severally pay to the Escrow Agent (to be credited to the Subsection IX(c)(2) Account) its Relative Market Share of the base amount of \$861,000,000, as such payments are modified in accordance with this subsection (c)(2). The payments made by the Original Participating Manufacturers pursuant to this subsection (c)(2) shall be subject to the Inflation Adjustment, the Volume Adjustment, the NPM Adjustment, the offset for miscalculated or disputed payments described in subsection XI(f), the Federal Tobacco Legislation Offset, the Litigating Releasing Parties Offset, and the offsets for claims over described in subsections XII(a)(4)(B) and XII(a)(8). Such payments shall also be subject to the Non-Settling States' Reduction; provided, however, that for purposes of payments due pursuant to this subsection (c)(2) (and corresponding payments by Subsequent Participating Manufacturers under subsection IX(f)), the Non-Settling States' Reduction shall be derived as follows: (A) the payments made by the Original Participating Manufacturers pursuant to this subsection (c)(2) shall be allocated among the Settling States on a percentage basis to be determined by the Settling States pursuant to the procedures set forth in Exhibit U, and the resulting allocation percentages disclosed to the Escrow Agent, the Independent Auditor and the Original Participating Manufacturers not later than June 30, 1999; and (B) the Non-Settling States' Reduction shall be based on the sum of the Allocable Shares so established pursuant to subsection (c)(2)(A) for those States that were Settling States as of the MSA Execution Date and as to which this Agreement has terminated as of the date 15 days before the payment in question is due.

(d) **Non-Participating Manufacturer Adjustment.**

(1) Calculation of NPM Adjustment for Original Participating Manufacturers. To protect the public health gains achieved by this Agreement, certain payments made pursuant to this Agreement shall be subject to an NPM Adjustment. Payments by the Original Participating Manufacturers to which the NPM Adjustment applies shall be adjusted as provided below:

(A) Subject to the provisions of subsections (d)(1)(C), (d)(1)(D) and (d)(2) below, each Allocated Payment shall be adjusted by subtracting from such Allocated Payment the product of such Allocated Payment amount multiplied by the NPM Adjustment Percentage. The "NPM Adjustment Percentage" shall be calculated as follows:

- (i) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is less than or equal to 0 (zero), then the NPM Adjustment Percentage shall equal zero.
- (ii) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is greater than 0 (zero) and less than or equal to 16.23 percentage points, then the NPM Adjustment Percentage shall be equal to the product of (x) such Market Share Loss and (y) 3 (three).
- (iii) If the Market Share Loss for the year immediately preceding the year in which the payment in question is due is greater than 16.23 percentage points, then the NPM Adjustment Percentage shall be equal to the sum of (x) 50 percentage points and (y) the product of (1) the Variable Multiplier and (2) the result of such Market Share Loss minus 16.23 percentage points.

(B) Definitions:

- (i) "Base Aggregate Participating Manufacturer Market Share" means the result of (x) the sum of the applicable Market Shares (the applicable Market Share to be that for 1997) of all present and former Tobacco Product Manufacturers that were Participating Manufacturers during the entire calendar year immediately preceding the year in which the payment in question is due minus (y) 2 (two) percentage points.
- (ii) "Actual Aggregate Participating Manufacturer Market Share" means the sum of the applicable Market Shares of all present and former Tobacco Product Manufacturers that were Participating Manufacturers during the entire calendar year immediately preceding the year in which the payment in question is due (the applicable Market Share to be that for the calendar year immediately preceding the year in which the payment in question is due).
- (iii) "Market Share Loss" means the result of (x) the Base Aggregate Participating Manufacturer Market Share minus (y) the Actual Aggregate Participating Manufacturer Market Share.
- (iv) "Variable Multiplier" equals 50 percentage points divided by the result of (x) the Base Aggregate Participating Manufacturer Market Share minus (y) 16.23 percentage points.

(C) On or before February 2 of each year following a year in which there was a Market Share Loss greater than zero, a nationally recognized firm of economic consultants (the "Firm") shall determine whether the disadvantages experienced as a result of the provisions of this Agreement were a significant factor contributing to the Market Share Loss for the year in question. If the Firm determines that the disadvantages experienced as a result of the provisions of this Agreement were a significant factor contributing to the Market Share Loss for the year in question, the NPM Adjustment described in subsection IX(d)(1) shall not apply. The Original Participating Manufacturers, the Settling States, and the Attorneys General for the Settling States shall cooperate to ensure that the determination described in this subsection (1)(C) is timely made. The Firm shall be acceptable to (and the principals responsible for this assignment shall be acceptable to) both the Original Participating Manufacturers and a majority of those Attorneys General who are both the

Attorney General of a Settling State and a member of the NAAAG executive committee at the time in question (or in the event no such firm or no such principals shall be acceptable to such parties, National Economic Research Associates, Inc., or its successors by merger, acquisition or otherwise ("NERA"), acting through a principal or principals acceptable to such parties, if such a person can be identified and, if not, acting through a principal or principals identified by NERA, or a successor firm selected by the CFR Institute for Dispute Resolution). As soon as practicable after the MSA Execution Date, the Firm shall be jointly retained by the Settling States and the Original Participating Manufacturers for the purpose of making the foregoing determination, and the Firm shall provide written notice to each Settling State, to NAAAG, to the Independent Auditor and to each Participating Manufacturer of such determination. The determination of the Firm with respect to this issue shall be conclusive and binding upon all parties, and shall be final and non-appealable. The reasonable fees and expenses of the Firm shall be paid by the Original Participating Manufacturers according to their Relative Market Shares. Only the Participating Manufacturers and the Settling States, and their respective counsel, shall be entitled to communicate with the Firm with respect to the Firm's activities pursuant to this subsection (1)(C).

(D) No NPM Adjustment shall be made with respect to a payment if the aggregate number of Cigarettes shipped in or to the fifty United States, the District of Columbia and Puerto Rico in the year immediately preceding the year in which the payment in question is due by those Participating Manufacturers that had become Participating Manufacturers prior to 14 days after the MSA Execution Date is greater than the aggregate number of Cigarettes shipped in or to the fifty United States, the District of Columbia, and Puerto Rico in 1997 by such Participating Manufacturers (and any of their Affiliates that made such shipments in 1997, as demonstrated by certified audited statements of such Affiliates' shipments, and that do not continue to make such shipments after the MSA Execution Date because the responsibility for such shipments has been transferred to one of such Participating Manufacturers). Measurements of shipments for purposes of this subsection (D) shall be made in the manner prescribed in subsection II(mm); in the event that such shipment data is unavailable for any Participating Manufacturer for 1997, such Participating Manufacturer's shipment volume for such year shall be measured in the manner prescribed in subsection II(z).

(2) Allocation among Settling States of NPM Adjustment for Original Participating Manufacturers.

(A) The NPM Adjustment set forth in subsection (d)(1) shall apply to the Allocated Payments of all Settling States, except as set forth below.

(B) A Settling State's Allocated Payment shall not be subject to an NPM Adjustment: (i) if such Settling State continuously had a Qualifying Statute (as defined in subsection (2)(E) below) in full force and effect during the entire calendar year immediately preceding the year in which the payment in question is due, and diligently enforced the provisions of such statute during such entire calendar year; or (ii) if such Settling State enacted the Model Statute (as defined in subsection (2)(E) below) for the first time during the calendar year immediately preceding the year in which the payment in question is due, continuously had the Model Statute in full force and effect during the last six months of such calendar year, and diligently enforced the provisions of such statute during the period in which it was in full force and effect.

(C) The aggregate amount of the NPM Adjustments that would have applied to the Allocated Payments of those Settling States that are not subject to an NPM Adjustment pursuant to subsection (2)(B) shall be reallocated among all other Settling States pro rata in proportion to their respective Allocable Shares (the applicable Allocable Shares being those listed in Exhibit A), and such other Settling States' Allocated Payments shall be further reduced accordingly.

(D) This subsection (2)(D) shall apply if the amount of the NPM Adjustment applied pursuant to subsection (2)(A) to any Settling State plus the amount of the NPM Adjustments reallocated to such Settling State pursuant to subsection (2)(C) in any individual year would either (i) exceed such Settling State's Allocated Payment in that year, or (ii) if subsection (2)(F) applies to the Settling State in question, exceed 65% of such Settling State's Allocated Payment in that year. For each Settling State that has an excess as described in the preceding sentence, the excess amount of NPM Adjustment shall be further reallocated among all other Settling States whose Allocated Payments are subject to an NPM Adjustment and that do not have such an excess, pro rata in proportion to their respective Allocable Shares, and such other Settling States' Allocated Payments shall be further reduced accordingly. The provisions of this subsection (2)(D) shall be repeatedly applied in any individual year until either (i) the aggregate amount of NPM Adjustments has been fully reallocated or (ii) the full amount of the NPM Adjustments subject to reallocation under subsection (2)(C) or (2)(D) cannot be fully reallocated in any individual year as described in those subsections because (x) the Allocated Payment in that year of each Settling State that is subject to an NPM Adjustment and to which subsection (2)(F) does not apply has been reduced to zero, and (y) the Allocated Payment in that year of each Settling State to which subsection (2)(F) applies has been reduced to 35% of such Allocated Payment.

(E) A "Qualifying Statute" means a Settling State's statute, regulation, law and/or rule (applicable everywhere the Settling State has authority to legislate) that effectively and fully neutralizes the cost disadvantages that Participating Manufacturers experience vis-à-vis Non-Participating Manufacturers within such Settling State as a result of the provisions of this Agreement. Each Participating Manufacturer and each Settling State agree that the model statute in the form set forth in Exhibit T (the "Model Statute"), if enacted without modification or addition (except for particularized state procedural or technical requirements) and not in conjunction with any other legislative or regulatory proposal, shall constitute a Qualifying Statute. Each Participating Manufacturer agrees to support the enactment of such Model Statute if such Model

Statute is introduced or proposed (i) without modification or addition (except for particularized procedural or technical requirements), and (ii) not in conjunction with any other legislative proposal.

(F) If a Settling State (i) enacts the Model Statute without any modification or addition (except for particularized state procedural or technical requirements) and not in conjunction with any other legislative or regulatory proposal, (ii) uses its best efforts to keep the Model Statute in full force and effect by, among other things, defending the Model Statute fully in any litigation brought in state or federal court within such Settling State (including litigating all available appeals that may affect the effectiveness of the Model Statute), and (iii) otherwise complies with subsection (2)(B), but a court of competent jurisdiction nevertheless invalidates or renders unenforceable the Model Statute with respect to such Settling State, and but for such ruling the Settling State would have been exempt from an NPM Adjustment under subsection (2)(B), then the NPM Adjustment (including reallocations pursuant to subsections (2)(C) and (2)(D)) shall still apply to such Settling State's Allocated Payments but in any individual year shall not exceed 65% of the amount of such Allocated Payments.

(G) In the event a Settling State proposes and/or enacts a statute, regulation, law and/or rule (applicable everywhere the Settling State has authority to legislate) that is not the Model Statute and asserts that such statute, regulation, law and/or rule is a Qualifying Statute, the Firm shall be jointly retained by the Settling States and the Original Participating Manufacturers for the purpose of determining whether or not such statute, regulation, law and/or rule constitutes a Qualifying Statute. The Firm shall make the foregoing determination within 90 days of a written request to it from the relevant Settling State (copies of which request the Settling State shall also provide to all Participating Manufacturers and the Independent Auditor), and the Firm shall promptly thereafter provide written notice of such determination to the relevant Settling State, NAAAG, all Participating Manufacturers and the Independent Auditor. The determination of the Firm with respect to this issue shall be conclusive and binding upon all parties, and shall be final and non-appealable; provided, however, (i) that such determination shall be of no force and effect with respect to a proposed statute, regulation, law and/or rule that is thereafter enacted with any modification or addition; and (ii) that the Settling State in which the Qualifying Statute was enacted and any Participating Manufacturer may at any time request that the Firm reconsider its determination as to this issue in light of subsequent events (including, without limitation, subsequent judicial review, interpretation, modification and/or disapproval of a Settling State's Qualifying Statute, and the manner and/or the effect of enforcement of such Qualifying Statute). The Original Participating Manufacturers shall severally pay their Relative Market Shares of the reasonable fees and expenses of the Firm. Only the Participating Manufacturers and Settling States, and their respective counsel, shall be entitled to communicate with the Firm with respect to the Firm's activities pursuant to this subsection (2)(G).

(H) Except as provided in subsection (2)(F), in the event a Qualifying Statute is enacted within a Settling State and is thereafter invalidated or declared unenforceable by a court of competent jurisdiction, otherwise rendered not in full force and effect, or upon reconsideration by the Firm pursuant to subsection (2)(G) determined not to constitute a Qualifying Statute, then such Settling State's Allocated Payments shall be fully subject to an NPM Adjustment unless and until the requirements of subsection (2)(B) have been once again satisfied.

(3) Allocation of NPM Adjustment among Original Participating Manufacturers. The portion of the total amount of the NPM Adjustment to which the Original Participating Manufacturers are entitled in any year that can be applied in such year consistent with subsection IX(d)(2) (the "Available NPM Adjustment") shall be allocated among them as provided in this subsection IX(d)(3).

(A) The "Base NPM Adjustment" shall be determined for each Original Participating Manufacturer in such year as follows:

(i) For those Original Participating Manufacturers whose Relative Market Shares in the year immediately preceding the year in which the NPM Adjustment in question is applied exceed or are equal to their respective 1997 Relative Market Shares, the Base NPM Adjustment shall equal 0 (zero).

(ii) For those Original Participating Manufacturers whose Relative Market Shares in the year immediately preceding the year in which the NPM Adjustment in question is applied are less than their respective 1997 Relative Market Shares, the Base NPM Adjustment shall equal the result of (x) the difference between such Original Participating Manufacturer's Relative Market Share in such preceding year and its 1997 Relative Market Share multiplied by both (y) the number of individual Cigarettes (expressed in thousands of units) shipped in or to the United States, the District of Columbia and Puerto Rico by all the Original Participating Manufacturers in such preceding year (determined in accordance with subsection II(mm)) and (z) \$20 per each thousand units of Cigarettes (as this number is adjusted pursuant to subsection IX(d)(3)(C) below).

(iii) For those Original Participating Manufacturers whose Base NPM Adjustment, if calculated pursuant to subsection (ii) above, would exceed \$300 million (as this number is adjusted pursuant to subsection IX(d)(3)(C) below), the Base NPM Adjustment shall equal \$300 million (or such adjusted number, as provided in subsection IX(d)(3)(C) below).

(B) The share of the Available NPM Adjustment each Original Participating Manufacturer is entitled to shall be calculated as follows:

(i) If the Available NPM Adjustment the Original Participating Manufacturers are entitled to in any year is less than or equal to the sum of the Base NPM Adjustments of all Original Participating

Manufacturers in such year, then such Available NPM Adjustment shall be allocated among those Original Participating Manufacturers whose Base NPM Adjustment is not equal to 0 (zero) pro rata in proportion to their respective Base NPM Adjustments.

(ii) If the Available NPM Adjustment the Original Participating Manufacturers are entitled to in any year exceeds the sum of the Base NPM Adjustments of all Original Participating Manufacturers in such year, then (x) the difference between such Available NPM Adjustment and such sum of the Base NPM Adjustments shall be allocated among the Original Participating Manufacturers pro rata in proportion to their Relative Market Shares (the applicable Relative Market Shares to be those in the year immediately preceding such year), and (y) each Original Participating Manufacturer's share of such Available NPM Adjustment shall equal the sum of (1) its Base NPM Adjustment for such year, and (2) the amount allocated to such Original Participating Manufacturer pursuant to clause (x).

(iii) If an Original Participating Manufacturer's share of the Available NPM Adjustment calculated pursuant to subsection IX(d)(3)(B)(i) or IX(d)(3)(B)(ii) exceeds such Original Participating Manufacturer's payment amount to which such NPM Adjustment applies (as such payment amount has been determined pursuant to step B of clause "Seventh" of subsection IX(f)), then (1) such Original Participating Manufacturer's share of the Available NPM Adjustment shall equal such payment amount, and (2) such excess shall be reallocated among the other Original Participating Manufacturers pro rata in proportion to their Relative Market Shares.

(C) Adjustments:

(i) For calculations made pursuant to this subsection IX(d)(3) (if any) with respect to payments due in the year 2000, the number used in subsection IX(d)(3)(A)(ii)(z) shall be \$20 and the number used in subsection IX(d)(3)(A)(iii) shall be \$300 million. Each year thereafter, both these numbers shall be adjusted upward or downward by multiplying each of them by the quotient produced by dividing (x) the average revenue per Cigarette of all the Original Participating Manufacturers in the year immediately preceding such year, by (y) the average revenue per Cigarette of all the Original Participating Manufacturers in the year immediately preceding such year.

(ii) For purposes of this subsection, the average revenue per Cigarette of all the Original Participating Manufacturers in any year shall equal (x) the aggregate revenues of all the Original Participating Manufacturers from sales of Cigarettes in the fifty United States, the District of Columbia and Puerto Rico after Federal excise taxes and after payments pursuant to this Agreement and the tobacco litigation Settlement Agreements with the States of Florida, Mississippi, Minnesota and Texas (as such revenues are reported to the United States Securities and Exchange Commission ("SECC")) for such year (either independently by the Original Participating Manufacturer or as part of consolidated financial statements reported to the SEC by an Affiliate of the Original Participating Manufacturers) or, in the case of an Original Participating Manufacturer that does not report income to the SEC, as reported in financial statements prepared in accordance with United States generally accepted accounting principles and audited by a nationally recognized accounting firm, divided by (y) the aggregate number of the individual Cigarettes shipped in or to the United States, the District of Columbia and Puerto Rico by all the Original Participating Manufacturers in such year (determined in accordance with subsection II(mm)).

(D) In the event that in the year immediately preceding the year in which the NPM Adjustment in question is applied both (x) the Relative Market Share of Lorillard Tobacco Company (or of its successor ("Lorillard")) was less than or equal to 20,000,000%, and (y) the number of individual Cigarettes shipped in or to the United States, the District of Columbia and Puerto Rico by Lorillard (determined in accordance with subsection II(mm)) (for purposes of this subsection (D), "Volume") was less than or equal to 70 billion, Lorillard's and Philip Morris Incorporated's (or its successor's) ("Philip Morris") shares of the Available NPM Adjustment calculated pursuant to subsections (3)(A)-(C) above shall be further reallocated between Lorillard and Philip Morris as follows (this subsection (3)(D) shall not apply in the year in which either of the two conditions specified in this sentence is not satisfied):

(i) Notwithstanding subsections (A)-(C) of this subsection (d)(3), but subject to further adjustment pursuant to subsections (D)(ii) and (D)(iii) below, Lorillard's share of the Available NPM Adjustment shall equal its Relative Market Share of such Available NPM Adjustment (the applicable Relative Market Share to be that in the year immediately preceding the year in which such NPM Adjustment is applied). The dollar amount of the difference between the share of the Available NPM Adjustment Lorillard is entitled to pursuant to the preceding sentence and the share of the Available NPM Adjustment it would be entitled to in the same year pursuant to subsections (d)(3)(A)-(C) shall be reallocated to Philip Morris and used to decrease or increase, as the case may be, Philip Morris's share of the Available NPM Adjustment in such year calculated pursuant to subsections (d)(3)(A)-(C).

(ii) In the event that in the year immediately preceding the year in which the NPM Adjustment in question is applied either (x) Lorillard's Relative Market Share was greater than 15,000,000% (but did not exceed 20,000,000%), or (y) Lorillard's Volume was greater than 50 billion (but did not exceed 70 billion), or both, Lorillard's share of the Available NPM Adjustment calculated pursuant to subsection (d)(3)(D)(i) shall be reduced by a percentage equal to the greater of (1) 10,000,000% for each percentage point (or fraction thereof) of excess of such Relative Market Share over 15,000,000% (if any), or (2) 2,500,000% for each billion (or fraction thereof) of excess of such Volume over 50 billion (if any). The dollar amount by which Lorillard's share of the Available NPM Adjustment is reduced in any year pursuant to this subsection (D)(ii) shall be reallocated to Philip Morris and used to increase Philip Morris's share of the Available NPM Adjustment in such year.

In the event that in any year a reallocation of the shares of the Available NPM Adjustment between Lorillard and Philip Morris pursuant to this subsection (d)(3)(D) results in Philip Morris's share of the Available NPM Adjustment in such year exceeding the greater of (x) Philip Morris's Relative Market Share of such Available NPM Adjustment (the applicable Relative Market Share to be that in the year immediately preceding such year), or (y) Philip Morris's share of the Available NPM Adjustment in such year calculated pursuant to subsections (d)(3)(A)-(C), Philip Morris's share of the Available NPM Adjustment in such year shall be reduced to equal the greater of (x) or (y) above. In such instance, the dollar amount by which Philip Morris's share of the Available NPM Adjustment is reduced pursuant to the preceding sentence shall be reallocated to Lorillard and used to increase Lorillard's share of the Available NPM Adjustment in such year.

(iv) In the event that either Philip Morris or Lorillard is treated as a Non-Participating Manufacturer for purposes of this subsection IX(d)(3) pursuant to subsection XVIII(w)(2)(A), this subsection (3)(D) shall not be applied, and the Original Participating Manufacturers' shares of the Available NPM Adjustment shall be determined solely as described in subsections (3)(A)-(C).

(4) NPM Adjustment for Subsequent Participating Manufacturers: Subject to the provisions of subsection IX(f)(3), a Subsequent Participating Manufacturer shall be entitled to an NPM Adjustment with respect to payments due from such Subsequent Participating Manufacturer in any year during which an NPM Adjustment is applicable under subsection (d)(1) above to payments due from the Original Participating Manufacturers. The amount of such NPM Adjustment shall equal the product of (A) the NPM Adjustment Percentage for such year multiplied by (B) the sum of the payments due in the year in question from such Subsequent Participating Manufacturer that correspond to payments due from Original Participating Manufacturers pursuant to subsection IX(c) (as such payment amounts due from such Subsequent Participating Manufacturer have been adjusted and allocated pursuant to clauses "First" through "Fifth" of subsection IX(f)). The NPM Adjustment to payments by each Subsequent Participating Manufacturer shall be allocated and reallocated among the Settling States in a manner consistent with subsection (d)(2) above.

(e) Supplemental Payments: Beginning on April 15, 2004, and on April 15 of each year thereafter in perpetuity, in the event that the sum of the Market Shares of the Participating Manufacturers that were Participating Manufacturers during the entire calendar year immediately preceding the year in which the payment in question would be due (the applicable Market Share to be that for the calendar year immediately preceding the year in which the payment in question would be due) equals or exceeds 99.0500000%, each Original Participating Manufacturer shall severally pay to the Escrow Agent (to be credited to the Subsection IX(g) Account) for the benefit of the Foundation its Relative Market Share of the base amount of \$300,000,000, as such payments are modified in accordance with this subsection (e). Such payments shall be utilized by the Foundation to fund the national public education functions of the Foundation described in subsection VI(f)(1), in the manner described in and subject to the provisions of subsections VI(g) and VI(h). The payments made by the Original Participating Manufacturers pursuant to this subsection shall be subject to the Inflation Adjustment, the Volume Adjustment, the Non-Settling States Reduction, and the offset for miscalculated or disputed payments described in subsection XI(f).

(f) Payment Responsibility: The payment obligations of each Participating Manufacturer pursuant to this Agreement shall be the several responsibility only of that Participating Manufacturer. The payment obligations of a Participating Manufacturer shall not be the obligation or responsibility of any Affiliate of such Participating Manufacturer. The payment obligations of a Participating Manufacturer shall not be the obligation or responsibility of any other Participating Manufacturer. Provided, however, that no provision of this Agreement shall waive or excuse liability under any state or federal fraudulent conveyance or fraudulent transfer law. Any Participating Manufacturer whose Market Share (or Relative Market Share) in any given year equals zero shall have no payment obligations under this Agreement in the succeeding year.

(g) Corporate Structures: Due to the particular corporate structures of R.J. Reynolds Tobacco Company ("Reynolds") and Brown & Williamson Tobacco Corporation ("B&W") with respect to their non-domestic tobacco operations, Reynolds and B&W shall be severally liable for their respective shares of each payment due pursuant to this Agreement up to (and their liability hereunder shall not exceed) the full extent of their assets used in and earnings derived from, the manufacture and/or sale in the States of Tobacco Products intended for domestic consumption, and no recourse shall be had against any of their other assets or earnings to satisfy such obligations.

(h) Accrual of Interest: Except as expressly provided otherwise in this Agreement, any payment due hereunder and not paid when due (or payments requiring the accrual of interest under subsection XI(d)) shall accrue interest from and including the date such payment is due until (but not including) the date paid at the Prime Rate plus three percentage points.

(i) Payments by Subsequent Participating Manufacturers:

(1) A Subsequent Participating Manufacturer shall have payment obligations under this Agreement only in the event that its Market Share in any calendar year exceeds the greater of (1) its 1998 Market Share or (2) 125 percent of its 1997 Market Share (subject to the provisions of subsection (i)(4)). In the year following any such calendar year, such Subsequent Participating Manufacturer shall make payments corresponding to those due in that same following year from the Original Participating Manufacturers pursuant to subsections VI(c) (except for the payment due on March 31, 1999), IX(c)(1), IX(c)(2) and IX(e). The amounts of such corresponding payments by a Subsequent Participating Manufacturer are in addition to the corresponding payments that are due from the Original Participating Manufacturers and shall be determined as described in subsections (2) and (3) below. Such payments by a Subsequent Participating Manufacturer shall (A) be due on the same dates as the corresponding payments are due from Original Participating Manufacturers; (B) be for the same

purpose as such corresponding payments; and (C) be paid, allocated and distributed in the same manner as such corresponding payments.

(2) The base amount due from a Subsequent Participating Manufacturer on any given date shall be determined by multiplying (A) the corresponding base amount due on the same date from all of the Original Participating Manufacturers (as such base amount is specified in the corresponding subsection of this Agreement and is adjusted by the Volume Adjustment (except for the provisions of subsection (B)(ii) of Exhibit E), but before such base amount is modified by any other adjustments, reductions or offsets) by (B) the quotient produced by dividing (i) the result of (X) such Subsequent Participating Manufacturer's applicable Market Share (the applicable Market Share being that for the calendar year immediately preceding the year in which the payment in question is due) minus (y) the greater of (1) its 1998 Market Share or (2) 125 percent of its 1997 Market Share, by (ii) the aggregate Market Shares of the Original Participating Manufacturers (the applicable Market Shares being those for the calendar year immediately preceding the year in which the payment in question is due).

(3) Any payment due from a Subsequent Participating Manufacturer under subsections (1) and (2) above shall be subject (up to the full amount of such payment) to the Inflation Adjustment, the Non-Settling States Reduction, the NPM Adjustment, the offset for miscalculated or disputed payments described in subsection XI(f), the Federal Tobacco Legislation Offset, the Litigating Releasing Parties Offset and the offsets for claims over described in subsections XII(a)(4)(B) and XII(a)(8), to the extent that such adjustments, reductions or offsets would apply to the corresponding payment due from the Original Participating Manufacturers. Provided, however, that all adjustments and offsets to which a Subsequent Participating Manufacturer is entitled may only be applied against payments by such Subsequent Participating Manufacturer, if any, that are due within 12 months after the date on which the Subsequent Participating Manufacturer becomes entitled to such adjustment or makes the payment that entitles it to such offset, and shall not be carried forward beyond that time even if not fully used.

(4) For purposes of this subsection (i), the 1997 (or 1998, as applicable) Market Share (and 125 percent thereof) of those Subsequent Participating Manufacturers that either (A) became a signatory to this Agreement more than 60 days after the MSA Execution Date or (B) had no Market Share in 1997 (or 1998, as applicable), shall equal zero.

(i) Order of Application of Allocations, Offsets, Reductions and Adjustments. The payments due under this Agreement shall be calculated as set forth below. The "base amount" referred to in clause "First" below shall mean (1) in the case of payments due from Original Participating Manufacturers, the base amount referred to in the subsection establishing the payment obligation in question; and (2) in the case of payments due from a Subsequent Participating Manufacturer, the base amount referred to in subsection (i)(2) for such Subsequent Participating Manufacturer. In the event that a particular adjustment, reduction or offset referred to in a clause below does not apply to the payment being calculated, the result of the clause in question shall be deemed to be equal to the result of the immediately preceding clause. (If clause "First" is inapplicable, the result of clause "First" will be the base amount of the payment in question prior to any offsets, reductions or adjustments.)

First: the Inflation Adjustment shall be applied to the base amount of the payment being calculated;

Second: the Volume Adjustment (other than the provisions of subsection (B)(iii) of Exhibit E) shall be applied to the result of clause "First";

Third: the result of clause "Second" shall be reduced by the Previously Settled States Reduction;

Fourth: the result of clause "Third" shall be reduced by the Non-Settling States Reduction;

Fifth: in the case of payments due under subsections IX(c)(1) and IX(c)(2), the results of clause "Fourth" for each such payment due in the calendar year in question shall be apportioned among the Settling States pro rata in proportion to their respective Allocable Shares, and the resulting amounts for each particular Settling State shall then be added together to form such Settling State's Allocated Payment. In the case of payments due under subsection IX(i) that correspond to payments due under subsections IX(c)(1) or IX(c)(2), the results of clause "Fourth" for all such payments due from a particular Subsequent Participating Manufacturer in the calendar year in question shall be apportioned among the Settling States pro rata in proportion to their respective Allocable Shares, and the resulting amounts for each particular Settling State shall then be added together. (In the case of all other payments made pursuant to this Agreement, this clause "Fifth" is inapplicable.);

Sixth: the NPM Adjustment shall be applied to the results of clause "Fifth" pursuant to subsections IX(d)(1) and IX(d)(2) (or, in the case of payments due from the Subsequent Participating Manufacturers, pursuant to subsection IX(d)(4));

Seventh: in the case of payments due from the Original Participating Manufacturers to which clause "Fifth" (and therefore clause "Sixth") does not apply, the result of clause "Fourth" shall be allocated among the Original Participating Manufacturers according to their Relative Market Shares. In the case of payments due from the Original Participating Manufacturers to which clause "Fifth" applies: (A) the Allocated Payments of all Settling States determined pursuant to clause "Fifth" (prior to reduction pursuant to clause "Sixth") shall be added together; (B) the resulting sum shall be allocated among the Original Participating Manufacturers according to their Relative Market Shares and subsection (B)(iii) of Exhibit E hereto (if such subsection is applicable); (C) the Available NPM Adjustment (as determined pursuant to clause "Sixth") shall be allocated among the Original Participating Manufacturers pursuant to subsection IX(d)(3); (D) the respective result of step (C) above for each Original Participating Manufacturer shall be subtracted from the respective result of step (B) above

for such Original Participating Manufacturer; and (E) the resulting payment amount due from each Original Participating Manufacturer shall then be allocated among the Settling States in proportion to the respective results of clause "Sixth" for each Settling State. The offsets described in clauses "Eighth" through "Twelfth" shall then be applied separately against each Original Participating Manufacturer's resulting payment shares (on a Settling State by Settling State basis) according to each Original Participating Manufacturer's separate entitlement to such offsets, if any, in the calendar year in question. (In the case of payments due from Subsequent Participating Manufacturers, this clause "Seventh" is inapplicable.)

Eighth: the offset for miscalculated or disputed payments described in subsection XI(f) (and any carry-forwards arising from such offset) shall be applied to the results of clause "Seventh" (in the case of payments due from the Original Participating Manufacturers) or to the results of clause "Sixth" (in the case of payments due from Subsequent Participating Manufacturers);

Ninth: the Federal Tobacco Legislation Offset (including any carry-forwards arising from such offset) shall be applied to the results of clause "Eighth";

Tenth: the Litigating Releasing Parties Offset (including any carry-forwards arising from such offset) shall be applied to the results of clause "Ninth";

Eleventh: the offset for claims over pursuant to subsection XII(a)(4)(B) (including any carry-forwards arising from such offset) shall be applied to the results of clause "Tenth";

Twelfth: the offset for claims over pursuant to subsection XII(a)(8) (including any carry-forwards arising from such offset) shall be applied to the results of clause "Eleventh"; and

Thirteenth: in the case of payments to which clause "Fifth" applies, the Settling States' allocated shares of the payments due from each Participating Manufacturer (as such shares have been determined in step (E) of clause "Seventh" in the case of payments from the Original Participating Manufacturers or in clause "Sixth" in the case of payments from the Subsequent Participating Manufacturers, and have been reduced by clauses "Eighth" through "Twelfth") shall be added together to state the aggregate payment obligation of each Participating Manufacturer with respect to the payments in question. (In the case of a payment to which clause "Fifth" does not apply, the aggregate payment obligation of each Participating Manufacturer with respect to the payment in question shall be stated by the results of clause "Eighth.")

X. EFFECT OF FEDERAL TOBACCO-RELATED LEGISLATION

(a) If federal tobacco-related legislation is enacted after the MSA Execution Date and on or before November 30, 2002, and if such legislation provides for payment(s) by any Original Participating Manufacturer (whether by settlement payment, tax or any other means), all or part of which are actually made available to a Settling State ("Federal Funds"), each Original Participating Manufacturer shall receive a continuing dollar-for-dollar offset for any and all amounts that are paid by such Original Participating Manufacturer pursuant to such legislation and actually made available to such Settling State (except as described in subsections (b) and (c) below). Such offset shall be applied against the applicable Original Participating Manufacturer's share (determined as described in step E of clause "Seventh" of subsection IX(i)) of such Settling State's Allocated Payment, up to the full amount of such Original Participating Manufacturer's share of such Allocated Payment (as such share had been reduced by adjustment, if any, pursuant to the NPM Adjustment and has been reduced by offset, if any, pursuant to the offset for miscalculated or disputed payments). Such offset shall be made against such Original Participating Manufacturer's share of the first Allocated Payment due after such Federal Funds are first available for receipt by such Settling State. In the event that such offset would in any given year exceed such Original Participating Manufacturer's share of such Allocated Payment: (1) the offset to which such Original Participating Manufacturer is entitled under this section in such year shall be the full amount of such Original Participating Manufacturer's share of such Allocated Payment, and (2) all amounts not offset by reason of subsection (1) shall carry forward and be offset in the following year(s) until all such amounts have been offset.

(b) The offset described in subsection (a) shall apply only to that portion of Federal Funds, if any, that are either unrestricted as to their use, or restricted to any form of health care or to any use related to tobacco (including, but not limited to, tobacco education, cessation, control or enforcement) (other than that portion of Federal Funds, if any, that is specifically applicable to tobacco growers or communities dependent on the production of tobacco or Tobacco Products). Provided, however, that the offset described in subsection (a) shall not apply to that portion of Federal Funds, if any, whose receipt by such Settling State is conditioned upon or appropriately allocable to:

(1) the relinquishment of rights or benefits under this Agreement (including the Consent Decree); or

(2) actions or expenditures by such Settling State, unless:

(A) such Settling State chooses to undertake such action or expenditure;

(B) such actions or expenditures do not impose significant constraints on public policy choices; or

(C) such actions or expenditures are both: (i) related to health care or tobacco (including, but not limited to, tobacco education, cessation, control or enforcement) and (ii) do not require such Settling State to expend state matching funds in an amount that is significant in relation to the amount of the Federal Funds made available to such Settling State.

(c) Subject to the provisions of subsection IX(i)(3), Subsequent Participating Manufacturers shall be entitled to the offset described in this section X to the extent that they are required to pay Federal Funds that would give rise to an offset under subsections (a) and (b) if paid by an Original Participating Manufacturer.

(d) Nothing in this section X shall (1) reduce the payments to be made to the Settling States under this Agreement other than those described in subsection IX(c) (or corresponding payments under subsection IX(i) of this Agreement); or (2) alter the Allocable Share used to determine each Settling State's share of the payments described in subsection IX(c) (or corresponding payments under subsection IX(i)) of this Agreement. Nothing in this section X is intended to or shall reduce the total amounts payable by the Participating Manufacturers to the Settling States under this Agreement by an amount greater than the amount of Federal Funds that the Settling States could elect to receive.

XI. CALCULATION AND DISBURSEMENT OF PAYMENTS

(a) Independent Auditor to Make All Calculations.

(1) Beginning with payments due in the year 2000, an Independent Auditor shall calculate and determine the amount of all payments owed pursuant to this Agreement, the adjustments, reductions and offsets thereto (and all resulting carry-forwards, if any), the allocation of such payments, adjustments, reductions, offsets and carry-forwards among the Participating Manufacturers and among the Settling States, and shall perform all other calculations in connection with the foregoing (including, but not limited to, determining Market Share, Relative Market Share, Base Aggregate Participating Manufacturer Market Share and Actual Aggregate Participating Manufacturer Market Share). The Independent Auditor shall promptly collect all information necessary to make such calculations and determinations. Each Participating Manufacturer and each Settling State shall provide the Independent Auditor, as promptly as practicable, with information in its possession or readily available to it necessary for the Independent Auditor to perform such calculations. The Independent Auditor shall agree to maintain the confidentiality of all such information, except that the Independent Auditor may provide such information to Participating Manufacturers and the Settling States as set forth in this Agreement. The Participating Manufacturers and the Settling States agree to maintain the confidentiality of such information.

(2) Payments due from the Original Participating Manufacturers prior to January 1, 2000 (other than the first payment due pursuant to subsection IX(b)) shall be based on the 1998 Relative Market Shares of the Original Participating Manufacturers or, if the Original Participating Manufacturers are unable to agree on such Relative Market Shares, on their 1997 Relative Market Shares specified in Exhibit Q.

(b) Identity of Independent Auditor. The Independent Auditor shall be a major, nationally recognized, certified public accounting firm jointly selected by agreement of the Original Participating Manufacturers and those Attorneys General of the Settling States who are members of the NAAAG executive committee, who shall jointly retain the power to replace the Independent Auditor and appoint its successor. Fifty percent of the costs and fees of the Independent Auditor (but in no event more than \$500,000 per annum), shall be paid by the Fund described in Exhibit J hereto, and the balance of such costs and fees shall be paid by the Original Participating Manufacturers, allocated among them according to their Relative Market Shares. The agreement retaining the Independent Auditor shall provide that the Independent Auditor shall perform the functions specified for it in this Agreement, and that it shall do so in the manner specified in this Agreement.

(c) Resolution of Disputes. Any dispute, controversy or claim arising out of or relating to calculations performed by, or any determinations made by, the Independent Auditor (including, without limitation, any dispute concerning the operation or application of any of the adjustments, reductions, offsets, carry-forwards and allocations described in subsection IX(j) or subsection XI(f)) shall be submitted to binding arbitration before a panel of three neutral arbitrators, each of whom shall be a former Article III federal judge. Each of the two sides to the dispute shall select one arbitrator. The two arbitrators so selected shall select the third arbitrator. The arbitration shall be governed by the United States Federal Arbitration Act.

(d) General Provisions as to Calculation of Payments.

(1) Not less than 90 days prior to the scheduled due date of any payment due pursuant to this Agreement ("Payment Due Date"), the Independent Auditor shall deliver to each other Notice Party a detailed itemization of all information required by the Independent Auditor to complete its calculation of (A) the amount due from each Participating Manufacturer with respect to such payment, and (B) the portion of such amount allocable to each entity for whose benefit such payment is to be made. To the extent practicable, the Independent Auditor shall specify in such itemization which Notice Party is requested to produce which information. Each Participating Manufacturer and each Settling State shall use its best efforts to promptly supply all of the required information that is within its possession or is readily available to it to the Independent Auditor, and in any event not less than 50 days prior to such Payment Due Date. Such best efforts obligation shall be continuing in the case of information that comes within the possession of, or becomes readily available to, any Settling State or Participating Manufacturer after the date 50 days prior to such Payment Due Date.

(2) Not less than 40 days prior to the Payment Due Date, the Independent Auditor shall deliver to each other Notice Party (A) detailed preliminary calculations ("Preliminary Calculations") of the amount due from each Participating Manufacturer and of the amount allocable to each entity for whose benefit such payment is to be made, showing all applicable offsets, adjustments, reductions and carry-forwards and setting forth all the information on which the Independent Auditor relied in preparing such Preliminary Calculations, and (B) a statement of any information still required by the Independent Auditor to complete its calculations.

(3) Not less than 30 days prior to the Payment Due Date, any Participating Manufacturer or any Settling State that disputes any aspect of the Preliminary Calculations (including, but not limited to, disputing the methodology that the Independent Auditor employed, or the information on which the Independent Auditor relied, in preparing such calculations) shall notify each other Notice Party of such dispute, including the reasons and basis therefor.

(4) Not less than 15 days prior to the Payment Due Date, the Independent Auditor shall deliver to each other Notice Party a detailed recalculation (a "Final Calculation") of the amount due from each Participating Manufacturer, the amount allocable to each entity for whose benefit such payment is to be made, and the Account to which such payment is to be credited, explaining any changes from the Preliminary Calculation. The Final Calculation may include estimates of amounts in the circumstances described in subsection (d)(5).

(5) The following provisions shall govern in the event that the information required by the Independent Auditor to complete its calculations is not in its possession by the date as of which the Independent Auditor is required to provide either a Preliminary Calculation or a Final Calculation.

(A) If the information in question is not readily available to any Settling State, any Original Participating Manufacturer or any Subsequent Participating Manufacturer, the Independent Auditor shall employ an assumption as to the missing information producing the minimum amount that is likely to be due with respect to the payment in question, and shall set forth its assumption as to the missing information in its Preliminary Calculation or Final Calculation, whichever is at issue. Any Original Participating Manufacturer, Subsequent Participating Manufacturer or Settling State may dispute any such assumption employed by the Independent Auditor in its Preliminary Calculation in the manner prescribed in subsection (d)(3) or any such assumption employed by the Independent Auditor in its Final Calculation in the manner prescribed in subsection (d)(6). If the missing information becomes available to the Independent Auditor prior to the Payment Due Date, the Independent Auditor shall promptly revise its Preliminary Calculation or Final Calculation (whichever is applicable) and shall promptly provide the revised calculation to each Notice Party, showing the newly available information. If the missing information does not become available to the Independent Auditor prior to the Payment Due Date, the minimum amount calculated by the Independent Auditor pursuant to this subsection (A) shall be paid on the Payment Due Date, subject to disputes pursuant to subsections (d)(6) and (d)(8) and without prejudice to a later final determination of the correct amount. If the missing information becomes available to the Independent Auditor after the Payment Due Date, the Independent Auditor shall calculate the correct amount of the payment in question and shall apply any overpayment or underpayment as an offset or additional payment in the manner described in subsection (f).

(B) If the information in question is readily available to a Settling State, Original Participating Manufacturer or Subsequent Participating Manufacturer, but such Settling State, Original Participating Manufacturer or Auditor shall base the calculation in question on its best estimate of such information, and shall show such estimate in its Preliminary Calculation or Final Calculation, whichever is applicable. Any Original Participating Manufacturer, Subsequent Participating Manufacturer or Settling State (except the entity that withheld the information) may dispute such estimate employed by the Independent Auditor in its Preliminary Calculation in the manner prescribed in subsection (d)(3) or such estimate employed by the Independent Auditor in its Final Calculation in the manner prescribed in subsection (d)(6). If the withheld information is not made available to the Independent Auditor more than 30 days prior to the Payment Due Date, the estimate employed by the Independent Auditor (as revised by the Independent Auditor in light of any dispute filed pursuant to the preceding sentence) shall govern the amounts to be paid on the Payment Due Date, subject to disputes pursuant to subsection (d)(6) and without prejudice to a later final determination of the correct amount. In the event that the withheld information subsequently becomes available, the Independent Auditor shall calculate the correct amount and shall apply any overpayment or underpayment as an offset or additional payment in the manner described in subsection (f).

(6) Not less than five days prior to the Payment Due Date, each Participating Manufacturer and each Settling State shall deliver to each Notice Party a statement indicating whether it disputes the Independent Auditor's Final Calculation and, if so, the disputed and undisputed amounts and the basis for the dispute. Except to the extent a Participating Manufacturer or a Settling State delivers a statement indicating the existence of a dispute by such date, the amounts set forth in the Independent Auditor's Final Calculation shall be paid on the Payment Due Date. Provided, however, that (A) in the event that the Independent Auditor revises its Final Calculation within five days of the Payment Due Date as provided in subsection (5)(A) due to receipt of previously missing information, a Participating Manufacturer or Settling State may dispute such revision pursuant to the procedure set forth in this subsection (6) at any time prior to the Payment Due Date; and (B) prior to the date four years after the Payment Due Date, neither failure to dispute a calculation made by the Independent Auditor nor actual agreement with any calculation or payment to the Escrow Agent or to another payee shall waive any Participating Manufacturer's or Settling State's rights to dispute any payment (or the Independent Auditor's calculations with respect to any payment) after the Payment Due Date. No Participating Manufacturer and no Settling State shall have a right to raise any dispute with respect to any payment or calculation after the date four years after such payment's Payment Due Date.

(7) Each Participating Manufacturer shall be obligated to pay by the Payment Due Date the undisputed portion of the total amount calculated as due from it by the Independent Auditor's Final Calculation. Failure to pay such portion shall render the Participating Manufacturer liable for interest thereon as provided in subsection IX(h) of this Agreement, in addition to any other remedy available under this Agreement.

(8) As to any disputed portion of the total amount calculated to be due pursuant to the Final Calculation, any Participating Manufacturer that by the Payment Due Date pays such disputed portion into the Disputed Payments Account (as defined in the Escrow Agreement) shall not be liable for interest thereon even if the amount disputed was in fact properly due and owing. Any Participating Manufacturer that by the Payment Due Date does not pay such disputed portion into the Disputed Payments Account shall be liable for interest as provided in subsection IX(h) if the amount disputed was in fact properly due and owing.

(9) On the same date that it makes any payment pursuant to this Agreement, each Participating Manufacturer shall deliver a notice to each other Notice Party showing the amount of such payment and the Account to which such payment is to be credited.

(10) On the first Business Day after the Payment Due Date, the Escrow Agent shall deliver to each other Notice Party a statement showing the amounts received by it from each Participating Manufacturer and the Accounts credited with such amounts.

(e) **General Treatment of Payments.** The Escrow Agent may disburse amounts from an Account only if permitted, and only at such time as permitted, by this Agreement and the Escrow Agreement. No amounts may be disbursed to the Settling State other than funds credited to such Settling State's State-Specific Account (as defined in the Escrow Agreement). The Independent Auditor, in delivering payment instructions to the Escrow Agent, shall specify: the amount to be paid; the Account or Accounts from which such payment is to be disbursed; the payee of such payment (which may be an Account); and the Business Day on which such payment is to be made by the Escrow Agent. Except as expressly provided in subsection (f) below, in no event may any amount be disbursed from any Account prior to Final Approval.

(f) **Disbursements and Charges; Not Contingent on Final Approval.** Funds may be disbursed from Accounts without regard to the occurrence of Final Approval in the following circumstances and in the following manner:

(1) Payments of Federal and State Taxes. Federal, state, local or other taxes imposed with respect to the amounts credited to the Accounts shall be paid from such amounts. The Independent Auditor shall prepare and file any tax returns required to be filed with respect to the escrow. All taxes required to be paid shall be allocated to and charged against the Accounts on a reasonable basis to be determined by the Independent Auditor. Upon receipt of written instructions from the Independent Auditor, the Escrow Agent shall pay such taxes and charge such payments against the Account or Accounts specified in those instructions.

(2) Payments to and from Disputed Payments Account. The Independent Auditor shall instruct the Escrow Agent to credit funds from an Account to the Disputed Payments Account when a dispute arises as to such funds, and shall instruct the Escrow Agent to credit funds from the Disputed Payments Account to the appropriate payee when such dispute is resolved with finality. The Independent Auditor shall provide the Notice Parties not less than 10 Business Days prior notice before instructing the Escrow Agent to disburse funds from the Disputed Payments Account.

(3) Payments to a State-Specific Account. Promptly following the occurrence of State-Specific Finality in any Settling State, such Settling State and the Original Participating Manufacturers shall notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of such State-Specific Finality and of the portions of the amounts in the Subsection IX(b) Account (First), Subsection IX(b) Account (Subsequent), Subsection IX(c)(1) Account and Subsection IX(c)(2) Account, respectively (as such Accounts are defined in the Escrow Agreement), that are at such time held in such Accounts for the benefit of such Settling State, and which are to be transferred to the appropriate State-Specific Account for such Settling State. If neither the Settling State in question nor any Participating Manufacturer disputes such amounts or the occurrence of such State-Specific Finality by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to make such transfer. If the Settling State in question or any Participating Manufacturer disputes such amounts or the occurrence of such State-Specific Finality by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the second sentence of this subsection (f)(3), the Independent Auditor shall promptly instruct the Escrow Agent to credit the amount disputed to the Disputed Payments Account and the undisputed portion to the appropriate State-Specific Account. No amounts may be transferred or credited to a State-Specific Account for the benefit of any State as to which State-Specific Finality has not occurred or as to which this Agreement has terminated.

(4) Payments to Parties other than Particular Settling States.

(A) Promptly following the occurrence of State-Specific Finality in one Settling State, such Settling State and the Original Participating Manufacturers shall notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of the occurrence of State-Specific Finality in at least one Settling State and of the amounts held in the Subsection VI(b) Account, Subsection VI(c) Account (First), and Subsection VIII(c) Account (as such Accounts are defined in the Escrow Agreement), if any. If neither any of the Settling States nor any of the Participating Manufacturers disputes such amounts or disputes the occurrence of State-Specific Finality in one Settling State, by notice delivered to each Notice Party not later than ten Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to disburse the funds held in such Accounts to the Foundation or to the Fund specified in subsection VIII(c), as appropriate. If any Settling State or Participating Manufacturer disputes such amounts or the occurrence of such State-Specific Finality by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the

Independent Auditor of the notice described in the second sentence of this subsection (4)(A), the Independent Auditor shall promptly instruct the Escrow Agent to credit the amounts disputed to the Disputed Payments Account and to disburse the undisputed portion to the Foundation or to the Fund specified in subsection VIII(c), as appropriate.

(B) The Independent Auditor shall instruct the Escrow Agent to disburse funds on deposit in the Subsection VII(b) Account and Subsection IX(c) Account (as such Accounts are defined in the Escrow Agreement) to NAAG or to the Foundation, as appropriate, within 10 Business Days after the date on which such amounts were credited to such Accounts.

(C) Promptly following the occurrence of State-Specific Finality in Settling States having aggregate Allocable Shares equal to at least 80% of the total aggregate Allocable Shares assigned to all States that were Settling States as of the MSA Execution Date, the Settling States and the Original Participating Manufacturers shall notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of the occurrence of such State-Specific Finality and of the amounts held in the Subsection VI(c) Account (Subsequent) (as such Account is defined in the Escrow Agreement), if any. If neither any of the Settling States nor any of the Participating Manufacturers disputes such amounts or disputes the occurrence of such State-Specific Finality, by notice delivered to each Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to disburse the funds held in such Account to the Foundation. If any Settling State or Participating Manufacturer disputes such amounts or the occurrence of such State-Specific Finality by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the second sentence of this subsection (4)(C), the Independent Auditor shall promptly instruct the Escrow Agent to credit the amounts disputed to the Disputed Payments Account and to disburse the undisputed portion to the Foundation.

(5) Treatment of Payments Following Termination.

(A) As to amounts held for Settling States. Promptly upon the termination of this Agreement with respect to any Settling State (whether or not as part of the termination of this Agreement as to all Settling States) such State or any Participating Manufacturer shall notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of such termination and of the amounts held in the Subsection IX(b) Account (First), the Subsection IX(b) Account (Subsequent), the Subsection IX(c)(1) Account, the Subsection IX(c)(2) Account, and the State-Specific Account for the benefit of such Settling State. If neither the State in question nor any Participating Manufacturer disputes such amounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to transfer such amounts to the Participating Manufacturers (on the basis of their respective contributions of such funds). If the State in question or any Participating Manufacturer disputes the amounts held in the Accounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the second sentence of this subsection (5)(A), the Independent Auditor shall promptly instruct the Escrow Agent to transfer the amount disputed to the Disputed Payments Account and the undisputed portion to the Participating Manufacturers (on the basis of their respective contributions of such funds).

(B) As to amounts held for others. If this Agreement is terminated with respect to all of the Settling States, the Original Participating Manufacturers shall promptly notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of such termination and of the amounts held in the Subsection VI(b) Account, the Subsection VI(c) Account (First), the Subsection VIII(b) Account, the Subsection VIII(c) Account and the Subsection IX(e) Account. If neither any such State nor any Participating Manufacturer disputes such amounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to transfer such amounts to the Participating Manufacturers (on the basis of their respective contributions of such funds). If any such State or any Participating Manufacturer disputes the amounts held in the Accounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the second sentence of this subsection (5)(B), the Independent Auditor shall promptly instruct the Escrow Agent to credit the amount disputed to the Disputed Payments Account and transfer the undisputed portion to the Participating Manufacturers (on the basis of their respective contributions of such funds).

(C) As to amounts held in the Subsection VI(c) Account (Subsequent). If this Agreement is terminated with respect to Settling States having aggregate Allocable Shares equal to more than 20% of the total aggregate Allocable Shares assigned to those States that were Settling States as of the MSA Execution Date, the Original Participating Manufacturers shall promptly notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of such termination and of the amounts held in the Subsection VI(c) Account (Subsequent) (as defined in the Escrow Agreement). If neither any such State with respect to which this Agreement has terminated nor any Participating Manufacturer disputes such amounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to transfer such amounts to the Participating Manufacturers (on the basis of their respective contributions of such funds). If any such State or Participating Manufacturer disputes the amounts held in the Accounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the notice described in the preceding sentence, the Independent Auditor shall promptly instruct the Escrow Agent to transfer such amounts to the Participating Manufacturers (on the basis of their respective contributions of such funds). If any such State or Participating Manufacturer disputes the amounts held in the Accounts or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the

any Participating Manufacturer disputes the amounts held in the Account or the occurrence of such termination by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of the Escrow Agent to credit the amount disputed to the Disputed Payments Account and transfer the undisputed portion to the Participating Manufacturer (on the basis of their respective contribution of such funds).

(6) Determination of amounts paid or held for the benefit of each individual Settling State. For purposes of subsections (f)(3), (f)(5)(A) and (f)(2), the portion of a payment that is made or held for the benefit of each individual Settling State shall be determined: (A) in the case of a payment credited to the Subsection IX(b) Account (First) or the Subsection IX(b) Account (Subsequent), by allocating the results of clause "Eighth" of subsection IX(j) among those Settling States who were Settling States at the time that the amount of such payment was calculated, pro rata in proportion to their respective Allocable Shares; and (B) in the case of a payment credited to the Subsection IX(c)(1) Account or the Subsection IX(c)(2) Account, by the results of clause "Twelfth" of subsection IX(i) for each individual Settling State. Provided, however, that, solely for purposes of subsection (d)(3), the Settling States may by unanimous agreement agree on a different method of allocation of amounts held in the Accounts identified in this subsection (f)(6).

(g) Payments to be Made Only After Final Approval. Promptly following the occurrence of Final Approval, the Settling States and the Original Participating Manufacturers shall notify the Independent Auditor of such occurrence. The Independent Auditor shall promptly thereafter notify each Notice Party of the occurrence of Final Approval and of the amounts held in the State-Specific Accounts. If neither any of the Settling States nor any of the Participating Manufacturers disputes such amounts, disputes the occurrence of Final Approval or claims that this Agreement has terminated as to any Settling State for whose benefit the funds are held in a State-Specific Account, by notice delivered to each Notice Party not later than 10 Business Days after delivery by the Independent Auditor of such notice of Final Approval, the Independent Auditor shall promptly instruct the Escrow Agent to disburse the funds held in the State-Specific Accounts to (or as directed by) the respective Settling States. If any Notice Party disputes such amounts or the occurrence of Final Approval, or claims that this Agreement has terminated as to any Settling State for whose benefit the funds are held in a State-Specific Account, by notice delivered to each other Notice Party not later than 10 Business Days after delivery by the Independent Auditor of such notice of Final Approval, the Independent Auditor shall promptly instruct the Escrow Agent to credit the amounts disputed to the Disputed Payments Account and to disburse the undisputed portion to (or as directed by) the respective Settling States.

(h) Applicability to Section XVII Payments. This section XI shall not be applicable to payments made pursuant to section XVII; provided, however, that the Independent Auditor shall be responsible for calculating Relative Market Shares in connection with such payments, and the Independent Auditor shall promptly provide the results of such calculation to any Original Participating Manufacturer or Settling State that requests it do so.

(l) Miscalculated or Disputed Payments.

(1) Underpayments.

(A) If information becomes available to the Independent Auditor not later than four years after a Payment Due Date, and such information shows that any Participating Manufacturer was instructed to make an insufficient payment on such date ("original payment"), the Independent Auditor shall promptly determine the additional payment owed by such Participating Manufacturer and the allocation of such additional payment among the applicable payees. The Independent Auditor shall then reduce such additional payment (up to the full amount of such additional payment) by any adjustments or offsets that were available to the Participating Manufacturer in question against the original payment at the time it was made (and have not since been used) but which such Participating Manufacturer was unable to use against such original payment because such adjustments or offsets were in excess of such original payment (provided that any adjustments or offsets used against such additional payment shall reduce on a dollar-for-dollar basis any remaining carry-forward held by such Participating Manufacturer with respect to such adjustment or offset). The Independent Auditor shall then add interest at the Prime Rate (calculated from the Payment Due Date in question) to the additional payment (as reduced pursuant to the preceding sentence), except that, where the additional payment owed by a Participating Manufacturer is the result of an underpayment by such Participating Manufacturer caused by such Participating Manufacturer's withholding of information as described in subsection (d)(5)(B), the applicable interest rate shall be that described in subsection IX(h). The Independent Auditor shall promptly give notice of the additional payment owed by the Participating Manufacturer in question (as reduced and/or increased as described above) to all Notice Parties, showing the new information and all calculations. Upon receipt of such notice, any Participating Manufacturer or Settling State may dispute the Independent Auditor's calculations in the manner described in subsection (d)(3), and the Independent Auditor shall promptly notify each Notice Party of any subsequent revisions to its calculations. Not more than 15 days after receipt of such notice (or, if the Independent Auditor revises its calculations, not more than 15 days after receipt of the revisions), any Participating Manufacturer and any Settling State may dispute the Independent Auditor's calculations in the manner prescribed in subsection (d)(6). Failure to dispute the Independent Auditor's calculations in this manner shall constitute agreement with the Independent Auditor's calculations, subject to the limitations set forth in subsection (d)(6). Payment of the undisputed portion of an additional payment shall be made to the Escrow Agent not more than 20 days after receipt of the notice described in this subsection (A) (or, if the Independent Auditor revises its calculations, not more than 20 days after receipt of the revisions). Failure to pay such portion shall render the Participating Manufacturer liable for interest thereon as provided in subsection IX(h). Payment of the disputed portion shall be governed by subsection (d)(8).

(B) To the extent a dispute as to a prior payment is resolved with finality against a Participating Manufacturer: (i) in the case where the disputed amount has been paid into the Disputed Payments Account pursuant to subsection (d)(8), the Independent Auditor shall instruct the Escrow Agent to transfer such amount to the applicable payee Account(s); (ii) in the case where the disputed amount has not been paid into the Disputed Payments Account and the dispute was identified prior to the Payment Due Date in question by delivery of a statement pursuant to subsection (d)(6) identifying such dispute, the Independent Auditor shall calculate interest on the disputed amount from the Payment Due Date in question (the applicable interest rate to be that provided in subsection IX(h)) and the allocation of such amount and interest among the applicable payees, and shall provide notice of the amount owed (and the identity of the payor and payees) to all Notice Parties; and (iii) in all other cases, the procedure described in subsection (ii) shall apply, except that the applicable interest rate shall be the Prime Rate.

(2) Overpayments.

(A) If a dispute as to a prior payment is resolved with finality in favor of a Participating Manufacturer where the disputed amount has been paid into the Disputed Payments Account pursuant to subsection (d)(8), the Independent Auditor shall instruct the Escrow Agent to transfer such amount to such Participating Manufacturer.

(B) If information becomes available to the Independent Auditor not later than four years after a Payment Due Date showing that a Participating Manufacturer made an overpayment on such date, or if a dispute as to a prior payment is resolved with finality in favor of a Participating Manufacturer where the disputed amount has been paid but not into the Disputed Payments Account, such Participating Manufacturer shall be entitled to a continuing dollar-for-dollar offset as follows:

(i) offsets under this subsection (B) shall be applied only against eligible payments to be made by such Participating Manufacturer after the entitlement to the offset arises. The eligible payments shall be: in the case of offsets arising from payments under subsection IX(b) or IX(c)(1), subsequent payments under any of such subsections; in the case of offsets arising from payments under subsection IX(c)(2), subsequent payments under such subsection or, if no subsequent payments are to be made under such subsection, subsequent payments under subsection IX(c)(1); in the case of offsets arising from payments under subsection IX(c), subsequent payments under such subsection or subsection IX(c); in the case of offsets arising from payments under subsection V(c), subsequent payments under such subsection or, if no subsequent payments are to be made under such subsection, subsequent payments under any of subsection IX(c)(1), IX(c)(2) or IX(c); in the case of offsets arising from payments under subsection VIII(b), subsequent payments under such subsection or, if no subsequent payments are to be made under such subsection, subsequent payments under either subsection IX(c)(1) or IX(c)(2); in the case of offsets arising from payments under subsection VIII(c), subsequent payments under either subsection IX(c)(1) or IX(c)(2); and, in the case of offsets arising from payments under subsection IX(i), subsequent payments under such subsection (consistent with the provisions of this subsection (B)(i)).

(ii) in the case of offsets to be applied against payments under subsection IX(c), the offset to be applied shall be apportioned among the Settling States pro rata in proportion to their respective shares of such payments, as such respective shares are determined pursuant to step E of clause "Seventh" (in the case of payments due from the Original Participating Manufacturers) or clause "Sixth" (in the case of payments due from the Subsequent Participating Manufacturers) of subsection IX(f) (except where the offset arises from an overpayment applicable solely to a particular Settling State).

(iii) the total amount of the offset to which a Participating Manufacturer shall be entitled shall be the full amount of the overpayment it made, together with interest calculated from the time of the overpayment to the Payment Due Date of the first eligible payment against which the offset may be applied. The applicable interest rate shall be the Prime Rate (except that, where the overpayment is the result of a Settling State's withholding of information as described in subsection (d)(5)(B), the applicable interest rate shall be that described in subsection IX(h)).

(iv) an offset under this subsection (B) shall be applied up to the full amount of the Participating Manufacturer's share (in the case of payments due from Original Participating Manufacturers, determined as described in the first sentence of clause "Seventh" of subsection IX(i) (or, in the case of payments pursuant to subsection IX(c), step D of such clause)) of the eligible payment in question, as such payment has been adjusted and reduced pursuant to clauses "First" through "Sixth" of subsection IX(j), to the extent each such clause is applicable to the payment in question. In the event that the offset to which a Participating Manufacturer is entitled under this subsection (B) would exceed such Participating Manufacturer's share of the eligible payment against which it is being applied (or, in the case where such offset arises from an overpayment applicable solely to a particular Settling State, the portion of such payment that is made for the benefit of such Settling State), the offset shall be the full amount of such Participating Manufacturer's share of such payment and all amounts not offset shall carry forward and be offset against subsequent eligible payments until all such amounts have been offset.

(j) Payments After Applicable Condition. To the extent that a payment is made after the occurrence of all applicable conditions for the disbursement of such payment to the payee(s) in question, the Independent Auditor shall instruct the Escrow Agent to disburse such payment promptly following its deposit.

(8) Notwithstanding the foregoing (and the definition of Released Parties) this release and covenant shall not apply to retailers, suppliers or distributors to the extent of any liability arising from the sale or distribution of Tobacco Products of, or the supply of component parts of Tobacco Products to, any non-Released Party.

(A) Each Settling State (for itself and for the Releasing Parties) agrees that, if a claim by a Releasing Party against a retailer, supplier or distributor that would be a Released Claim but for the operation of the preceding sentence results in or in any way gives rise to a claim-over (on any theory, whatever) by such retailer, supplier or distributor against any Released Party (and such Released Party gives notice to the applicable Settling State within 30 days of the service of such claim-over (or within 30 days after the MSA Execution Date, whichever is later) and prior to entry into any settlement of such claim-over), the Releasing Party: (i) shall reduce or credit against any judgment or settlement such Releasing Party may obtain against such retailer, supplier or distributor the full amount of any judgment or settlement such retailer, supplier or distributor may obtain against the Released Party on such claim-over; and (ii) shall, as part of any settlement with such retailer, supplier or distributor, obtain from such retailer, supplier or distributor for the benefit of such Released Party a satisfaction in full of such retailer's, supplier's or distributor's judgment or settlement against the Released Party.

(B) Each Settling State further agrees that in the event that the provisions of subsection (8)(A) above do not fully eliminate any and all liability of any Original Participating Manufacturer (or any person or entity that is a Released Party by virtue of its relationship to an Original Participating Manufacturer) with respect to claims-over (on any theory, whatever) by any such retailer, supplier or distributor to recover in whole or in part any liability (whether direct or indirect, or whether by way of settlement (to the extent that such Released Party has given notice to the applicable Settling State within 30 days of the service of such claim-over (or within 30 days after the MSA Execution Date, whichever is later) and prior to entry into any settlement of such claim-over), judgment or otherwise) of such retailer, supplier or distributor to any Releasing Party arising out of any claim that would be a Released Claim but for the operation of the first sentence of this subsection (8), such Original Participating Manufacturer shall receive a continuing dollar-for-dollar offset for any amounts paid by such Original Participating Manufacturer (or by any person or entity that is a Released Party by virtue of its relation to such Original Participating Manufacturer) on any such liability against such Original Participating Manufacturer's share (determined as described in step E of clause "Seventh" of subsection IX(j)) of the applicable Settling State's Allocated Payment, up to the full amount of such Original Participating Manufacturer's share of such Allocated Payment each year, until all such amounts paid on such liability have been offset. In the event that the offset under this subsection (8) with respect to a particular Settling State would in any given year exceed such Original Participating Manufacturer's share of such Settling State's Allocated Payment (as such share had been reduced by adjustment, if any, pursuant to the NPM Adjustment, and has been reduced by offsets, if any, pursuant to the offset for miscalculated or disputed payments, the Federal Tobacco Legislation Offset, the Litigating Releasing Parties Offset and the offset for claims-over under subsection XII(a)(4)(B)); (i) the offset to which such Original Participating Manufacturer is entitled under this subsection in such year shall be the full amount of such Original Participating Manufacturer's share of such Allocated Payment; and (ii) all amounts not offset by reason of clause (i) shall carry forward and be offset in the following year(s) until all such amounts have been offset.

(C) Each Settling State further agrees that, subject to the provisions of subsection IX(i)(3), each Subsequent Participating Manufacturer shall be entitled to the offset described in subsection (B) above to the extent that it (or any person or entity that is a Released Party by virtue of its relationship with such Subsequent Participating Manufacturer) has paid on liability that would give rise to an offset under such subsection if paid by an Original Participating Manufacturer.

(9) Notwithstanding any provision of law, statutory or otherwise, which provides that a general release does not extend to claims which the creditor does not know or suspect to exist in its favor at the time of executing the release, which if known by it must have materially affected its settlement with the debtor, the releases set forth in this section XII release all Released Claims against the Released Parties, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, that the Releasing Parties may have against the Released Parties, and the Releasing Parties understand and acknowledge the significance and consequences of waiver of any such provision and hereby assume full responsibility for any injuries, damages or losses that the Releasing Parties may incur.

(b) **Released Claims Against Released Parties.** If a Releasing Party (or any person or entity enumerated in subsection II(pp), without regard to the power of the Attorney General to release claims of such person or entity) nonetheless attempts to maintain a Released Claim against a Released Party, such Released Party shall give written notice of such potential claim to the Attorney General of the applicable Settling State within 30 days of receiving notice of such potential claim (or within 30 days after the MSA Execution Date, whichever is later) (unless such potential claim is being maintained by such Settling State). The Released Party may offer the release and covenant as a complete defense. If it is determined at any point in such action that the release of such claim is unenforceable or invalid for any reason (including, but not limited to, lack of authority to release such claim), the following provisions shall apply:

(1) The Released Party shall take all ordinary and reasonable measures to defend the action fully. The Released Party may settle or enter into a stipulated judgment with respect to the action at any time in its sole discretion, but in such event the offset described in subsection (b)(2) or (b)(3) below shall apply only if the Released Party obtains the relevant Attorney General's consent to such settlement or stipulated judgment, which consent shall not be unreasonably withheld. The Released Party shall not be entitled to the offset described in subsection (b)(2) or (b)(3) below if such Released Party failed to take ordinary and reasonable measures to defend the action fully.

(1) Upon the occurrence of State-Specific Finality in a Settling State, such Settling State shall absolutely and unconditionally release and forever discharge all Released Claims from all Released Parties that the Releasing Parties directly, indirectly, derivatively or in any other capacity ever had, now have, or hereafter can, shall or may have.

(2) Notwithstanding the foregoing, this release and discharge shall not apply to any defendant in a lawsuit settled pursuant to this Agreement (other than a Participating Manufacturer) unless and until such defendant releases the Releasing Parties (and delivers to the Attorney General of the applicable Settling State a copy of such release) from any and all Claims of such defendant relating to the prosecution of such lawsuit.

(3) Each Settling State (for itself and for the Releasing Parties) further covenants and agrees that it (and the Released Parties) shall not after the occurrence of State-Specific Finality sue or seek to establish civil liability against any Releasing Party based, in whole or in part, upon any of the Released Claims, and further agrees that such covenant and agreement shall be a complete defense to any such civil action or proceeding.

(4) (A) Each Settling State (for itself and for the Releasing Parties) further agrees that, if a Released Claim by a Releasing Party against any person or entity that is not a Released Party (a "non-Released Party") results in or in any way gives rise to a claim-over (on any theory, whatever other than a claim based on an express written indemnity agreement) by such non-Released Party against any Released Party (and such Released Party gives notice to the applicable Settling State within 30 days of the service of such claim-over (or within 30 days after the MSA Execution Date, whichever is later) and prior to entry into any settlement of such claim-over), the Releasing Party: (i) shall reduce or credit against any judgment or settlement such Releasing Party may obtain against such non-Released Party the full amount of any judgment or settlement such non-Released Party may obtain against the Released Party on such claim-over; and (ii) shall, as part of any settlement with such non-Released Party, obtain from such non-Released Party for the benefit of such Released Party a satisfaction in full of such non-Released Party's judgment or settlement against the Released Party.

(B) Each Settling State further agrees that in the event that the provisions of subsection (4)(A) do not fully eliminate any and all liability of any Original Participating Manufacturer (or of any person or entity that is a Released Party by virtue of its relation to any Original Participating Manufacturer) with respect to claims-over (on any theory, whatever other than a claim based on an express written indemnity agreement) by any non-Released Party to recover in whole or in part any liability (whether direct or indirect, or whether by way of settlement (to the extent that such Released Party has given notice to the applicable Settling State within 30 days of the service of such claim-over (or within 30 days after the MSA Execution Date, whichever is later) and prior to entry into any settlement of such claim-over), judgment or otherwise) of such non-Released Party to any Releasing Party arising out of any Released Claim, such Original Participating Manufacturer shall receive a continuing dollar-for-dollar offset for any amounts paid by such Original Participating Manufacturer (or by any person or entity that is a Released Party by virtue of its relation to such Original Participating Manufacturer) on any such liability against such Original Participating Manufacturer's share (determined as described in step E of clause "Seventh" of subsection IX(j)) of the applicable Settling State's Allocated Payment, up to the full amount of such Original Participating Manufacturer's share of such Allocated Payment each year, until all such amounts paid on such liability have been offset. In the event that the offset under this subsection (4) with respect to a particular Settling State would in any given year exceed such Original Participating Manufacturer's share of such Settling State's Allocated Payment (as such share had been reduced by adjustment, if any, pursuant to the NPM Adjustment, and has been reduced by offsets, if any, pursuant to the offset for miscalculated or disputed payments, the Federal Tobacco Legislation Offset and the Litigating Releasing Parties Offset); (i) the offset to which such Original Participating Manufacturer is entitled under this subsection in such year shall be the full amount of such Original Participating Manufacturer's share of such Allocated Payment; and (ii) all amounts not offset by reason of subsection (i) shall carry forward and be offset in the following year(s) until all such amounts have been offset.

(C) Each Settling State further agrees that, subject to the provisions of section IX(i)(3), each Subsequent Participating Manufacturer shall be entitled to the offset described in subsection (B) above to the extent that it (or any person or entity that is a Released Party by virtue of its relationship with such Subsequent Participating Manufacturer) has paid on liability that would give rise to an offset under such subsection if paid by an Original Participating Manufacturer.

(5) This release and covenant shall not operate to interfere with a Settling State's ability to enforce as against any Participating Manufacturer the provisions of this Agreement, or with the Court's ability to enter the Consent Decree or to maintain continuing jurisdiction to enforce such Consent Decree pursuant to the terms thereof. Provided, however, that neither subsection III(a) or III(f) of this Agreement nor subsection V(A) or V(I) of the Consent Decree shall create a right to challenge the continuation, after the MSA Execution Date, of any advertising content, claim or slogan (other than use of a Cartoon) that was not unlawful prior to the MSA Execution Date.

(6) The Settling States do not purport to waive or release any claims on behalf of Indian tribes.

(7) The Settling States do not waive or release any criminal liability based on federal, state or local law.

XII. SETTling STATES' RELEASE, DISCHARGE AND COVENANT

(a) Release.

XIV. PARTICIPATING MANUFACTURERS' DISMISSAL OF RELATED LAWSUITS

(a) Upon State-Specific Finality in a Settling State, each Participating Manufacturer will dismiss without prejudice (and without costs and fees) the lawsuit(s) listed in Exhibit M pending in such Settling State in which the Participating Manufacturer is a plaintiff. Within 10 days after the MSA Execution Date, each Participating Manufacturer and each Settling State that is a party in any of the lawsuits listed in Exhibit M shall jointly move for a stay of all proceedings in such lawsuit. Such stay of a lawsuit against a Settling State shall be dissolved upon the earlier of the occurrence of State-Specific Finality in such Settling State or termination of this Agreement with respect to such Settling State pursuant to subsection XVIII(b)(1).

(b) Upon State-Specific Finality in a Settling State, each Participating Manufacturer will release and discharge any and all monetary Claims against such Settling State and any of such Settling State's officers, employees, agents, administrators, representatives, officials acting in their official capacity, agencies, departments, commissions, divisions and counsel relating to or in connection with the lawsuit(s) commenced by the Attorney General of such Settling State identified in Exhibit D.

(c) Upon State-Specific Finality in a Settling State, each Participating Manufacturer will release and discharge any and all monetary Claims against all subdivisions (political or otherwise, including, but not limited to, municipalities, counties, parishes, villages, unincorporated districts and hospital districts) of such Settling State, and any of their officers, employees, agents, administrators, representatives, officials acting in their official capacity, agencies, departments, commissions, divisions and counsel arising out of Claims that have been waived and released with continuing full force and effect pursuant to section XII of this Agreement.

XV. VOLUNTARY ACT OF THE PARTIES

The Settling States and the Participating Manufacturers acknowledge and agree that this Agreement is voluntarily entered into by each Settling State and each Participating Manufacturer as the result of arm-length negotiations, and each Settling State and each Participating Manufacturer was represented by counsel in deciding to enter into this Agreement. Each Participating Manufacturer further acknowledges that it understands that certain provisions of this Agreement may require it to act or refrain from acting in a manner that could otherwise give rise to state or federal constitutional challenges and that, by voluntarily consenting to this Agreement, it (and the Tobacco-Related Organizations (or any trade associations formed or controlled by any Participating Manufacturer)) waives for purposes of performance of this Agreement any and all claims that the provisions of this Agreement violate the state or federal constitutions. Provided, however, that nothing in the foregoing shall constitute a waiver as to the entry of any court order (or any interpretation thereof) that would operate to limit the exercise of any constitutional right except to the extent of the restrictions, limitations or obligations expressly agreed to in this Agreement or the Consent Decree.

XVI. CONSTRUCTION

(a) No Settling State or Participating Manufacturer shall be considered the drafter of this Agreement or any Consent Decree, or any provision of either, for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter.

(b) Nothing in this Agreement shall be construed as approval by the Settling States of any Participating Manufacturer's business organizations, operations, acts or practices, and no Participating Manufacturer may make any representation to the contrary.

XVII. RECOVERY OF COSTS AND ATTORNEYS' FEES

(a) The Original Participating Manufacturers agree that, with respect to any Settling State in which the Court has approved this Agreement and the Consent Decree, they shall severally reimburse the following "Governmental Entities": (1) the office of the Attorney General of such Settling State; (2) the office of the governmental prosecuting authority for any political subdivision of such Settling State with a lawsuit pending against any Participating Manufacturer as of July 1, 1998 (as identified in Exhibit N) that has released such Settling State and such Participating Manufacturer(s) from any and all Released Claims (a "Litigating Political Subdivision"); and (3) other appropriate agencies of such Settling State and such Litigating Political Subdivision, for reasonable costs and expenses incurred in connection with the litigation or resolution of claims asserted by or against the Participating Manufacturers in the actions set forth in Exhibits D, M and N; provided that such costs and expenses are of the same nature as costs and expenses for which the Original Participating Manufacturers would reimburse their own counsel or agents (but not including costs and expenses relating to lobbying activities).

(b) The Original Participating Manufacturers further agree severally to pay the Governmental Entities in any Settling State in which State-Specific Finality has occurred an amount sufficient to compensate such Governmental Entities for time reasonably expended by attorneys and paralegals employed in such offices in connection with the litigation or resolution of claims asserted against or by the Participating Manufacturers in the actions identified in Exhibits D, M and N (but not including time relating to lobbying activities), such amount to be calculated based upon hourly rates equal to the market rate in such Settling State for private attorneys and paralegals of equivalent experience and seniority.

(c) Such Governmental Entities seeking payment pursuant to subsection (a) and/or (b) shall provide the Original Participating Manufacturers with an appropriately documented statement of all costs, expenses and attorney and paralegal time for which payment is sought, and, solely with respect to payments sought pursuant to subsection (b), shall do so no earlier than the date on which State-Specific Finality occurs in such Settling State. All amounts to be paid pursuant to

(2) The following provisions shall apply where the Released Party is an Original Participating Manufacturer (or any person or entity that is a Released Party by virtue of its relationship with an Original Participating Manufacturer):

(A) In the event of a settlement or stipulated judgment, the settlement or stipulated amount shall give rise to a continuing offset as such amount is actually paid against the full amount of such Original Participating Manufacturer's share (determined as described in step E of clause "Seventh" of subsection IX(j)) of the applicable Settling State's Allocated Payment until such time as the settlement or stipulated amount is fully credited on a dollar-for-dollar basis.

(B) Judgments (other than a default judgment) against a Released Party in such an action shall, upon payment of such judgment, give rise to an immediate and continuing offset against the full amount of such Original Participating Manufacturer's share (determined as described in subsection (A)) of the applicable Settling State's Allocated Payment, until such time as the judgment is fully credited on a dollar-for-dollar basis.

(C) Each Settling State reserves the right to intervene in such an action (unless such action was brought by the Settling State) to the extent authorized by applicable law in order to protect the Settling State's interest under this Agreement. Each Participating Manufacturer agrees not to oppose any such intervention.

(D) In the event that the offset under this subsection (b)(2) with respect to a particular Settling State would in any given year exceed such Original Participating Manufacturer's share of such Settling State's Allocated Payment (as such share had been reduced by adjustment, if any, pursuant to the NPM Adjustment, and has been reduced by offsets, if any, pursuant to the Federal Tobacco Legislation Offset and the offset for miscalculated or disputed payments); (i) the offset to which such Original Participating Manufacturer is entitled under this subsection (2) in such year shall be the full amount of such Original Participating Manufacturer's share of such Allocated Payment; and (ii) all amounts not offset by reason of clause (i) shall carry forward and be offset in the following year(s) until all such amounts have been offset.

(3) The following provisions shall apply where the Released Party is a Subsequent Participating Manufacturer (or any person or entity that is a Released Party by virtue of its relationship with a Subsequent Participating Manufacturer): Subject to the provisions of subsection IX(i)(3), each Subsequent Participating Manufacturer shall be entitled to the offset as described in subsections (2)(A)-(C) above against payments it otherwise would owe under section IX(i) to the extent that it (or any person or entity that is a Released Party by virtue of its relationship with such Subsequent Participating Manufacturer) has paid on a settlement, stipulated judgment or judgment that would give rise to an offset under such subsections if paid by an Original Participating Manufacturer.

XIII. CONSENT DECREES AND DISMISSAL OF CLAIMS

(a) Within 10 days after the MSA Execution Date (or, as to any Settling State identified in the Additional States provision of Exhibit D, concurrently with the filing of its lawsuit), each Settling State and each Participating Manufacturer that is a party in any of the lawsuits identified in Exhibit D shall jointly move for a stay of all proceedings in such Settling State's lawsuit with respect to the Participating Manufacturers and all other Released Parties (except any proceeding seeking public disclosure of documents pursuant to subsection IV(b)). Such stay of a Settling State's lawsuit shall be dissolved upon the earlier of the occurrence of State-Specific Finality or termination of this Agreement with respect to such Settling State pursuant to subsection XVIII(b)(1).

(b) Not later than December 11, 1998 (or, as to any Settling State identified in the Additional States provision of Exhibit D, concurrently with the filing of its lawsuit):

(1) each Settling State that is a party to a lawsuit identified in Exhibit D and each Participating Manufacturer will:

(A) tender this Agreement to the Court in such Settling State for its approval; and

(B) tender to the Court in such Settling State for entry a consent decree conforming to the model consent decree attached hereto as Exhibit L (revisions or changes to such model consent decree shall be limited to the extent required by state procedural requirements to reflect accurately the factual setting of the case in question, but shall not include any substantive revision to the duties or obligations of any Settling State or Participating Manufacturer, except by agreement of all Original Participating Manufacturers); and

(2) each Settling State shall seek entry of an order of dismissal of claims dismissing with prejudice all claims against the Participating Manufacturers and any other Released Party in such Settling State's action identified in Exhibit D. Provided, however, that the Settling State is not required to seek entry of such an order in such Settling State's action against such a Released Party (other than a Participating Manufacturer) unless and until such Released Party has released the Releasing Parties (and delivered to the Attorney General of such Settling State a copy of such release) (which release shall be effective upon the occurrence of State-Specific Finality in such Settling State, and shall recite that in the event this agreement is terminated with respect to such Settling State pursuant to subsection XVIII(b)(1) the Released Party agrees that the order of dismissal shall be null and void and of no effect) from any and all Claims of such Released Party relating to the prosecution of such action as provided in subsection XII(a)(2).

subsections (a) and (b) shall be subject to reasonable verification if requested by any Original Participating Manufacturer; provided, however, that nothing contained in this subsection (c) shall constitute, cause, or require the performance of any act that would constitute any waiver (in whole or in part) of any attorney-client privilege, work product protection or common interest/joint prosecution privilege. All such amounts to be paid pursuant to subsections (a) and (b) shall be subject to an aggregate cap of \$150 million for all Settling States, shall be paid promptly following submission of the appropriate documentation (and the completion of any verification process), shall be paid separately and apart from any other amounts due pursuant to this Agreement, and shall be paid severally by each Original Participating Manufacturer according to its Relative Market Share. All amounts to be paid pursuant to subsection (b) shall be paid to such Governmental Entities in the order in which State-Specific Finality has occurred in such Settling States (subject to the \$150 million aggregate cap).

(d) The Original Participating Manufacturers agree that, upon the occurrence of State-Specific Finality in a Settling State, they will severally pay reasonable attorneys' fees to the private outside counsel, if any, retained by such Settling State (and each Litigating Political Subdivision, if any, within such Settling State) in connection with the respective actions identified in Exhibits D, M, and N, and who are designated in Exhibit S for each Settling State by the relevant Attorney General (and for each Litigating Political Subdivision, as later exhibited in writing to the Original Participating Manufacturers by the relevant governmental prosecuting authority of each Litigating Political Subdivision) as having been retained by and having represented such Settling State (or such Litigating Political Subdivision), in accordance with the terms described in the Model Fee Payment Agreement attached as Exhibit O.

XVIII. MISCELLANEOUS

(a) **Effect of Current or Future Law.** If any current or future law includes obligations or prohibitions applying to Tobacco Product Manufacturers related to any of the provisions of this Agreement, each Participating Manufacturer shall comply with this Agreement unless compliance with this Agreement would violate such law.

(b) Limited Most-Favored Nation Provision.

(1) If any Participating Manufacturer enters into any future settlement agreement of other litigation comparable to any of the actions identified in Exhibit D brought by a non-foreign governmental plaintiff other than the federal government ("Future Settlement Agreement"):

(A) before October 1, 2000, on overall terms more favorable to such governmental plaintiff than the overall terms of this Agreement (after due consideration of relevant differences in population or other appropriate factors), then, unless a majority of the Settling States determines that the overall terms of the Future Settlement Agreement are not more favorable than the overall terms of this Agreement, the overall terms of this Agreement will be revised so that the Settling States will obtain treatment with respect to such Participating Manufacturer at least as relatively favorable as the overall terms provided to any such governmental plaintiff; provided, however, that as to economic terms this Agreement shall not be revised based on any such Future Settlement Agreement if such Future Settlement Agreement is entered into after: (i) the impeding of the jury (or, in the event of a non-jury trial, the commencement of trial) in such litigation or any severed or bifurcated portion thereof; or (ii) any court order or judicial determination relating to such litigation, that (x) grants judgment (in whole or in part) against such Participating Manufacturer; or (y) grants injunctive or other relief that affects the assets or on-going business activities of such Participating Manufacturer in a manner other than as expressly provided for in this Agreement; or

(B) on or after October 1, 2000, on non-economic terms more favorable to such governmental plaintiff than the non-economic terms of this Agreement, and such Future Settlement Agreement includes terms that provide for the implementation of non-economic tobacco-related public health measures different from those contained in this Agreement, then this Agreement shall be revised with respect to such Participating Manufacturer to include terms comparable to such non-economic terms, unless a majority of the Settling States elects against such revision.

(2) If any Settling State resolves by settlement Claims against any Non-Participating Manufacturer after the MSA Execution Date comparable to any Released Claim, and such resolution includes overall terms that are more favorable to such Non-Participating Manufacturer than the terms of this Agreement (including, without limitation, any terms that relate to the marketing or distribution of Tobacco Products and any term that provides for a lower settlement cost on a per pack sold basis), then the overall terms of this Agreement will be revised so that the Original Participating Manufacturers will obtain, with respect to that Settling State, overall terms at least as relatively favorable (taking into account, among other things, all payments previously made by the Original Participating Manufacturers and the timing of any payments) as those obtained by such Non-Participating Manufacturer pursuant to such resolution of Claims. The foregoing shall include but not be limited to: (a) the treatment by any Settling State of a Future Affiliate, as that term is defined in agreements between any of the Settling States and Brooke Group Ltd., Liggett & Myers Inc. and/or Liggett Group, Inc. ("Liggett"), whether or not such Future Affiliate is merged with, or its operations combined with, Liggett or any Affiliate thereof; and (b) to any application of the terms of any such agreement (including any terms subsequently negotiated pursuant to any such agreement) to a brand of Cigarettes (or tobacco-related assets) as a result of the purchase by or sale to Liggett of such brand or assets or as a result of any combination of ownership among Liggett and any entity that manufactures Tobacco Products. Provided, however, that revision of this Agreement pursuant to this subsection (2) shall not be required by virtue of the subsequent entry into this Agreement by a Tobacco Product Manufacturer that has not become a Participating Manufacturer as of the MSA Execution Date. Notwithstanding the provisions of subsection XVIII(j), the provisions of this subsection XVIII(b)(2) may be waived by (and only by) unanimous agreement of the Original Participating Manufacturers.

(3) The parties agree that if any term of this Agreement is revised pursuant to subsection (b)(i) or (b)(2) above and the substance of such term before it was revised was also a term of the Consent Decree, each affected Settling State and each affected Participating Manufacturer shall jointly move the Court to amend the Consent Decree to conform the terms of the Consent Decree to the revised terms of the Agreement.

(4) If at any time any Settling State agrees to relieve, in any respect, any Participating Manufacturer's obligation to make the payments as provided in this Agreement, then, with respect to that Settling State, the terms of this Agreement shall be revised so that the other Participating Manufacturers receive terms as relatively favorable.

(c) **Transfer of Tobacco Brands.** No Original Participating Manufacturer may sell or otherwise transfer or permit the sale or transfer of any of its Cigarette brands, Brand Names, Cigarette product formulas or Cigarette businesses to be conducted, by the acquirer or transferee exclusively outside of the States) to any person or entity unless such person or entity is an Original Participating Manufacturer or prior to the sale or acquisition agrees to assume the obligations of an Original Participating Manufacturer with respect to such Cigarette brands, Brand Names, Cigarette product formulas or businesses. No Participating Manufacturer may sell or otherwise transfer any of its Cigarette brands, Brand Names, Cigarette product formulas or Cigarette businesses (other than a sale or transfer of Cigarette brands or Brand Names) to be sold, Cigarette product formulas to be used, or businesses to be conducted, by the acquirer or transferee exclusively outside of the States) to any person or entity unless such person or entity is or becomes prior to the sale or acquisition a Participating Manufacturer. In the event of any such sale or transfer of a Cigarette brand, Brand Name, Cigarette product formula or Cigarette business by a Participating Manufacturer to a person or entity that within 180 days prior to such sale or transfer was a Non-Participating Manufacturer, the Participating Manufacturer shall certify to the Settling States that it has determined that such person or entity has the capability to perform the obligations under this Agreement. Such certification shall not survive beyond one year following the date of any such transfer. Each Original Participating Manufacturer certifies and represents that, except as provided in Exhibit R, it (or a wholly owned Affiliate) exclusively owns and controls in the States the Brand Names of those Cigarettes that it currently manufactures for sale (or sells) in the States and that it has the capacity to enter into an effective agreement concerning the sale or transfer of such Brand Names pursuant to this subsection XVIII(c). Nothing in this Agreement is intended to create any right for a State to obtain any Cigarette product formula that it would not otherwise have under applicable law.

(d) **Payments in Settlement.** All payments to be made by the Participating Manufacturers pursuant to this Agreement are in settlement of all of the Settling States' antitrust, consumer protection, common law negligence, statutory, common law and equitable claims for monetary, restitutionary, equitable and injunctive relief alleged by the Settling States with respect to the year of payment or earlier years, except that no part of any payment under this Agreement is made in settlement of an actual or potential liability for a fine, penalty (civil or criminal) or enhanced damages or is the cost of a tangible or intangible asset or other future benefit.

(e) **No Determination or Admission.** This Agreement is not intended to be and shall not in any event be construed or deemed to be, or represented or caused to be represented as, an admission or concession or evidence of (1) any liability or any wrongdoing whatsoever on the part of any Released Party or that any Released Party has engaged in any of the activities barred by this Agreement; or (2) personal jurisdiction over any person or entity other than the Participating Manufacturers. Each Participating Manufacturer specifically disclaims and denies any liability or wrongdoing whatsoever with respect to the claims and allegations asserted against it by the Attorneys General of the Settling States and the Litigating Political Subdivisions. Each Participating Manufacturer has entered into this Agreement solely to avoid the further expense, inconvenience, burden and risk of litigation.

(f) **Non-Admissibility.** The settlement negotiations resulting in this Agreement have been undertaken by the Settling States and the Participating Manufacturers in good faith and for settlement purposes only, and no evidence of negotiations or discussions underlying this Agreement shall be offered or received in evidence in any action or proceeding for any purpose. Neither this Agreement nor any public discussions, public statements or public comments with respect to this Agreement by any Settling State or Participating Manufacturer or its agents shall be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding arising under or relating to this Agreement.

(g) **Representations of Parties.** Each Settling State and each Participating Manufacturer hereby represents that this Agreement has been duly authorized and, upon execution, will constitute a valid and binding contractual obligation, enforceable in accordance with its terms, of each of them. The signatories hereto on behalf of their respective Settling States expressly represent and warrant that they have the authority to settle and release all Released Claims of their respective Settling States and any of their respective Settling States' past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, and that such signatories are aware of no authority to the contrary. It is recognized that the Original Participating Manufacturers are relying on the foregoing representation and warranty in making the payments required by and in otherwise performing under this Agreement. The Original Participating Manufacturers shall have the right to terminate this Agreement pursuant to subsection XVIII(u) as to any Settling State as to which the foregoing representation and warranty is breached or not effectively given.

(h) **Obligations Several, Not Joint.** All obligations of the Participating Manufacturers pursuant to this Agreement (including, but not limited to, all payment obligations) are intended to be, and shall remain, several and not joint.

(f) **Headings.** The headings of the sections, and subsections of this Agreement are not binding and are for reference only and do not limit, expand or otherwise affect the contents or meaning of this Agreement.

(g) **Amendment and Waiver.** This Agreement may be amended by a written instrument executed by all Participating Manufacturers affected by the amendment and by all Settling States affected by the amendment. The terms of any such amendment shall not be enforceable in any Settling State that is not a signatory to such amendment. The waiver of any rights conferred hereunder shall be effective only if made by written instrument executed by the waiving party or parties. The waiver by any party of any breach of this Agreement shall not be construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, nor shall such waiver be deemed to be or construed as a waiver by any other party.

(k) **Notices.** All notices or other communications to any party to this Agreement shall be in writing (including, but not limited to, facsimile, telex, teletype or similar writing) and shall be given at the addresses specified in Exhibit P (as it may be amended to reflect any additional Participating Manufacturer that becomes a party to this Agreement after the MSA Execution Date). Any Settling State or Participating Manufacturer may change or add the name and address of the persons designated to receive notice on its behalf by notice given (effective upon the giving of such notice) as provided in this subsection.

(l) **Cooperation.** Each Settling State and each Participating Manufacturer agrees to use its best efforts and to cooperate with each other to cause this Agreement and the Consent Decrees to become effective, to obtain all necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Settling State and each Participating Manufacturer agrees that it will not directly or indirectly assist or encourage any challenge to this Agreement or any Consent Decree by any other person, and will support the integrity and enforcement of the terms of this Agreement and the Consent Decrees. Each Settling State shall use its best efforts to cause State-Specific Finality to occur as to such Settling State.

(m) **Designees to Discuss Disputes.** Within 14 days after the MSA Execution Date, each Settling State's Attorney General and each Participating Manufacturer shall provide written notice of its designation of a senior representative to discuss with the other signatories to this Agreement any disputes and/or other issues that may arise with respect to this Agreement. Each Settling State's Attorney General shall provide such notice of the name, address and telephone number of the person it has so designated to each Participating Manufacturer and to NAAAG. Each Participating Manufacturer shall provide such notice of the name, address and telephone number of the person it has so designated to each Settling State's Attorney General, to NAAAG and to each other Participating Manufacturer.

(n) **Governing Law.** This Agreement (other than the Escrow Agreement) shall be governed by the laws of the relevant Settling State, without regard to the conflict of law rules of such Settling State. The Escrow Agreement shall be governed by the laws of the State in which the Escrow Court is located, without regard to the conflict of law rules of such State.

(o) **Severability.**

(1) Sections VI, VII, IX, X, XI, XII, XIII, XIV, XVI, XVIII(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), and Z hereof ("Nonseverable Provisions") are not severable, except to the extent that severance of section VI is permitted by Settling States pursuant to subsection VI(i) hereof. The remaining terms of this Agreement are severable, as set forth herein.

(2) If a court materially modifies, renders unenforceable, or finds to be unlawful any of the Nonseverable Provisions, the NAAAG executive committee shall select a team of Attorneys General (the "Negotiating Team") to attempt to negotiate an equivalent or comparable substitute term or other appropriate credit or adjustment (a "Substitute Term") with the Original Participating Manufacturers. In the event that the court referred to in the preceding sentence is located in a Settling State, the Negotiating Team shall include the Attorney General of such Settling State. The Original Participating Manufacturers shall have no obligation to agree to any Substitute Term. If any Original Participating Manufacturer does not agree to a Substitute Term, this Agreement shall be terminated in all Settling States affected by the court's ruling. The Negotiating Team shall submit any proposed Substitute Term negotiated by the Negotiating Team and agreed to by all of the Original Participating Manufacturers to the Attorneys General of all of the affected Settling States for their approval. If any affected Settling State does not approve the proposed Substitute Term, this Agreement in such Settling State shall be terminated.

(3) If a court materially modifies, renders unenforceable, or finds to be unlawful any term of this Agreement other than a Nonseverable Provision:

(A) The remaining terms of this Agreement shall remain in full force and effect.

(B) Each Settling State whose rights or obligations under this Agreement are affected by the court's decision in question (the "Affected Settling State") and the Participating Manufacturers agree to negotiate in good faith a Substitute Term. Any agreement on a Substitute Term reached between the Participating Manufacturers and the Affected Settling State shall not modify or amend the terms of this Agreement with regard to any other Settling State.

(C) If the Affected Settling State and the Participating Manufacturers are unable to agree on a Substitute Term, then they will submit the issue to non-binding mediation. If mediation fails to produce agreement to a Substitute Term, then that term shall be severed and the remainder of this Agreement shall remain in full force and effect.

(4) If a court materially modifies, renders unenforceable, or finds to be unlawful any portion of any provision of this Agreement, the remaining portions of such provision shall be unenforceable with respect to the affected Settling State unless a Substitute Term is arrived at pursuant to subsection (o)(2) or (o)(3) hereof, whichever is applicable.

(p) **Intended Beneficiaries.** No portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Settling State or a Released Party. No Settling State may assign or otherwise convey any right to enforce any provision of this Agreement.

(q) **Counterparts.** This Agreement may be executed in counterparts. Facsimile or photocopied signatures shall be considered as valid signatures as of the date affixed, although the original signature pages shall thereafter be appended.

(r) **Applicability.** The obligations and duties of each Participating Manufacturer set forth herein are applicable only to actions taken (or omitted to be taken) within the States. This subsection (r) shall not be construed as extending the territorial scope of any obligation or duty set forth herein whose scope is otherwise limited by the terms hereof.

(s) **Preservation of Privilege.** Nothing contained in this Agreement or any Consent Decree, and no act required to be performed pursuant to this Agreement or any Consent Decree, is intended to constitute, cause or effect any waiver (in whole or in part) of any attorney-client privilege, work product protection or common interest/joint defense privilege, and each Settling State and each Participating Manufacturer agrees that it shall not make or cause to be made in any forum any assertion to the contrary.

(t) **Non-Release.** Except as otherwise specifically provided in this Agreement, nothing in this Agreement shall limit, prejudice or otherwise interfere with the rights of any Settling State or any Participating Manufacturer to pursue any and all rights and remedies it may have against any Non-Participating Manufacturer or other non-Released Party.

(u) **Termination.**

(1) Unless otherwise agreed to by each of the Original Participating Manufacturers and the Settling State in question, in the event that (A) State-Specific Finality in a Settling State does not occur in such Settling State on or before December 31, 2001; or (B) this Agreement or the Consent Decree has been disapproved by the Court (or, in the event of an appeal from or review of a decision of the Court to approve this Agreement and the Consent Decree, by the court hearing such appeal or conducting such review), and the time to Appeal from such disapproval has expired, or, in the event of an Appeal from such disapproval, the Appeal has been dismissed or the disapproval has been affirmed by the court of last resort to which such Appeal has been taken and such dismissal or disapproval has become no longer subject to further Appeal (including, without limitation, review by the United States Supreme Court); or (C) this Agreement is terminated in a Settling State for whatever reason (including, but not limited to, pursuant to subsection XVIII(o) of this Agreement), then this Agreement and all of its terms (except for the non-admissibility provisions hereof, which shall continue in full force and effect) shall be canceled and terminated with respect to such Settling State, and it and all orders issued by the courts in such Settling State pursuant hereto shall become null and void and of no effect.

(2) If this Agreement is terminated with respect to a Settling State for whatever reason, then (A) the applicable statute of limitation or any similar time requirement shall be tolled from the date such Settling State signed this Agreement until the later of the time permitted by applicable law or for one year from the date of such termination, with the effect that the parties shall be in the same position with respect to the statute of limitation as they were at the time such Settling State filed its action, and (B) the parties shall jointly move the Court for an order reinstating the actions and claims dismissed pursuant to sections XIII and XIV hereof, with the effect that the parties shall be in the same position with respect to those actions and claims as they were at the time the action or claim was stayed or dismissed.

(v) **Freedom of Information Requests.** Upon the occurrence of State-Specific Finality in a Settling State, each Participating Manufacturer will withdraw in writing any and all requests for information, administrative applications, and proceedings brought or caused to be brought by such Participating Manufacturer pursuant to such Settling State's freedom of information law relating to the subject matter of the lawsuits identified in Exhibit D.

(w) **Bankruptcy.** The following provisions shall apply if a Participating Manufacturer both enters Bankruptcy and at any time thereafter is not timely performing its financial obligations as required under this Agreement:

(1) In the event that both a number of Settling States equal to at least 75% of the total number of Settling States and Settling States having aggregate Allocable Shares equal to at least 75% of the total aggregate Allocable Shares assigned to all Settling States deem (by written notice to the Participating Manufacturers other than the bankrupt Participating Manufacturer) that the financial obligations of this Agreement have been terminated and rendered null and void as to such bankrupt Participating Manufacturer (except as provided in subsection (A) below) due to a material breach by such Participating Manufacturer, whereupon, with respect to all Settling States:

(A) all agreements, all concessions, all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall be null and void as to such Participating Manufacturer. Provided, however, that (i) all reductions of Releasing Parties' Claims, and all releases and covenants not to sue, contained in this Agreement shall remain in full force and effect as to all persons or entities (other than the bankrupt Participating Manufacturer itself or any person or entity that, as a result of the Bankruptcy, obtains domestic tobacco assets of such

Participating Manufacturer (unless such person or entity is itself a Participating Manufacturer) who (but for the first sentence of this subsection (A)) would otherwise be Released Parties by virtue of their relationship with the bankrupt Participating Manufacturer; and (ii) in the event a Settling State asserts any Released Claim against a bankrupt Participating Manufacturer after the termination of this Agreement with respect to such Participating Manufacturer as described in this subsection (1) and receives a judgment, settlement or distribution arising from such Released Claim, then the amount of any payments such Settling State has previously received from such Participating Manufacturer under this Agreement shall be applied against the amount of any such judgment, settlement or distribution (provided that in no event shall such Settling State be required to refund any payments previously received from such Participating Manufacturer pursuant to this Agreement).

(B) The Settling States shall have the right to assert any and all claims against such Participating Manufacturer in the Bankruptcy or otherwise without regard to any limits otherwise provided in this Agreement (subject to any and all defenses against such claims).

(C) The Settling States may exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy law) with respect to their Claims against such Participating Manufacturer, including the right to initiate and complete police and regulatory actions against such Participating Manufacturer pursuant to the exceptions to the automatic stay set forth in section 362(b) of the Bankruptcy Code (provided, however, that such Participating Manufacturer may contest whether the Settling State's action constitutes a police and regulatory action); and

(D) to the extent that any Settling State is pursuing a police and regulatory action against such Participating Manufacturer as described in subsection (1)(C), such Participating Manufacturer shall not request or support a request that the Bankruptcy court utilize the authority provided under section 105 of the Bankruptcy Code to impose a discretionary stay on the Settling State's action. The Participating Manufacturers further agree that they will not request, seek or support relief from the terms of this Agreement in any proceeding before any court of law (including the federal bankruptcy courts) or an administrative agency or through legislative action, including (without limitation) by way of joinder in or consent to or acquiescence in any such pleading or instrument filed by another.

(2) Whether or not the Settling States exercise the option set forth in subsection (1) (and whether or not such option, if exercised, is valid and enforceable):

(A) In the event that the bankrupt Participating Manufacturer is an Original Participating Manufacturer, such Participating Manufacturer shall continue to be treated as an Original Participating Manufacturer for all purposes under this Agreement except (i) such Participating Manufacturer shall be treated as a Non-Participating Manufacturer (and not as an Original Participating Manufacturer or Participating Manufacturer) for all purposes with respect to subsections IX(d)(1), IX(d)(2) and IX(d)(3) (including, but not limited to, that the Market Share of such Participating Manufacturer shall not be included in Base Aggregate Participating Manufacturer Market Share or Actual Aggregate Participating Manufacturer Market Share, and that such Participating Manufacturer's volume shall not be included for any purpose under subsection IX(d)(1)(D)); (ii) such Participating Manufacturer's Market Share shall not be included as that of a Participating Manufacturer for the purpose of determining whether the trigger percentage specified in subsection IX(e) has been achieved (provided that such Participating Manufacturer shall be treated as an Original Participating Manufacturer for all other purposes with respect to such subsection); (iii) for purposes of subsection (b)(ii) of Exhibit E, such Participating Manufacturer shall continue to be treated as an Original Participating Manufacturer, but its operating income shall be recalculated by the Independent Auditor to reflect what such income would have been had such Participating Manufacturer made the payments that would have been due under this Agreement but for the Bankruptcy; (iv) for purposes of subsection XV(III)(c), such Participating Manufacturer shall not be treated as an Original Participating Manufacturer or as a Participating Manufacturer to the extent that after entry into Bankruptcy it becomes the acquirer or transferee of Cigarette brands, Brand Names, Cigarette product formulas or Cigarette businesses of any Participating Manufacturer (provided that such Participating Manufacturer shall continue to be treated as an Original Participating Manufacturer and Participating Manufacturer for all other purposes under such subsection); and (v) as to any action that by the express terms of this Agreement requires the unanimous agreement of all Original Participating Manufacturers.

(B) In the event that the bankrupt Participating Manufacturer is a Subsequent Participating Manufacturer, such Participating Manufacturer shall continue to be treated as a Subsequent Participating Manufacturer for all purposes under this Agreement except (i) such Participating Manufacturer shall be treated as a Non-Participating Manufacturer (and not as a Subsequent Participating Manufacturer or Participating Manufacturer) for all purposes with respect to subsections IX(d)(1), (d)(2) and (d)(4) (including, but not limited to, that the Market Share of such Participating Manufacturer shall not be included in Base Aggregate Participating Manufacturer Market Share or Actual Aggregate Participating Manufacturer Market Share, and that such Participating Manufacturer's volume shall not be included for any purpose under subsection IX(d)(1)(D)); (ii) such Participating Manufacturer's Market Share shall not be included as that of a Participating Manufacturer for the purpose of determining whether the trigger percentage specified in subsection IX(e) has been achieved (provided that such Participating Manufacturer shall be treated as a Subsequent Participating Manufacturer for all other purposes with respect to such subsection); and (iii) for purposes of subsection XV(III)(c), such Participating Manufacturer shall not be treated as a Subsequent Participating Manufacturer or as a Participating Manufacturer to the extent that after entry into Bankruptcy it becomes the acquirer or transferee of Cigarette brands, Brand Names, Cigarette product formulas or Cigarette businesses of any Participating Manufacturer (provided that such Participating Manufacturer shall

continue to be treated as a Subsequent Participating Manufacturer and Participating Manufacturer for all other purposes under such subsection).

(C) Revision of this Agreement pursuant to subsection XVIII(b)(2) shall not be required by virtue of any resolution on an involuntary basis in the Bankruptcy of Claims against the bankrupt Participating Manufacturer.

(x) Notice of Material Transfers. Each Participating Manufacturer shall provide notice to each Settling State at least 20 days before consummating a sale, transfer of title or other disposition, in one transaction or series of related transactions, of assets having a fair market value equal to five percent or more (determined in accordance with United States generally accepted accounting principles) of the consolidated assets of such Participating Manufacturer.

(y) Entire Agreement. This Agreement (together with any agreements expressly contemplated hereby and any other contemporaneous written agreements) embodies the entire agreement and understanding between and among the Settling States and the Participating Manufacturers relating to the subject matter hereof and supersedes (1) all prior agreements and understandings relating to such subject matter, whether written or oral, and (2) all purportedly contemporaneous oral understandings and understandings relating to such subject matter.

(z) Business Days. Any obligation hereunder that, under the terms of this Agreement, is to be performed on a day that is not a Business Day shall be performed on the first Business Day thereafter.

(aa) Subsequent Signatories. With respect to a Tobacco Product Manufacturer that signs this Agreement after the MSA Execution Date, the timing of obligations under this Agreement (other than payment obligations, which shall be governed by subsection II(j)) shall be negotiated to provide for the institution of such obligations on a schedule not more favorable to such subsequent signatory than that applicable to the Original Participating Manufacturers.

(bb) Decimal Places. Any figure or percentage referred to in this Agreement shall be carried to seven decimal places.

(cc) Regulatory Authority. Nothing in section III of this Agreement is intended to affect the legislative or regulatory authority of any local or State government.

(dd) Successors. In the event that a Participating Manufacturer ceases selling a brand of Tobacco Products in the States that such Participating Manufacturer owned in the States prior to July 1, 1998, and an Affiliate of such Participating Manufacturer thereafter and after the MSA Execution Date intentionally sells such brand in the States, such Affiliate shall be considered to be the successor of such Participating Manufacturer with respect to such brand. Performance by any such successor of the obligations under this Agreement with respect to the sales of such brand shall be subject to court-ordered specific performance.

(ee) Export Packaging. Each Participating Manufacturer shall place a visible indication on each pack of Cigarettes it manufactures for sale outside of the fifty United States and the District of Columbia that distinguishes such pack from packs of Cigarettes it manufactures for sale in the fifty United States and the District of Columbia.

(ff) Actions Within Geographic Boundaries of Settling States. To the extent that any provision of this Agreement expressly prohibits, restricts, or requires any action to be taken "within" any Settling State or the Settling States, the relevant prohibition, restriction, or requirement applies within the geographic boundaries of the applicable Settling State or Settling States, including, but not limited to, Indian country or Indian trust land within such geographic boundaries.

(gg) Notice to Affiliates. Each Participating Manufacturer shall give notice of this Agreement to each of its Affiliates.

IN WITNESS WHEREOF, each Settling State and each Participating Manufacturer, through their fully authorized representatives, have agreed to this Agreement.

[Signatures Intentionally Omitted]

**EXHIBIT A
STATE ALLOCATION PERCENTAGES**

State	Percentage
Alabama	1.6161308%
Alaska	0.3414187%
Arizona	1.4718845%
Arkansas	0.8286667%
California	12.7639544%
Colorado	1.3708614%
Connecticut	1.856373%
Delaware	0.3954695%
D.C.	0.6071183%
Florida	0.000000%
Georgia	2.4544575%
Hawaii	0.6018650%
Idaho	0.3632632%
Illinois	4.6542472%
Indiana	2.0398033%
Iowa	0.8696670%
Kansas	0.8336712%
Kentucky	1.7611586%
Louisiana	2.253531%
Maine	0.7693505%
Maryland	2.2604570%
Massachusetts	4.0389790%
Michigan	4.3519476%
Minnesota	0.000000%
Mississippi	0.000000%
Missouri	2.2746011%
Montana	0.4247591%
Nebraska	0.5949833%
Nevada	0.6099351%
New Jersey	0.6659340%
New Mexico	3.866963%
New York	0.5963897%
North Carolina	12.7620310%
North Dakota	2.322850%
Ohio	0.3660138%
Ohio	5.0375098%
Oklahoma	1.0361370%
Oregon	1.1476582%
Pennsylvania	5.746858%
Rhode Island	0.7189954%
South Carolina	1.1763519%
South Dakota	0.3489458%
Tennessee	2.4408945%
Texas	0.000000%
Utah	0.4448869%
Vermont	0.4111851%
Virginia	2.0447451%
Washington	2.0532582%
West Virginia	0.8864604%
Wisconsin	2.0720390%
Wyoming	0.2483449%
American Samoa	0.0152170%
N. Mariana Isld.	0.0084376%
Guam	0.0219377%
U.S. Virgin Isld.	0.0173593%
Puerto Rico	1.1212774%
Total	100.0000000%

**EXHIBIT B
FORM OF ESCROW AGREEMENT**

This Escrow Agreement is entered into as of _____, 1998 by the undersigned State officials (on behalf of their respective Settling States), the undersigned Participating Manufacturers and _____ as escrow agent (the "Escrow Agent").

WITNESSETH:

WHEREAS, the Settling States and the Participating Manufacturers have entered into a settlement agreement entitled the "Master Settlement Agreement" (the "Agreement"); and
 WHEREAS, the Agreement requires the Settling States and the Participating Manufacturers to enter into this Escrow Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. Appointment of Escrow Agent.

The Settling States and the Participating Manufacturers hereby appoint _____ to serve as Escrow Agent under this Agreement on the terms and conditions set forth herein, and the Escrow Agent, by its execution hereof, hereby accepts such appointment and agrees to perform the duties and obligations of the Escrow Agent set forth herein. The Settling States and the Participating Manufacturers agree that the Escrow Agent appointed under the terms of this Escrow Agreement shall be the Escrow Agent as defined in, and for all purposes of, the Agreement.

SECTION 2. Definitions.

(a) Capitalized terms used in this Escrow Agreement and not otherwise defined herein shall have the meaning given to such terms in the Agreement.

(b) "Escrow Court" means the court of the State of New York to which the Agreement is presented for approval, or such other court as agreed to by the Original Participating Manufacturers and a majority of those Attorneys General who are both the Attorney General of a Settling State and a member of the NAAAG executive committee at the time in question.

SECTION 3. Escrow and Accounts.

(a) All funds received by the Escrow Agent pursuant to the terms of the Agreement shall be held and disbursed in accordance with the terms of this Escrow Agreement. Such funds and any earnings thereon shall constitute the "Escrow" and shall be held by the Escrow Agent separate and apart from all other funds and accounts of the Escrow Agent, the Settling States and the Participating Manufacturers.

(b) The Escrow Agent shall allocate the Escrow among the following separate accounts (each an "Account" and collectively the "Accounts"):

- SUBSECTION VI(B) ACCOUNT
- SUBSECTION VI(C) ACCOUNT (FIRST)
- SUBSECTION VI(C) ACCOUNT (SUBSEQUENT)
- SUBSECTION VII(B) ACCOUNT
- SUBSECTION VIII(C) ACCOUNT
- SUBSECTION IX(B) ACCOUNT (FIRST)
- SUBSECTION IX(B) ACCOUNT (SUBSEQUENT)
- SUBSECTION IX(C)(1) ACCOUNT
- SUBSECTION IX(C)(2) ACCOUNT
- SUBSECTION IX(E) ACCOUNT

DISPUTED PAYMENTS ACCOUNT
 STATE-SPECIFIC ACCOUNTS WITH RESPECT TO EACH SETTLING STATE IN WHICH STATE-SPECIFIC FINALITY OCCURS.

(c) All amounts credited to an Account shall be retained in such Account until disbursed therefrom in accordance with the provisions of this Escrow Agreement pursuant to (i) written instructions from the Independent Auditor; or (ii) written instructions from all of the following: all of the Original Participating Manufacturers; all of the Subsequent Participating Manufacturers that contributed to such amounts in such Account; and all of the Settling States (collectively, the "Escrow Parties"). In the event of a conflict, instructions pursuant to clause (ii) shall govern over instructions pursuant to clause (i).

(d) On the first Business Day after the date any payment is due under the Agreement, the Escrow Agent shall deliver to each other Notice Party a written statement showing the amount of such payment (or indicating that no payment was made, if such is the case), the source of such payment, the Account or Accounts to which such payment has been

credited, and the payment instructions received by the Escrow Agent from the Independent Auditor with respect to such payment.

(e) The Escrow Agent shall comply with all payment instructions received from the Independent Auditor unless before 11:00 a.m. (New York City time) on the scheduled date of payment it receives written instructions to the contrary from all of the Escrow Parties, in which event it shall comply with such instructions.

(f) On the first Business Day after disbursing any funds from an Account, the Escrow Agent shall deliver to each other Notice Party a written statement showing the amount disbursed, the date of such disbursement and the payee of the disbursed funds.

SECTION 4. *Failure of Escrow Agent to Receive Instructions.*

In the event that the Escrow Agent fails to receive any written instructions contemplated by this Escrow Agreement, the Escrow Agent shall be fully protected in refraining from taking any action required under any section of this Escrow Agreement other than Section 5 until such written instructions are received by the Escrow Agent.

SECTION 5. *Investment of Funds by Escrow Agent.*

The Escrow Agent shall invest and reinvest all amounts from time to time credited to the Accounts in either (i) direct obligations of, or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America; (ii) repurchase agreements fully collateralized by securities described in clause (i) above; (iii) money market accounts maturing within 30 days of the acquisition thereof and issued by a bank or trust company organized under the laws of the United States of America or of any of the 50 States thereof (a "United States Bank") and having combined capital, surplus and undistributed profits in excess of \$500,000,000; or (iv) demand deposits with any United States Bank having combined capital, surplus and undistributed profits in excess of \$500,000,000. To the extent practicable, monies credited to any Account shall be invested in such a manner so as to be available for use at the times when monies are expected to be disbursed by the Escrow Agent and charged to such Account. Obligations purchased as an investment of monies credited to any Account shall be deemed at all times to be a part of such Account and the income or interest earned, profits realized or losses suffered with respect to such investments (including, without limitation, any penalty for any liquidation of an investment required to fund a disbursement to be charged to such Account), shall be credited or charged, as the case may be, to such Account and shall be for the benefit of, or be borne by, the person or entity entitled to payment from such Account. In choosing among the investment options described in clauses (i) through (iv) above, the Escrow Agent shall comply with any instructions received from time to time from all of the Escrow Parties. In the absence of such instructions, the Escrow Agent shall invest such sums in accordance with clause (i) above. With respect to any amounts credited to a State-Specific Account, the Escrow Agent shall invest and reinvest all amounts credited to such Account in accordance with the law of the applicable Settling State to the extent such law is inconsistent with this Section 5.

SECTION 6. *Substitute Form W-9; Qualified Settlement Fund.*

Each signatory to this Escrow Agreement shall provide the Escrow Agent with a correct taxpayer identification number on a substitute Form W-9 or if it does not have such a number, a statement evidencing its status as an entity exempt from back-up withholding, within 30 days of the date hereof (and, if it supplies a Form W-9, indicate thereon that it is not subject to back-up withholding). The escrow established pursuant to this Escrow Agreement is intended to be treated as a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1. The Escrow Agent shall comply with all applicable tax filing, payment and reporting requirements, including, without limitation, those imposed under Treas. Reg. § 1.468B, and if requested to do so shall join in the making of the relation-back election under such regulation.

SECTION 7. *Duties and Liabilities of Escrow Agent.*

The Escrow Agent shall have no duty or obligation hereunder other than to take such specific actions as are required of it from time to time under the provisions of this Escrow Agreement, and it shall incur no liability hereunder or in connection herewith for anything whatsoever other than any liability resulting from its own gross negligence or willful misconduct. The Escrow Agent shall not be bound in any way by any agreement or contract between the Participating Manufacturers and the Settling States (whether or not the Escrow Agent has knowledge thereof) other than this Escrow Agreement, and the only duties and responsibilities of the Escrow Agent shall be the duties and obligations specifically set forth in this Escrow Agreement.

SECTION 8. *Indemnification of Escrow Agent.*

The Participating Manufacturers shall indemnify, hold harmless and defend the Escrow Agent from and against any and all losses, claims, liabilities and reasonable expenses, including the reasonable fees of its counsel, which it may suffer or incur in connection with the performance of its duties and obligations under this Escrow Agreement, except for those losses, claims, liabilities and expenses resulting solely and directly from its own gross negligence or willful misconduct.

SECTION 9. *Resignation of Escrow Agent.*

The Escrow Agent may resign at any time by giving written notice thereof to the other parties hereto, but such resignation shall not become effective until a successor Escrow Agent, selected by the Original Participating Manufacturers and the Settling States, shall have been appointed and shall have accepted such appointment in writing. If an instrument of acceptance by a successor Escrow Agent shall not have been delivered to the resigning Escrow Agent within 90 days after the giving of such notice of resignation, the resigning Escrow Agent may, at the expense of the Participating Manufacturers (to

be shared according to their pro rata Market Shares), petition the Escrow Court for the appointment of a successor Escrow Agent.

SECTION 10. *Escrow Agent Fees and Expenses.*

The Participating Manufacturers shall pay to the Escrow Agent its fees as set forth in Appendix A hereto, as amended from time to time by agreement of the Original Participating Manufacturers and the Escrow Agent. The Participating Manufacturers shall pay to the Escrow Agent its reasonable fees and expenses, including all reasonable expenses, charges, counsel fees, and other disbursements incurred by it or by its attorneys, agents and employees in the performance of its duties and obligations under this Escrow Agreement. Such fees and expenses shall be shared by the Participating Manufacturers according to their pro rata Market Shares.

SECTION 11. *Notices.*

All notices, written instructions or other communications to any party or other person hereunder shall be given in the same manner as, shall be given to the same person as, and shall be effective at the same time as provided in subsection XVIII(k) of the Agreement.

SECTION 12. *Setoff; Reimbursement.*

The Escrow Agent acknowledges that it shall not be entitled to set off against any funds in, or payable from, any Account to satisfy any liability of any Participating Manufacturer. Each Participating Manufacturer that pays more than its pro rata Market Share of any payment that is made by the Participating Manufacturer to the Escrow Agent pursuant to Section 8, 9 or 10 hereof shall be entitled to reimbursement of such excess from the other Participating Manufacturers according to their pro rata Market Shares of such excess.

SECTION 13. *Intended Beneficiaries; Successors.*

No persons or entities other than the Settling States, the Participating Manufacturers and the Escrow Agent are intended beneficiaries of this Escrow Agreement, and only the Settling States, the Participating Manufacturers and the Escrow Agent shall be entitled to enforce the terms of this Escrow Agreement. Pursuant to the Agreement, the Settling States have designated NAAG and the Foundation as recipients of certain payments; for all purposes of this Escrow Agreement, the Settling States shall be the beneficiaries of such payments entitled to enforce payment thereof. The provisions of this Escrow Agreement shall be binding upon and inure to the benefit of the parties hereto and, in the case of the Escrow Agent and Participating Manufacturers, their respective successors. Each reference herein to the Escrow Agent or to a Participating Manufacturer shall be construed as a reference to its successor, where applicable.

SECTION 14. *Governing Law.*

This Escrow Agreement shall be construed in accordance with and governed by the laws of the State in which the Escrow Court is located, without regard to the conflicts of law rules of such state.

SECTION 15. *Jurisdiction and Venue.*

The parties hereto irrevocably and unconditionally submit to the continuing exclusive jurisdiction of the Escrow Court for purposes of any suit, action or proceeding seeking to interpret or enforce any provision of, or based on any right arising out of, this Escrow Agreement, and the parties hereto agree not to commence any such suit, action or proceeding except in the Escrow Court. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in the Escrow Court and hereby further irrevocably waive and agree not to plead or claim in the Escrow Court that any such suit, action or proceeding has been brought in an inconvenient forum.

SECTION 16. *Amendments.*

This Escrow Agreement may be amended only by written instrument executed by all of the parties hereto that would be affected by the amendment. The waiver of any rights conferred hereunder shall be effective only if made in a written instrument executed by the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Escrow Agreement, nor shall such waiver be deemed to be or construed as a waiver by any other party.

SECTION 17. *Counterparts.*

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery by facsimile of a signed counterpart shall be deemed delivery for purposes of acknowledging acceptance hereof; however, an original executed Escrow Agreement must promptly thereafter be delivered to each party.

SECTION 18. *Captions.*

The captions herein are included for convenience of reference only and shall be ignored in the construction and interpretation hereof.

SECTION 19. *Conditions to Effectiveness.*

This Escrow Agreement shall become effective when each party hereto shall have signed a counterpart hereof. The parties hereto agree to use their best efforts to seek an order of the Escrow Court approving, and retaining continuing jurisdiction over, the Escrow Agreement as soon as possible, and agree that such order shall relate back to, and be deemed effective as of, the date this Escrow Agreement became effective.

Appendix A
Schedule Of Fees And Expenses

SECTION 20. *Address for Payments.*

Whenever funds are under the terms of this Escrow Agreement required to be disbursed to a Settling State, a Participating Manufacturer, NAAAG or the Foundation, the Escrow Agent shall disburse such funds by wire transfer to the account specified by such payee by written notice delivered to all Notice Parties in accordance with Section 11 hereof at least five Business Days prior to the date of payment. Whenever funds are under the terms of this Escrow Agreement required to be disbursed to any other person or entity, the Escrow Agent shall disburse such funds to such account as shall have been specified in writing by the Independent Auditor for such payment at least five Business Days prior to the date of payment.

SECTION 21. *Reporting.*

The Escrow Agent shall provide such information and reporting with respect to the escrow as the Independent Auditor may from time to time request.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the day and year first hereinabove written.

[Signature Blocks]

EXHIBIT C
FORMULA FOR CALCULATING
INFLATION ADJUSTMENTS

- (1) Any amount that, in any given year, is to be adjusted for inflation pursuant to this Exhibit (the "Base Amount") shall be adjusted upward by adding to such Base Amount the Inflation Adjustment.
- (2) The Inflation Adjustment shall be calculated by multiplying the Base Amount by the Inflation Adjustment Percentage applicable in that year.
- (3) The Inflation Adjustment Percentage applicable to payments due in the year 2000 shall be equal to the greater of 3% or the CPI%. For example, if the Consumer Price Index for December 1999 (as released in January 2000) is 2% higher than the Consumer Price Index for December 1998 (as released in January 1999), then the CPI% with respect to a payment due in 2000 would be 2%. The Inflation Adjustment Percentage applicable in the year 2000 would thus be 3%.
- (4) The Inflation Adjustment Percentage applicable to payments due in any year after 2000 shall be calculated by applying each year the greater of 3% or the CPI% on the Inflation Adjustment Percentage applicable to payments due in the prior year. Continuing the example in subsection (3) above, if the CPI% with respect to a payment due in 2001 is 6%, then the Inflation Adjustment Percentage applicable in 2001 would be 9.1800000% (an additional 6% applied on the 3% Inflation Adjustment Percentage applicable in 2000), and if the CPI% with respect to a payment due in 2002 is 4%, then the Inflation Adjustment Percentage applicable in 2002 would be 13.5472000% (an additional 4% applied on the 9.1800000% Inflation Adjustment Percentage applicable in 2001).
- (5) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the U.S. Department of Labor (or other similar measures agreed to by the Settling States and the Participating Manufacturers).
- (6) The "CPI%" means the actual total percent change in the Consumer Price Index during the calendar year immediately preceding the year in which the payment in question is due.
- (7) Additional Examples:
 - (A) Calculating the Inflation Adjustment Percentages:
Percentage to be applied on the Inflation Adjustment

Payment Year	Hypothetical CPI%	Inflation Adjustment Percentage
2000	2.4%	3.0000000%
2001	2.1%	6.0900000%
2002	3.5%	9.8031500%
2003	3.5%	13.6462603%
2004	4.0%	18.1921107%
2005	2.2%	21.7378740%
2006	1.6%	25.3900102%

- (B) Applying the Inflation Adjustment:
Using the hypothetical Inflation Adjustment Percentages set forth in section (7)(A):
 - the subsection IX(c)(1) base payment amount for 2002 of \$6,500,000,000 as adjusted for inflation would equal \$7,137,204,750;
 - the subsection IX(c)(1) base payment amount for 2004 of \$8,000,000,000 as adjusted for inflation would equal \$9,455,368,856;
 - the subsection IX(c)(1) base payment amount for 2006 of \$8,000,000,000 as adjusted for inflation would equal \$10,031,200,816.

EXHIBIT D
LIST OF LAWSUITS

1. Alabama
Blaylock et al. v. American Tobacco Co. et al.,
Circuit Court, Montgomery County, No. CV-96-1508-PR
2. Alaska
State of Alaska v. Philip Morris, Inc., et al., Superior Court, First Judicial District of Juneau, No. JTU-97915 CI (Alaska)
3. Arizona
State of Arizona v. American Tobacco Co., Inc., et al., Superior Court, Maricopa County, No. CV-96-14769 (Ariz.)
4. Arkansas
State of Arkansas v. The American Tobacco Co., Inc., et al., Chancery Court, 6th Division, Pulaski County, No. II 97-2982 (Ark.)
5. California
People of the State of California et al. v. Philip Morris, Inc., et al., Superior Court, Sacramento County, No. 97-AS-30301
6. Colorado
State of Colorado et al., v. R.J. Reynolds Tobacco Co., et al., District Court, City and County of Denver, No. 97CV3432 (Colo.)
7. Connecticut
State of Connecticut v. Philip Morris, et al., Superior Court, Judicial District of Waterbury No. X02 CV96-0148414S (Conn.)
8. Georgia
State of Georgia et al. v. Philip Morris, Inc., et al., Superior Court, Fulton County, No. CA E-61692 (Ga.)
9. Hawaii
State of Hawaii v. Brown & Williamson Tobacco Corp., et al., Circuit Court, First Circuit, No. 97-044-1-01 (Haw.)
10. Idaho
State of Idaho v. Philip Morris, Inc., et al., Fourth Judicial District, Ada County, No. CVOC 9703239D (Idaho)
11. Illinois
People of the State of Illinois v. Philip Morris et al., Circuit Court of Cook County, No. 96-L13146 (Ill.)
12. Indiana
State of Indiana v. Philip Morris, Inc., et al., Marion County Superior Court, No. 49D 07-9702-CT-000236 (Ind.)
13. Iowa
State of Iowa v. R.J. Reynolds Tobacco Company et al., Iowa District Court, Fifth Judicial District, Polk County, No. CL71048 (Iowa)
14. Kansas
State of Kansas v. R.J. Reynolds Tobacco Company, et al., District Court of Shawnee County, Division 2, No. 96-CV-919 (Kan.)
15. Louisiana
Levoub v. The American Tobacco Company, et al., 14th Judicial District Court, Calcasieu Parish, No. 96-1209 (La.)
16. Maine
State of Maine v. Philip Morris, Inc., et al., Superior Court, Kennebec County, No. CV 97-134 (Me.)
17. Maryland
Maryland v. Philip Morris Incorporated, et al., Baltimore City Circuit Court, No. 96-122017-CL211487 (Md.)
18. Massachusetts
Commonwealth of Massachusetts v. Philip Morris Inc., et al., Middlesex Superior Court, No. 95-7378 (Mass.)
19. Michigan
Kelley v. Philip Morris Incorporated, et al., Ingham County Circuit Court, 30th Judicial Circuit, No. 96-84281-CZ (Mich.)
20. Missouri
State of Missouri v. American Tobacco Co., Inc. et al., Circuit Court, City of St. Louis, No. 972-1465 (Mo.)
21. Montana
State of Montana v. Philip Morris, Inc., et al., First Judicial Court, Lewis and Clark County, No. CDV 9700306-14 (Mont.)
22. Nebraska
State of Nebraska v. R.J. Reynolds Tobacco Co., et al., District Court, Lancaster County, No. 573277 (Neb.)

23. Nevada
Nevada v. Philip Morris, Incorporated, et al., Second Judicial Court, Washoe County, No. CV97-03279 (Nev.)
24. New Hampshire
New Hampshire v. R.J. Reynolds, Tobacco Co., et al., New Hampshire Superior Court, Merrimack County, No. 97-E-165 (NH)
25. New Jersey
State of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior Court, Chancery Division, Middlesex County, No. C-254-96 (N.J.)
26. New Mexico
State of New Mexico v. The American Tobacco Co., et al., First Judicial District Court, County of Santa Fe, No. SF-1235 c (N.M.)
27. New York State
State of New York et al. v. Philip Morris, Inc., et al., Supreme Court of the State of New York, County of New York, No. 400361/97 (N.Y.)
28. Ohio
State of Ohio v. Philip Morris, Inc., et al., Court of Common Pleas, Franklin County, No. 97CVH055114 (Ohio)
29. Oklahoma
State of Oklahoma, et al. v. R.J. Reynolds Tobacco Company, et al., District Court, Cleveland County, No. CJ-96-1499-L (Okla.)
30. Oregon
State of Oregon v. The American Tobacco Co., et al., Circuit Court, Multnomah County, No. 9706-04457 (Or.)
31. Pennsylvania
Commonwealth of Pennsylvania v. Philip Morris, Inc., et al., Court of Common Pleas, Philadelphia County, April Term 1997, No. 2443
32. Puerto Rico
Rosello, et al. v. Brown & Williamson Tobacco Corporation, et al., U.S. District Court, Puerto Rico, No. 97-1910JAF
33. Rhode Island
State of Rhode Island v. American Tobacco Co., et al., Rhode Island Superior Court, Providence, No. 97-3058 (R.I.)
34. South Carolina
State of South Carolina v. Brown & Williamson Tobacco Corporation, et al., Court of Common Pleas, Fifth Judicial Circuit, Richland County, No. 97-CP-40-1686 (S.C.)
35. South Dakota
State of South Dakota, et al. v. Philip Morris, Inc., et al., Circuit Court, Hughes County, Sixth Judicial Circuit, No. 98-65 (S.D.)
36. Utah
State of Utah v. R.J. Reynolds Tobacco Company, et al., U.S. District Court, Central Division, No. 96 CV 0829W (Utah)
37. Vermont
State of Vermont v. Philip Morris, Inc., et al., Chittenden Superior Court, Chittenden County, No. 744-97 (Vt.) and 5816-98 (Vt.)
38. Washington
State of Washington v. American Tobacco Co. Inc., et al., Superior Court of Washington, King County, No. 96-2-1505608SEA (Wash.)
39. West Virginia
McGraw, et al. v. The American Tobacco Company, et al., Kanawha County Circuit Court, No. 94-1707 (W. Va.)
40. Wisconsin
State of Wisconsin v. Philip Morris Inc., et al., Circuit Court, Branch 11, Dane County, No. 97-CV-328 (Wis.)

Additional States

For each Settling State not listed above, the lawsuit or other legal action filed by the Attorney General or Governor of such Settling State against Participating Manufacturers in the Court in such Settling State prior to 30 days after the MSA Execution Date asserting Released Claims.

EXHIBIT E
FORMULA FOR CALCULATING
VOLUME ADJUSTMENTS

Any amount that by the terms of the Master Settlement Agreement is to be adjusted pursuant to this Exhibit E (the "Applicable Base Payment") shall be adjusted in the following manner:

(A) In the event the aggregate number of Cigarettes shipped in or to the fifty United States, the District of Columbia, and Puerto Rico by the Original Participating Manufacturers in the Applicable Year (as defined herebelow) (the "Actual Volume") is greater than 475,656,000,000 Cigarettes (the "Base Volume"), the Applicable Base Payment shall be multiplied by the ratio of the Actual Volume to the Base Volume.

(B) In the event the Actual Volume is less than the Base Volume,

i. The Applicable Base Payment shall be reduced by subtracting from it the amount equal to such Applicable Base Payment multiplied both by 0.98 and by the result of (i) 1 (one) minus (ii) the ratio of the Actual Volume to the Base Volume.

ii. Solely for purposes of calculating volume adjustments to the payments required under subsection IX(c)(1), if a reduction of the Base Payment due under such subsection results from the application of subparagraph (B)(i) of this Exhibit E, but the Original Participating Manufacturers' aggregate operating income from sales of Cigarettes for the Applicable Year in the fifty United States, the District of Columbia, and Puerto Rico (the "Actual Operating Income") is greater than \$7,195,340,000 (the "Base Operating Income") (such Base Operating Income being adjusted upward in accordance with the formula for inflation adjustments set forth in Exhibit C hereto beginning December 31, 1996 to be applied for each year after 1996) then the amount by which such Base Payment is reduced by the application of subsection (B)(i) shall be reduced (but not below zero) by the amount calculated by multiplying (i) a percentage equal to the aggregate Allocable Shares of the Settling States in which State-Specific Finality has occurred by (ii) 25% of such increase in such operating income. For purposes of this Exhibit E, "operating income from sales of Cigarettes" shall mean operating income from sales of Cigarettes in the fifty United States, the District of Columbia, and Puerto Rico: (a) before goodwill amortization, trademark amortization, restructuring charges and restructuring related charges, minority interest, net interest expense, non-operating income and expense, general corporate expenses and income taxes; and (b) excluding extraordinary items, cumulative effect of changes in method of accounting and discontinued operations -- all as such income is reported to the United States Securities and Exchange Commission ("SEC") for the Applicable Year (either independently by the Participating Manufacturer or as part of consolidated financial statements reported to the SEC by an Affiliate of such Participating Manufacturer) or, in the case of an Original Participating Manufacturer that does not report income to the SEC, as reported in financial statements prepared in accordance with U.S. generally accepted accounting principles and audited by a nationally recognized accounting firm. For years subsequent to 1998, the determination of the Original Participating Manufacturers' aggregate operating income from sales of Cigarettes shall not exclude any charges or expenses incurred or accrued in connection with this Agreement or any prior settlement of a tobacco and health case and shall otherwise be derived using the same principles as were employed in deriving such Original Participating Manufacturers' aggregate operating income from sales of Cigarettes in 1996.

iii. Any increase in a Base Payment pursuant to subsection (B)(ii) above shall be allocated among the Original Participating Manufacturers in the following manner:

(1) only to those Original Participating Manufacturers whose operating income from sales of Cigarettes in the fifty United States, the District of Columbia and Puerto Rico for the year for which the Base Payment is being adjusted is greater than their respective operating income from such sales of Cigarettes (including operating income from such sales of any of their Affiliates that do not continue to have such sales after the MSA Execution Date) in 1996 (as increased for inflation as provided in Exhibit C hereto beginning December 31, 1996 to be applied for each year after 1996); and

(2) among the Original Participating Manufacturers described in paragraph (1) above in proportion to the ratio of (x) the increase in the operating income from sales of Cigarettes (as described in paragraph (1)) of the Original Participating Manufacturer in question, to (y) the aggregate increase in the operating income from sales of Cigarettes (as described in paragraph (1)) of those Original Participating Manufacturers described in paragraph (1) above.

(C) "Applicable Year" means the calendar year immediately preceding the year in which the payment at issue is due, regardless of when such payment is made.

(D) For purposes of this Exhibit, shipments shall be measured as provided in subsection II(m).

EXHIBIT F
POTENTIAL LEGISLATION NOT TO BE OPPOSED

1. Limitations on Youth access to vending machines.
2. Inclusion of cigars within the definition of tobacco products.
3. Enhancement of enforcement efforts to identify and prosecute violations of laws prohibiting retail sales to Youth.
4. Encouraging or supporting use of technology to increase effectiveness of age-of-purchase laws, such as, without limitation, the use of programmable scanners, scanners to read drivers' licenses, or use of other age/ID data banks.
5. Limitations on promotional programs for non-tobacco goods using tobacco products as prizes or give-aways.
6. Enforcement of access restrictions through penalties on Youth for possession or use.
7. Limitations on tobacco product advertising in or on school facilities, or wearing of tobacco logo merchandise in or on school property.
8. Limitations on non-tobacco products which are designed to look like tobacco products, such as bubble gum cigars, candy cigarettes, etc.

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EXHIBIT G
OBLIGATIONS OF THE TOBACCO INSTITUTE
UNDER THE MASTER SETTLEMENT AGREEMENT

- (a) Upon court approval of a plan of dissolution The Tobacco Institute ("TI") will:
 - (1) **Employees.** Promptly notify and arrange for the termination of the employment of all employees; provided, however, that TI may continue to engage any employee who is (A) essential to the wind-down function as set forth in section (g) herein; (B) reasonably needed for the sole purpose of directing and supporting TI's defense of ongoing litigation; or (C) reasonably needed for the sole purpose of performing the Tobacco Institute Testing Laboratory's (the "TITL") industry-wide cigarette testing pursuant to the Federal Trade Commission (the "FTC") method or any other testing prescribed by state or federal law as set forth in section (h) herein.
 - (2) **Employee Benefits.** Fund all employee benefit and pension programs; provided, however, that unless ERISA or other federal or state law prohibits it, such funding will be accomplished through periodic contributions by the Original Participating Manufacturers, according to their Relative Market Shares, into a trust or a like mechanism, which trust or like mechanism will be established within 90 days of court approval of the plan of dissolution. An opinion letter will be appended to the dissolution plan to certify that the trust plan is not inconsistent with ERISA or employee benefit pension contracts.
 - (3) **Leases.** Terminate all leaseholds at the earliest possible date pursuant to the leases; provided, however, that TI may retain or lease anew such space (or lease other space) as needed for its wind-down activities, for TITL testing as described herein, and for subsequent litigation defense activities. Immediately upon execution of this Agreement, TI will provide notice to each of its landlords of its desire to terminate its lease with such landlord, and will request that the landlord take all steps to re-lease the premises at the earliest possible date consistent with TI's performance of its obligations hereunder. TI will vacate such leasehold premises as soon as they are re-leased or on the last day of wind-down, whichever occurs first.
 - (b) **Assets/Debts.** Within 60 days after court approval of a plan of dissolution, TI will provide to the Attorney General of New York and append to the dissolution plan a description of all of its assets, its debts, tax claims against it, claims of state and federal governments against it, creditor claims against it, pending litigation in which it is a party and notices of claims against it.
 - (c) **Documents.** Subject to the privacy protections provided by New York Public Officers Law §§ 91-99, TI will provide a copy of or otherwise make available to the State of New York all documents in its possession, excluding those that TI continues to claim to be subject to any attorney-client privilege, attorney work product protection, common interest/joint defense privilege or any other applicable privilege (collectively, "privilege") after the re-examination of privilege claims pursuant to court order in *State of Oklahoma v. R.J. Reynolds Tobacco Company*, et al., CJ-96-2499-L (Dist. Ct., Cleveland County) (the "Oklahoma action"):
 - (1) TI will deliver to the Attorney General of the State of New York a copy of the privilege log served by it in the Oklahoma action. Upon a written request by the Attorney General, TI will deliver an updated version of its privilege log, if any such updated version exists.
 - (2) The disclosure of any document or documents claimed to be privileged will be governed by section IV of this Agreement.
 - (3) At the conclusion of the document production and privilege logging process, TI will provide a sworn affidavit that all documents in its possession have been made available to the Attorney General of New York except for documents claimed to be privileged, and that any privilege logs that already exist have been made available to the Attorney General.
 - (d) **Remaining Assets.** On mutual agreement between TI and the Attorney General of New York, a not-for-profit health or child welfare organization will be named as the beneficiary of any TI assets that remain after lawful transfers of assets and satisfaction of TI's employee benefit obligations and any other debts, liabilities or claims.
 - (e) **Defense of Litigation.** Pursuant to Section 1006 of the New York Not-for-Profit Corporations Law, TI will have the right to continue to defend its litigation interests with respect to any claims against it that are pending or threatened now or that are brought or threatened in the future. TI will retain sole discretion over all litigation decisions, including, without limitation, decisions with respect to asserting any privileges or defenses, having privileged communications and creating privileged documents, filing pleadings, responding to discovery requests, making motions, filing affidavits and briefs, conducting party and non-party discovery, retaining expert witnesses and consultants, preparing for and defending itself at trial, settling any claims asserted against it, intervening or otherwise participating in litigation to protect interests that it deems significant to its defense, and otherwise directing or conducting its defense. Pursuant to existing joint defense agreements, TI may continue to assist its current or former members in defense of any litigation brought or threatened against them. TI also may enter into any new joint defense agreement or agreements that it deems significant to its defense of pending or threatened claims. TI may continue to engage such employees as reasonably needed for the sole purpose of directing and supporting its defense of ongoing litigation. As soon as TI has no litigation pending against it, it will dissolve completely and will cease all functions consistent with the requirements of law.

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EXHIBIT H
DOCUMENT PRODUCTION

Section 1.

- 760CL94X00816-00 (Cir. Cl., City of Richmond)
- (a) Philip Morris Companies, Inc., et al., v. American Broadcasting Companies, Inc., et al., At Law No. 93-947 (S.D.N.Y.)
 - (b) Hartley-Davidson v. Lorillard Tobacco Co., No. 93-6098 (E.D. Wis.)
 - (c) Lorillard Tobacco Co. v. Hartley-Davidson, No. 82-648 (N.D. Ill.)
 - (d) Brown & Williamson v. Jacobson and CBS, Inc., No. 82-648 (N.D. Ill.)
 - (e) The FTC investigations of tobacco industry advertising and promotion as embodied in the following cites:
 - 46 FTC 706
 - 48 FTC 82
 - 46 FTC 735
 - 47 FTC 1393
 - 108 F. Supp. 573
 - 55 FTC 354
 - 56 FTC 96
 - 79 FTC 255
 - 80 FTC 455
 - Investigation #8023069
 - Investigation #8323222

Each Original Participating Manufacturer and Tobacco-Related Organization will conduct its own reasonable inquiry to determine what documents or deposition testimony, if any, it produced or provided in the above-listed matters.

Section 2.

- (a) State of Washington v. American Tobacco Co., et al., No. 96-2-15056-8 SEA (Wash. Super. Ct., County of King)
- (b) In re Mike Moore, Attorney General, ex rel. State of Mississippi Tobacco Litigation, No. 94-1429 (Chancery Ct., Jackson, Miss.)
- (c) State of Florida v. American Tobacco Co., et al., No. CL 95-1466 AH (Fla. Cir. Cl., 15th Judicial Cir., Palm Beach Co.)
- (d) State of Texas v. American Tobacco Co., et al., No. 5-96CV-91 (E.D. Tex.)
- (e) Minnesota v. Philip Morris et al., No. C-94-8565 (Minn. Dist. Ct., County of Ramsey)
- (f) Broin v. R.J. Reynolds, No. 91-49738 CA (22) (11th Judicial Ct., Dade County, Florida)

(f) No public statement. Except as necessary in the course of litigation defense as set forth in section (e) above, upon court approval of a plan of dissolution, neither TI nor any of its employees or agents acting in their official capacity on behalf of TI will issue any statements, press releases, or other public statement concerning tobacco.

(g) Wind-down. After court approval of a plan of dissolution, TI will effectuate wind-down of all activities (other than its defense of litigation as described in section (e) above) expeditiously, and in no event later than 180 days after the date of court approval of the plan of dissolution. TI will provide monthly status reports to the Attorney General of New York regarding the progress of wind-down efforts and work remaining to be done with respect to such efforts.

(h) TITL. Notwithstanding any other provision of this Exhibit G or the dissolution plan, TI may perform TITL industry-wide cigarette testing pursuant to the FTC method or any other testing prescribed by state or federal law until such function is transferred to another entity, which transfer will be accomplished as soon as practicable but in no event more than 180 days after court approval of the dissolution plan.

(i) Jurisdiction. After the filing of a Certificate of Dissolution, pursuant to Section 1004 of the New York Not-for-Profit Corporation Law, the Supreme Court for the State of New York will have continuing jurisdiction over the dissolution of TI and the winding-down of TI's activities, including any litigation-related activities described in subsection (e) herein.

(j) No Determination of Admission. The dissolution of TI and any proceedings taken hereunder are not intended to be and shall not in any event be construed as, deemed to be, or represented or caused to be represented by any Settling State as, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of TI, any of its current or former members or anyone acting on their behalf. TI specifically disclaims and denies any liability or wrongdoing whatsoever with respect to the claims and allegations asserted against it by the Attorneys General of the Settling States.

(k) Court Approval. The Attorney General of the State of New York and the Original Participating Manufacturers will prepare a joint plan of dissolution for submission to the Supreme Court of the State of New York, all of the terms of which will be agreed on and consented to by the Attorney General and the Original Participating Manufacturers consistent with this schedule. The Original Participating Manufacturers and their employees, as officers and directors of TI, will take whatever steps are necessary to execute all documents needed to develop such a plan of dissolution and to submit it to the court for approval. If any court makes any material change to any term or provision of the plan of dissolution agreed upon and consented to by the Attorney General and the Original Participating Manufacturers, then:

- (1) the Original Participating Manufacturers may, at their election, nevertheless proceed with the dissolution plan as modified by the court; or
- (2) if the Original Participating Manufacturers elect not to proceed with the court-modified dissolution plan, the Original Participating Manufacturers will be released from any obligations or undertakings under this Agreement or this schedule with respect to TI; provided, however, that the Original Participating Manufacturers will engage in good faith negotiations with the New York Attorney General to agree upon the term or terms of the dissolution plan that the court may have modified in an effort to agree upon a dissolution plan that may be resubmitted for the court's consideration.

**EXHIBIT J
INDEX AND SEARCH FEATURES FOR DOCUMENT WEBSITE**

(a) Each Original Participating Manufacturer and Tobacco-Related Organization will create and maintain on its website, at its expense, an enhanced, searchable index, as described below, using Alta-Vista or functionally comparable software, for all of the documents currently on its website and all documents being placed on its website pursuant to section IV of this Agreement.

(b) The searchable indices of documents on these websites will include:
 (1) all of the information contained in the 4(b) indices produced to the State Attorneys General (excluding fields specific only to the Minnesota action other than "request number");
 (2) the following additional fields of information (or their substantial equivalent) to the extent such information already exists in an electronic format that can be incorporated into such an index:

Document ID	Master ID
Other Number	Document Date
Primary Type	Other Type
Person Attending	Person Noted
Person Author	Person Recipient
Person Copied	Person Mentioned
Organization Author	Organization Recipient
Organization Copied	Organization Mentioned
Organization Attending	Organization Noted
Physical Attachment 1	Physical Attachment 2
Characteristics	File Name
Site	Area
Verbatim Title	Old Brand
Primary Brand	Mentioned Brand
Page Count	

(c) Each Original Participating Manufacturer and Tobacco-Related Organization will add, if not already available, a user-friendly document retrieval feature on the Website consisting of a "view all pages" function with enhanced image viewer capability that will enable users to choose to view and/or print either "all pages," for a specific document or "page-by-page".

(d) Each Original Participating Manufacturer and Tobacco-Related Organizations will provide at its own expense to NAAG a copy set in electronic form of its website document images and its accompanying subsection IV(h) index in ASCII-delimited form for all of the documents currently on its website and all of the documents described in subsection IV(d) of this Agreement. The Original Participating Manufacturers and Tobacco-Related Organizations will not object to any subsequent distribution and/or reproduction of these copy sets.

**EXHIBIT J
TOBACCO ENFORCEMENT FUND PROTOCOL**

The States' Antitrust/Consumer Protection Tobacco Enforcement Fund ("Fund") is established by the Attorneys General of the Settling States, acting through NAAG, pursuant to section VIII(c) of the Agreement. The following shall be the primary and mandatory protocol for the administration of the Fund.

**Section A
Fund Purpose**

Section 1

The monies to be paid pursuant to section VIII(c) of the Agreement shall be placed by NAAG in a new and separate interest bearing account, denominated the States' Antitrust/ Consumer Protection Tobacco Enforcement Fund, which shall not then or thereafter be commingled with any other funds or accounts. However, nothing herein shall prevent deposits into the account so long as monies so deposited are then lawfully committed for the purpose of the Fund as set forth herein.

Section 2

A committee of three Attorneys General ("Special Committee") shall be established to determine disbursements from the account using the process described herein. The three shall be the Attorney General of the State of Washington, the Chair of NAAG's antitrust committee, and the Chair of NAAG's consumer protection committee. In the event that an Attorney General shall hold either two or three of the above stated positions, that Attorney General may serve only in a single capacity, and shall be replaced in the remaining positions by first, the President of NAAG, next by the President-Elect of NAAG and if necessary the Vice-President of NAAG.

Section 3

The purpose of the Fund is: (1) to enforce and implement the terms of the Agreement, in particular, by partial payment of the monetary costs of the Independent Auditor as contemplated by the Agreement; and (2) to provide monetary assistance to the various states' attorneys general: (A) to investigate and/or litigate suspected violations of the Agreement and/or Consent Decree; (B) to investigate and/or litigate suspected violations of state and/or federal antitrust or consumer protection laws with respect to the manufacture, use, marketing and sales of tobacco products; and (C) to enforce the Qualifying Statute ("Qualifying Actions"). The Special Committee shall entertain requests only from Settling States for disbursement from the fund associated with a Qualifying Action ("Grant Application").

**Section B
Administration Standards Relative to Grant Applications**

Section 1

The Special Committee shall not entertain any Grant Application to pay salaries or ordinary expenses of regular employees of any Attorney General's office.

Section 2

The affirmative vote of two or more of the members of the Special Committee shall be required to approve any Grant Application.

Section 3

The decision of the Special Committee shall be final and non-appealable.

Section 4

The Attorney General of the State of Washington shall be chair of the Special Committee and shall annually report to the Attorneys General on the requests for funds from the Fund and the actions of the Special Committee upon the requests.

Section 5

When a Grant Application to the Fund is made by an Attorney General who is then a member of the Special Committee, such member will be temporarily replaced on the Committee, but only for the determination of such Grant Application. The remaining members of the Special Committee shall designate an Attorney General to replace the Attorney General so disqualified, in order to consider the application.

Section 6

The Fund shall be maintained in a federally insured depository institution located in Washington, D.C. Funds may be invested in federal government-backed vehicles. The Fund shall be regularly reported on NAAG financial statements and subject to annual audit.

Section 7

Withdrawals from and checks drawn on the Fund will require at least two of three authorized signatures. The three persons so authorized shall be the executive director, the deputy director, and controller of NAAG.

Section 8

The Special Committee shall meet in person or telephonically as necessary to determine whether a grant is sought for assistance with a Qualifying Action and whether and to what extent the Grant Application is accepted. The chair of the

Special Committee shall designate the times for such meetings, so that a response is made to the Grant Application as expeditiously as practicable.

Section 9

The Special Committee may issue a grant from the Fund only when an Attorney General certifies that the monies will be used in connection with a Qualifying Action, to wit: (A) to investigate and/or litigate suspected violations of the Agreement and/or Consent Decree; (B) to investigate and/or litigate suspected violations of state and/or federal antitrust or consumer protection laws with respect to the manufacture, use, marketing and sales of tobacco products; and (C) to enforce the Qualifying Statute. The Attorney General submitting such application shall further certify that the entire grant of monies from the Fund will be used to pay for such investigation and/or litigation. The Grant Application shall describe the nature and scope of the intended action and use of the funds which may be granted.

Section 10

To the extent permitted by law, each Attorney General whose Grant Application is favorably acted upon, shall promise to pay back to the Fund all of the amounts received from the Fund in the event the state is successful in litigation or settlement of a Qualifying Action. In the event that the monetary recovery, if any, obtained is not sufficient to pay back the entire amount of the grant, the Attorney General shall pay back as much as is permitted by the recovery. In all instances where monies are granted, the Attorney General(s) receiving monies shall provide an accounting to NAAG of all disbursements received from the Fund no later than the 30th of June next following such disbursement.

Section 11

In addition to the repayments to the Fund contemplated in the preceding section, the Special Committee may deposit in the Fund any other monies lawfully committed for the precise purpose of the Fund as set forth in section A(3) above. For example, the Special Committee may, at its discretion, accept for deposit in the Fund a foundation grant or court-ordered award for state antitrust and/or consumer protection enforcement as long as the monies so deposited become part of and subject to the same rules, purposes and limitations of the Fund.

Section 12

The Special Committee shall be the sole and final arbiter of all Grant Applications and of the amount awarded for each such application, if any.

Section 13

The Special Committee shall endeavor to maintain the Fund for as long a term as is consistent with the purpose of the Fund. The Special Committee will limit the total amount of grants made to a single state to no more than \$500,000.00. The Special Committee will not award a single grant in excess of \$200,000.00, unless the grant involves more than one state, in which case, a single grant so made may not total more than \$300,000.00. The Special Committee may, in its discretion, and by unanimous vote, decide to waive these limitations if it determines that special circumstances exist. Such decision, however, shall not be effective unless ratified by a two-thirds majority vote of the NAAG executive committee.

Section C

Grant Application Procedures

Section 1

This Protocol shall be transmitted to the Attorneys General within 90 days after the MSA Execution Date. It may not be amended unless by recommendation of the NAAG executive committee and majority vote of the Settling States. NAAG will notify the Settling States of any amendments promptly and will transmit yearly to the attorneys' general a statement of the Fund balance and a summary of deposits to and withdrawals from the Fund in the previous calendar or fiscal year.

Section 2

Grant Applications must be in writing and must be signed by the Attorney General submitting the application.

Section 3

Grant Applications must include the following:

- (A) A description of the contemplated/pending action, including the scope of the alleged violation and the area (state/regional/multi-state) likely to be affected by the suspected offending conduct.
- (B) A statement whether the action is actively and currently pursued by any other Attorney General or other prosecuting authority.
- (C) A description of the purposes for which the monies sought will be used.
- (D) The amount requested.
- (E) A directive as to how disbursements from the Fund should be made, e.g., either directly to a supplier of services (consultants, experts, witnesses, and the like), to the Attorney General's office directly, or in the case of multi-state action, to one or more Attorneys General's offices designated as a recipient of the monies.

(F) A statement that the applicant Attorney(s) General will, to the extent permitted by law, pay back to the Fund all, or as much as is possible, of the monies received, upon receipt of any monetary recovery obtained in the contemplated/pending litigation or settlement of the action.

(G) A certification that no part of the grant monies will be used to pay the salaries or ordinary expenses of any regular employee of the office of the applicant(s) and that the grant will be used solely to pay for the stated purpose.

(H) A certification that an accounting will be provided to NAAG of all monies received by the applicant(s) by no later than the 30th of June next following any receipt of such monies.

Section 4

All Grant Applications shall be submitted to the NAAG office at the following address: National Association of Attorneys General, 750 1st Street, NE, Suite 1100, Washington D.C. 20002.

Section 5

The Special Committee will endeavor to act upon all complete and properly submitted Grant Applications within 30 days of receipt of said applications.

Section D

Other Disbursements from the Fund

To enforce and implement the terms of the Agreement, the Special Committee shall direct disbursements from the Fund to comply with the partial payment obligations set forth in section XI of the Agreement relative to costs of the Independent Auditor. A report of such disbursements shall be included in the accounting given pursuant to section C(1) above.

Section E

Administrative Costs

Section 1

NAAG shall receive from the Fund on July 1, 1999 and on July 1 of each year thereafter, an administrative fee of \$100,000 for its administrative costs in performing its duties under the Protocol and this Agreement. The NAAG executive committee may adjust the amount of the administrative fee in extraordinary circumstances.

EXHIBIT K
MARKET CAPITALIZATION PERCENTAGES

Philip Morris Incorporated	68.00000000%
Brown & Williamson Tobacco Corporation	17.90000000%
Lorillard Tobacco Company	7.30000000%
R.J. Reynolds Tobacco Company	<u>6.80000000%</u>
Total	<u>100.00000000%</u>

EXHIBIT L
MODEL CONSENT DECREE

IN THE [XXXXXX] COURT OF THE STATE OF [XXXXXX]
IN AND FOR THE COUNTY OF [XXXXX]
----- X CAUSE NO. XXXXXX

STATE OF [XXXXXXXXXXXXXX],
Plaintiff,
v.
[XXXXXXXXXXXXX XXXX], et al.,
Defendants.

----- X
CONSENT DECREE AND FINAL JUDGMENT

WHEREAS, Plaintiff, the State of [name of Settling State], commenced this action on [date], [by and through its Attorney General [name]], pursuant to [her/his/its] common law powers and the provisions of [state and/or federal law];
WHEREAS, the State of [name of Settling State] asserted various claims for monetary, equitable and injunctive relief on behalf of the State of [name of Settling State] against certain tobacco product manufacturers and other defendants;
WHEREAS, Defendants have contested the claims in the State's complaint [and amended complaints, if any] and denied the State's allegations [and asserted affirmative defenses];
WHEREAS, the parties desire to resolve this action in a manner which appropriately addresses the State's public health concerns, while conserving the parties' resources, as well as those of the Court, which would otherwise be expended in litigating a matter of this magnitude; and
WHEREAS, the Court has made no determination of any violation of law, this Consent Decree and Final Judgment being entered prior to the taking of any testimony and without trial or final adjudication of any issue of fact or law;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, AS FOLLOWS:

- I. JURISDICTION AND VENUE**
This Court has jurisdiction over the subject matter of this action and over each of the Participating Manufacturers. Venue is proper in this [county/district].
- II. DEFINITIONS**
The definitions set forth in the Agreement (a copy of which is attached hereto) are incorporated herein by reference.
- III. APPLICABILITY**
A. This Consent Decree and Final Judgment applies only to the Participating Manufacturers in their corporate capacity acting through their respective successors and assigns, directors, officers, employees, agents, subsidiaries, divisions, or other internal organizational units of any kind or any other entities acting in concert or participation with them. The remedies, penalties and sanctions that may be imposed or assessed in connection with a violation of this Consent Decree and Final Judgment (or any order issued in connection herewith) shall only apply to the Participating Manufacturers, and shall not be imposed or assessed against any employee, officer or director of any Participating Manufacturer, or against any other person or entity as a consequence of such violation, and there shall be no jurisdiction under this Consent Decree and Final Judgment to do so.
B. This Consent Decree and Final Judgment is not intended to and does not vest standing in any third party with respect to the terms hereof. No portion of this Consent Decree and Final Judgment shall provide any rights to, or be enforceable by, any person or entity other than the State of [name of Settling State] or a Released Party. The State of [name of Settling State] may not assign or otherwise convey any right to enforce any provision of this Consent Decree and Final Judgment.
- IV. VOLUNTARY ACT OF THE PARTIES**
The parties hereto expressly acknowledge and agree that this Consent Decree and Final Judgment is voluntarily entered into as the result of arm's-length negotiation, and all parties hereto were represented by counsel in deciding to enter into this Consent Decree and Final Judgment.
- V. INJUNCTIVE AND OTHER EQUITABLE RELIEF**
Each Participating Manufacturer is permanently enjoined from:

sentence shall be deemed to (1) require any Participating Manufacturer to produce, distribute or otherwise disclose any information that is subject to any privilege or protection; (2) preclude any Participating Manufacturer from entering into any joint defense or joint legal interest agreement or arrangement (whether or not in writing), or from asserting any privilege pursuant thereto; or (3) impose any affirmative obligation on any Participating Manufacturer to conduct any research.

I. Making any material misrepresentation of fact regarding the health consequences of using any Tobacco Product, including any tobacco additives, fillers, paper or other ingredients. Provided, however, that nothing in the preceding sentence shall limit the exercise of any First Amendment right or the assertion of any defense or position in any judicial, legislative or regulatory forum.

VI. MISCELLANEOUS PROVISIONS

A. Jurisdiction of this case is retained by the Court for the purposes of implementing and enforcing the Agreement and this Consent Decree and Final Judgment and enabling the continuing proceedings contemplated herein. Whenever possible, the State of [name of Settling State] and the Participating Manufacturers shall seek to resolve any issue that may exist as to compliance with this Consent Decree and Final Judgment by discussion among the appropriate designees named pursuant to subsection XVIII(m) of the Agreement. The State of [name of Settling State] and/or any Participating Manufacturer may apply to the Court at any time for further orders and directions as may be necessary or appropriate for the implementation and enforcement of this Consent Decree and Final Judgment. Provided, however, that with regard to subsections V(A) and V(D) of this Consent Decree and Final Judgment, the Attorney General shall issue a cease and desist demand to the Participating Manufacturer that the Attorney General believes is in violation of either of such sections at least ten Business Days before the Attorney General applies to the Court for an order to enforce such subsections, unless the Attorney General reasonably determines that either a compelling time-sensitive public health and safety concern requires more immediate action or the Court has previously issued an Enforcement Order to the Participating Manufacturer in question for the same or a substantially similar action or activity. For any claimed violation of this Consent Decree and Final Judgment, in determining whether to seek an order for monetary, civil contempt or criminal sanctions for any claimed violation, the Attorney General shall give good-faith consideration to whether: (1) the Participating Manufacturer that is claimed to have committed the violation has taken appropriate and reasonable steps to cause the claimed violation to be cured, unless that party has been guilty of a pattern of violations of like nature; and (2) a legitimate, good-faith dispute exists as to the meaning of the terms in question of this Consent Decree and Final Judgment. The Court in any case in its discretion may determine not to enter an order for monetary, civil contempt or criminal sanctions.

B. This Consent Decree and Final Judgment is not intended to be, and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of (1) any liability or any wrongdoing whatsoever on the part of any Released Party or that any Released Party has engaged in any of the activities barred by this Consent Decree and Final Judgment; or (2) personal jurisdiction over any person or entity other than the Participating Manufacturers. Each Participating Manufacturer specifically disclaims and denies any liability or wrongdoing whatsoever with respect to the claims and allegations asserted against it in this action, and has stipulated to the entry of this Consent Decree and Final Judgment solely to avoid the further expense, inconvenience, burden and risk of litigation.

C. Except as expressly provided otherwise in the Agreement, this Consent Decree and Final Judgment shall not be modified (by this Court, by any other court or by any other means) unless the party seeking modification demonstrates, by clear and convincing evidence, that it will suffer irreparable harm from new and unforeseen conditions. Provided, however, that the provisions of sections III, V, VI and VII of this Consent Decree and Final Judgment shall in no event be subject to modification without the consent of the State of [name of Settling State] and all affected Participating Manufacturers. In the event that any of the sections of this Consent Decree and Final Judgment enumerated in the preceding sentence are modified by this Court, by any other court or by any other means without the consent of the State of [name of Settling State] and all affected Participating Manufacturers, then this Consent Decree and Final Judgment shall be void and of no further effect. Changes in the economic conditions of the parties shall not be grounds for modification. It is intended that the Participating Manufacturers will comply with this Consent Decree and Final Judgment as originally entered, even if the Participating Manufacturers' obligations hereunder are greater than those imposed under current or future law (unless compliance with this Consent Decree and Final Judgment would violate such law). A change in law that results, directly or indirectly, in more favorable or beneficial treatment of any one or more of the Participating Manufacturers shall not support modification of this Consent Decree and Final Judgment.

D. In any proceeding which results in a finding that a Participating Manufacturer violated this Consent Decree and Final Judgment, the Participating Manufacturer or Participating Manufacturers found to be in violation shall pay the State's costs and attorneys' fees incurred by the State of [name of Settling State] in such proceeding.

E. The remedies in this Consent Decree and Final Judgment are cumulative and in addition to any other remedies the State of [name of Settling State] may have at law or equity, including but not limited to its rights under the Agreement. Nothing herein shall be construed to prevent the State from bringing an action with respect to conduct not released pursuant to the Agreement, even though that conduct may also violate this Consent Decree and Final Judgment. Nothing in this Consent Decree and Final Judgment is intended to create any right for [name of Settling State] to obtain any Cigarette product formula that it would not otherwise have under applicable law.

A. Taking any action, directly or indirectly, to target Youth within the State of [name of Settling State] in the advertising, promotion or marketing of Tobacco Products, or taking any action the primary purpose of which is to initiate, maintain or increase the incidence of Youth smoking within the State of [name of Settling State].

B. After 180 days after the MSA Execution Date, using or causing to be used within the State of [name of Settling State] any Cartoon in the advertising, promoting, packaging or labeling of Tobacco Products.

C. After 30 days after the MSA Execution Date, making or causing to be made any payment or other consideration to any other person or entity to use, display, make reference to or use as a prop within the State of [name of Settling State] any Tobacco Product, Tobacco Product package, advertisement for a Tobacco Product, or any other item bearing a Brand Name in any Media; provided, however, that the foregoing prohibition shall not apply to (1) Media where the audience or viewers are within an Adult-Only Facility (provided such Media are not visible to persons outside such Adult-Only Facility); (2) Media not intended for distribution or display to the public; (3) instructional Media concerning non-conventional cigarettes viewed only by or provided only to smokers who are Adults; and (4) actions taken by any Participating Manufacturer in connection with a Brand Name Sponsorship permitted pursuant to subsections III(c)(2)(A) and III(c)(2)(B)(i) of the Agreement, and use of a Brand Name to identify a Brand Name Sponsorship permitted by subsection III(c)(2)(B)(ii).

D. Beginning July 1, 1999, marketing, distributing, offering, selling, licensing or causing to be marketed, distributed, offered, sold, or licensed (including, without limitation, by catalogue or direct mail), within the State of [name of Settling State], any apparel or other merchandise (other than Tobacco Products, items the sole function of which is to advertise Tobacco Products, or written or electronic publications) which bears a Brand Name. Provided, however, that nothing in this section shall (1) require any Participating Manufacturer to breach or terminate any licensing agreement or other contract in existence as of June 20, 1997 (this exception shall not apply beyond the current term of any existing contract, without regard to any renewal or option term that may be exercised by such Participating Manufacturer); (2) prohibit the distribution to any Participating Manufacturer's employee who is not Underage of any item described above that is intended for the personal use of such an employee; (3) require any Participating Manufacturer to retrieve, collect or otherwise recover any item that prior to the MSA Execution Date was marketed, distributed, offered, sold, licensed or caused to be marketed, distributed, offered, sold or licensed by such Participating Manufacturer; (4) apply to coupons or other items used by Adults solely in connection with the purchase of Tobacco Products; (5) apply to apparel or other merchandise used within an Adult-Only Facility that is not distributed (by sale or otherwise) to any member of the general public; or (6) apply to apparel or other merchandise (a) marketed, distributed, offered, sold, or licensed at the site of a Brand Name Sponsorship permitted pursuant to subsection III(c)(2)(A) or III(c)(2)(B)(i) of the Agreement by the person to which the relevant Participating Manufacturer has provided payment in exchange for the use of the relevant Brand Name in the Brand Name Sponsorship or a third-party that does not receive payment from the relevant Participating Manufacturer (or any Affiliate of such Participating Manufacturer) in connection with the marketing, distribution, offer, sale or license of such apparel or other merchandise, or (b) used at the site of a Brand Name Sponsorship permitted pursuant to subsections III(c)(2)(A) or III(c)(2)(B)(i) of the Agreement (during such event) that are not distributed (by sale or otherwise) to any member of the general public.

E. After the MSA Execution Date, distributing or causing to be distributed within the State of [name of Settling State] any free samples of Tobacco Products except in an Adult-Only Facility. For purposes of this Consent Decree and Final Judgment, a "free sample" does not include a Tobacco Product that is provided to an Adult in connection with (1) the purchase, exchange or redemption for proof of purchase of any Tobacco Products (including, but not limited to, a free offer in connection with the purchase of Tobacco Products, such as a "two-for-one" offer), or (2) the conducting of consumer testing or evaluation of Tobacco Products with persons who certify that they are Adults.

F. Using or causing to be used as a brand name of any Tobacco Product pursuant to any agreement requiring the payment of money or other valuable consideration, any nationally recognized or nationally established brand name or trade name of any non-tobacco item or service or any nationally recognized or nationally established sports team, entertainment group or individual celebrity. Provided, however, that the preceding sentence shall not apply to any Tobacco Product brand name in existence as of July 1, 1998. For the purposes of this provision, the term "other valuable consideration" shall not include an agreement between two entities who enter into such agreement for the sole purpose of avoiding infringement claims.

G. After 60 days after the MSA Execution Date and through and including December 31, 2001, manufacturing or causing to be manufactured for sale within the State of [name of Settling State] any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco); and, after 150 days after the MSA Execution Date and through and including December 31, 2001, selling or distributing within the State of [name of Settling State] any pack or other container of Cigarettes containing fewer than 20 Cigarettes (or, in the case of roll-your-own tobacco, any package of roll-your-own tobacco containing less than 0.60 ounces of tobacco).

H. Entering into any contract, combination or conspiracy with any other Tobacco Product Manufacturer that has the purpose or effect of: (1) limiting competition in the production or distribution of information about health hazards or other consequences of the use of their products; (2) limiting or suppressing research into smoking and health; or (3) limiting or suppressing research into the marketing or development of new products. Provided, however, that nothing in the preceding

F. No party shall be considered the drafter of this Consent Decree and Final Judgment for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter. Nothing in this Consent Decree and Final Judgment shall be construed as approval by the State of [name of Settling State] of the Participating Manufacturers' business organizations, operations, acts or practices, and the Participating Manufacturers shall make no representation to the contrary.

G. The settlement negotiations resulting in this Consent Decree and Final Judgment have been undertaken in good faith and for settlement purposes only, and no evidence of negotiations or discussions underlying this Consent Decree and Final Judgment shall be offered or received in evidence in any action or proceeding for any purpose. Neither this Consent Decree and Final Judgment nor any public discussions, public statements or public comments with respect to this Consent Decree and Final Judgment by the State of [name of Settling State] or any Participating Manufacturer or its agents shall be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding arising under or relating to this Consent Decree and Final Judgment.

H. All obligations of the Participating Manufacturers pursuant to this Consent Decree and Final Judgment (including, but not limited to, all payment obligations) are, and shall remain, several and not joint.

I. The provisions of this Consent Decree and Final Judgment are applicable only to actions taken (or omitted to be taken) within the State. Provided, however, that the preceding sentence shall not be construed as extending the territorial scope of any provision of this Consent Decree and Final Judgment whose scope is otherwise limited by the terms thereof.

J. Nothing in subsection V(A) or V(I) of this Consent Decree shall create a right to challenge the continuation, after the MSA Execution Date, of any advertising content, claim or slogan (other than use of a Cartoon) that was not unlawful prior to the MSA Execution Date.

K. If the Agreement terminates in this State for any reason, then this Consent Decree and Final Judgment shall be void and of no further effect.

VII. FINAL DISPOSITION

A. The Agreement, the settlement set forth therein, and the establishment of the escrow provided for therein are hereby approved in all respects, and all claims are hereby dismissed with prejudice as provided therein.

B. The Court finds that the person(s) signing the Agreement have full and complete authority to enter into the binding and fully effective settlement of this action as set forth in the Agreement. The Court further finds that entering into this settlement is in the best interests of the State of [name of Settling State].

LET JUDGMENT BE ENTERED ACCORDINGLY

DATED this ____ day of _____, 1998.

EXHIBIT M LIST OF PARTICIPATING MANUFACTURERS' LAWSUITS AGAINST THE SETTLING STATES

1. Philip Morris, Inc., et al. v. Margery Bronster, Attorney General of the State of Hawaii, In Her Official Capacity, Civ. No. 96-00722HG, United States District Court for the District of Hawaii
2. Philip Morris, Inc., et al. v. Bruce Botelho, Attorney General of the State of Alaska, In His Official Capacity, Civ. No. A97-0003CV, United States District Court for the District of Alaska
3. Philip Morris, Inc., et al. v. Scott Harshbarger, Attorney General of the Commonwealth of Massachusetts, In His Official Capacity, Civ. No. 95-12574-GAO, United States District Court for the District of Massachusetts
4. Philip Morris, Inc., et al. v. Richard Blumenthal, Attorney General of the State of Connecticut, In His Official Capacity, Civ. No. 396CV01221 (PCD), United States District Court for the District of Connecticut
5. Philip Morris, et al. v. William H. Sorrell, et al., No. 1:98-ev-132, United States District Court for the District of Vermont

EXHIBIT N
LITIGATING POLITICAL SUBDIVISIONS

1. City of New York, et al. v. The Tobacco Institute, Inc. et al., Supreme Court of the State of New York, County of New York, Index No. 406225/96
2. County of Erie v. The Tobacco Institute, Inc. et al., Supreme Court of the State of New York, County of Erie, Index No. 1 1997/359
3. County of Los Angeles v. R.L. Reynolds Tobacco Co. et al., San Diego Superior Court, No. 707651
4. The People v. Philip Morris, Inc. et al., San Francisco Superior Court, No. 980864
5. County of Cook v. Philip Morris, Inc. et al., Circuit Court of Cook County, Ill., No. 97-L-4550

EXHIBIT O
MODEL STATE FEE PAYMENT AGREEMENT

This STATE Fee Payment Agreement (the "STATE Fee Payment Agreement") is entered into as of _____, to be between and among the Original Participating Manufacturers and STATE Outside Counsel (as defined herein), to provide for payment of attorneys' fees pursuant to Section XVII of the Master Settlement Agreement (the "Agreement").

WITNESSETH:

WHEREAS, the State of STATE and the Original Participating Manufacturers have entered into the Agreement to settle and resolve with finality all Released Claims against the Released Parties, including the Original Participating Manufacturers, as set forth in the Agreement; and

WHEREAS, Section XVII of the Agreement provides that the Original Participating Manufacturers shall pay reasonable attorneys' fees to those private outside counsel identified in Exhibit S to the Agreement, pursuant to the terms hereof;

NOW, THEREFORE, BE IT KNOWN THAT, in consideration of the mutual agreement of the State of STATE and the Original Participating Manufacturers to the terms of the Agreement and of the mutual agreement of STATE Outside Counsel and the Original Participating Manufacturers to the terms of this STATE Fee Payment Agreement, and such other consideration described herein, the Original Participating Manufacturers and STATE Outside Counsel agree as follows:

SECTION 1. *Definitions.*

All definitions contained in the Agreement are incorporated by reference herein, except as to terms specifically defined herein.

(a) "*Action*" means the lawsuit identified in Exhibit D, M or N to the Agreement that has been brought by or against the State of STATE [or Litigating Political Subdivision].

(b) "*Allocated Amount*" means the amount of any Applicable Quarterly Payment allocated to any Private Counsel (including STATE Outside Counsel) pursuant to section 17 hereof.

(c) "*Allocable Liquidated Share*" means, in the event that the sum of all Payable Liquidated Fees of Private Counsel as of any date specified in section 8 hereof exceeds the Applicable Liquidation Amount for any payment described therein, a percentage share of the Applicable Liquidation Amount equal to the proportion of (i) the amount of the Payable Liquidated Fee of STATE Outside Counsel to (ii) the sum of Payable Liquidated Fees of all Private Counsel.

(d) "*Applicable Liquidation Amount*" means, for purposes of the payments described in section 8 hereof —

(i) for the payment described in subsection (a) hereof, \$125 million;

(ii) for the payment described in subsection (b) hereof, the difference between (A) \$250 million and (B) the sum of all amounts paid in satisfaction of all Payable Liquidated Fees of Outside Counsel pursuant to subsection (a) hereof;

(iii) for the payment described in subsection (c) hereof, the difference between (A) \$250 million and (B) the sum of all amounts paid in satisfaction of all Payable Liquidated Fees of Outside Counsel pursuant to subsections (a) and (b) hereof;

(iv) for the payment described in subsection (d) hereof, the difference between (A) \$250 million and (B) the sum of all amounts paid in satisfaction of all Payable Liquidated Fees of Outside Counsel pursuant to subsections (a), (b) and (c) hereof;

(v) for the payment described in subsection (e) hereof, the difference between (A) \$250 million and (B) the sum of all amounts paid in satisfaction of all Payable Liquidated Fees of Outside Counsel pursuant to subsections (a), (b), (c) and (d) hereof;

(vi) for each of the first, second and third quarterly payments for any calendar year described in subsection (f) hereof, \$62.5 million; and

(vii) for each of the fourth calendar quarterly payments for any calendar year described in subsection (f) hereof, the difference between (A) \$250 million and (B) the sum of all amounts paid in satisfaction of all Payable Liquidated Fees of Outside Counsel with respect to the preceding calendar quarters of the calendar year.

(e) "*Application*" means a written application for a Fee Award submitted to the Panel, as well as all supporting materials (which may include video recordings of interviews).

(f) "*Approved Cost Statement*" means both (i) a Cost Statement that has been accepted by the Original Participating Manufacturers; and (ii) in the event that a Cost Statement submitted by STATE Outside Counsel is disputed, the determination by arbitration pursuant to subsection (b) of section 19 hereof as to the amount of the reasonable costs and expenses of STATE Outside Counsel.

(g) "*Cost Statement*" means a signed and attested statement of reasonable costs and expenses of Outside Counsel for any action identified on Exhibit D, M or N to the Agreement that has been brought by or against a Settling State or Litigating Political Subdivision.

- (h) *"Designated Representative"* means the person designated in writing, by each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE, or as later certified in writing by the governmental prosecuting authority of the Litigating Political Subdivision, to act as their agent in receiving payments from the Original Participating Manufacturers for the benefit of STATE Outside Counsel pursuant to sections 8, 16 and 19 hereof, as applicable.
- (i) *"Director"* means the Director of the Private Adjudication Center of the Duke University School of Law or such other person or entity as may be chosen by agreement of the Original Participating Manufacturers and the Committee described in the second sentence of paragraph (b)(ii) of section 11 hereof.
- (j) *"Eligible Counsel"* means Private Counsel eligible to be allocated a part of a Quarterly Fee Amount pursuant to section 17 hereof.
- (k) *"Federal Legislation"* means federal legislation that imposes an enforceable obligation on Participating Defendants to pay attorneys' fees with respect to Private Counsel.
- (l) *"Fee Award"* means any award of attorneys' fees by the Panel in connection with a Tobacco Case.
- (m) *"Liquidated Fee"* means an attorneys' fee for Outside Counsel for any action identified on Exhibit D, M or N to the Agreement that has been brought by or against a Settling State or Litigating Political Subdivision, in an amount agreed upon by the Original Participating Manufacturers and such Outside Counsel.
- (n) *"Outside Counsel"* means all those Private Counsel identified in Exhibit S to the Agreement.
- (o) *"Panel"* means the three-member arbitration panel described in section 11 hereof.
- (p) *"Party"* means (i) STATE Outside Counsel and (ii) an Original Participating Manufacturer.
- (q) *"Payable Cost Statement"* means the unpaid amount of a Cost Statement as to which all conditions precedent to payment have been satisfied.
- (r) *"Payable Liquidated Fee"* means the unpaid amount of a Liquidated Fee as to which all conditions precedent to payment have been satisfied.
- (s) *"Previously Settled States"* means the States of Mississippi, Florida and Texas.
- (t) *"Private Counsel"* means all private counsel for all plaintiffs in a Tobacco Case (including STATE Outside Counsel).
- (u) *"Quarterly Fee Amount"* means, for purposes of the quarterly payments described in sections 16, 17 and 18 hereof —
- (i) for each of the first, second and third calendar quarters of any calendar year beginning with the first calendar quarter of 1999 and ending with the third calendar quarter of 2008, \$125 million;
- (ii) for each fourth calendar quarter of any calendar year beginning with the fourth calendar quarter of 1999 and ending with the fourth calendar quarter of 2003, the sum of (A) \$125 million and (B) the difference, if any, between (1) \$375 million and (2) the sum of all amounts paid in satisfaction of all Fee Awards of Private Counsel during such calendar year, if any;
- (iii) for each fourth calendar quarter of any calendar year beginning with the fourth calendar quarter of 2004 and ending with the fourth calendar quarter of 2008, the sum of (A) \$125 million; (B) the difference between (1) \$375 million; and (2) the sum of all amounts paid in satisfaction of all Fee Awards of Private Counsel during such calendar year, if any, between (1) \$250 million and (2) the product of (a), 2 (two tenths) and (b) the sum of all amounts paid in satisfaction of all Liquidated Fees of Outside Counsel pursuant to section 8 hereof, if any;
- (iv) for each of the first, second and third calendar quarters of any calendar year beginning with the first calendar quarter of 2009, \$125 million; and
- (v) for each fourth calendar quarter of any calendar year beginning with the fourth calendar quarter of 2009, the sum of (A) \$125 million and (B) the difference, if any, between (1) \$375 million and (2) the sum of all amounts paid in satisfaction of all Fee Awards of Private Counsel during such calendar year, if any.
- (v) *"Related Persons"* means each Original Participating Manufacturer's past, present and future Affiliates, divisions, officers, directors, employees, representatives, insurers, lenders, underwriters, Tobacco-Related Organizations, trade associations, suppliers, agents, auditors, advertising agencies, public relations, attorneys, retailers and distributors (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing).
- (w) *"State of STATE"* means the [applicable Settling State or the Litigating Political Subdivision], any of its past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and subdivisions.
- (x) *"STATE Outside Counsel"* means all persons or entities identified in Exhibit S to the Agreement by the Attorney General of State of STATE [or as later certified by the office of the governmental prosecuting authority for the Litigating Political Subdivision] as having been retained by and having represented the STATE in connection with the Action, acting collectively by unanimous decision of all such persons or entities.

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- (y) *"Tobacco Case"* means any tobacco and health case (other than a non-class action personal injury case brought directly by or on behalf of a single natural person or the survivor of such person or for wrongful death, or any non-class action consolidation of two or more such cases).
- (z) *"Unpaid Fee"* means the unpaid portion of a Fee Award.

SECTION 2. Agreement to Pay Fees.

The Original Participating Manufacturers will pay reasonable attorneys' fees to STATE Outside Counsel for their representation of the State of STATE in connection with the Action, as provided herein and subject to the *Code of Professional Responsibility* of the American Bar Association. Nothing herein shall be construed to require the Original Participating Manufacturers to pay any attorneys' fees other than (i) a Liquidated Fee or a Fee Award and (ii) a Cost Statement, as provided herein, nor shall anything herein require the Original Participating Manufacturers to pay any Liquidated Fee, Fee Award or Cost Statement in connection with any litigation other than the Action.

SECTION 3. Exclusive Obligation of the Original Participating Manufacturers.

The provisions set forth herein constitute the entire obligation of the Original Participating Manufacturers with respect to payment of attorneys' fees of STATE Outside Counsel (including costs and expenses) in connection with the Action and the exclusive means by which STATE Outside Counsel or any other person or entity may seek payment of fees by the Original Participating Manufacturers or Related Persons in connection with the Action. The Original Participating Manufacturers shall have no obligation pursuant to Section XVII of the Agreement to pay attorneys' fees in connection with the Action to any counsel other than STATE Outside Counsel, and they shall have no other obligation to pay attorneys' fees to or otherwise to compensate STATE Outside Counsel, any other counsel or representative of the State of STATE or the State of STATE itself with respect to attorneys' fees in connection with the Action.

SECTION 4. Release.

(a) Each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the office of the governmental prosecuting authority for the Litigating Political Subdivision] hereby irrevocably releases the Original Participating Manufacturers and all Related Persons from any and all claims that such person or entity ever had, now has or hereafter can, shall or may have in any way related to the Action (including but not limited to any negotiations related to the settlement of the Action). Such release shall not be construed as a release of any person or entity as to any of the obligations undertaken herein in connection with a breach thereof.

(b) In the event that STATE Outside Counsel and the Original Participating Manufacturers agree upon a Liquidated Fee pursuant to section 7 hereof, it shall be a precondition to any payment by the Original Participating Manufacturers to the Designated Representative pursuant to section 8 hereof that each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the office of the governmental prosecuting authority for the Litigating Political Subdivision] shall have irrevocably released all entities represented by STATE Outside Counsel in the Action, as well as all persons acting by or on behalf of such entities (including the Attorney General for the office of the governmental prosecuting authority) and each other person or entity identified on Exhibit S to the Agreement by the Attorney General (for the office of the governmental prosecuting authority) from any and all claims that such person or entity ever had, now has or hereafter can, shall or may have in any way related to the Action (including but not limited to any negotiations related to the settlement of the Action). Such release shall not be construed as a release of any person or entity as to any of the obligations undertaken herein in connection with a breach thereof.

SECTION 5. No Effect on STATE Outside Counsel's Fee Contract.

The rights and obligations, if any, of the respective parties to any contract between the State of STATE and STATE Outside Counsel shall be unaffected by this STATE Fee Payment Agreement except (a) insofar as STATE Outside Counsel grant the release described in subsection (b) of section 4 hereof; and (b) to the extent that STATE Outside Counsel receive any payments in satisfaction of a Fee Award pursuant to section 16 hereof, any amounts so received shall be credited, on a dollar-for-dollar basis, against any amount payable to STATE Outside Counsel by the State of STATE [or the Litigating Political Subdivision] under any such contract.

SECTION 7. Liquidated Fees.

(a) In the event that the Original Participating Manufacturers and STATE Outside Counsel agree upon the amount of a Liquidated Fee, the Original Participating Manufacturers shall pay such Liquidated Fee, pursuant to the terms hereof.

(b) The Original Participating Manufacturers' payment of any Liquidated Fee pursuant to this STATE Fee Payment Agreement shall be subject to (i) satisfaction of the conditions precedent stated in section 4 and paragraph (c)(ii) of section 7 hereof; and (ii) the payment schedule and the annual and quarterly aggregate national caps specified in sections 8 and 9 hereof, which shall apply to all payments made with respect to Liquidated Fees of all Outside Counsel.

SECTION 7. Negotiation of Liquidated Fees.

(a) If STATE Outside Counsel seek to be paid a Liquidated Fee, the Designated Representative shall so notify the Original Participating Manufacturers. The Original Participating Manufacturers may at any time make an offer of a Liquidated Fee to the Designated Representative in an amount set by the unanimous agreement, and at the sole discretion, of the Original Participating Manufacturers and, in any event, shall collectively make such an offer to the Designated Representative no more than 60 Business Days after receipt of notice by the Designated Representative that STATE Outside

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Counsel seek to be paid a Liquidated Fee. The Original Participating Manufacturers shall not be obligated to make an offer of a Liquidated Fee in any particular amount. Within ten Business Days after receiving such an offer, STATE Outside Counsel shall either accept the offer, reject the offer or make a counteroffer.

(b) The national aggregate of all Liquidated Fees to be agreed to by the Original Participating Manufacturers in connection with the settlement of those actions indicated on Exhibits D, M and N to the Agreement shall not exceed one billion two hundred fifty million dollars (\$1,250,000,000).

(c) If the Original Participating Manufacturers and STATE Outside Counsel agree in writing upon a Liquidated Fee:

(i) STATE Outside Counsel shall not be eligible for a Fee Award;

(ii) such Liquidated Fee shall not become a Payable Liquidated Fee until such time as (A) State-Specific Finality has occurred in the State of STATE; (B) each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the office of the governmental prosecuting authority of the Litigating Political Subdivision] has granted the release described in subsection (b) of section 4 hereof; and (C) notice of the events described in subparagraphs (A) and (B) of this paragraph has been provided to the Original Participating Manufacturers.

(iii) payment of such Liquidated Fee pursuant to sections 8 and 9 hereof (together with payment of costs and expenses pursuant to section 19 hereof), shall be STATE Outside Counsel's total and sole compensation by the Original Participating Manufacturers in connection with the Action.

(d) If the Original Participating Manufacturers and STATE Outside Counsel do not agree in writing upon a Liquidated Fee, STATE Outside Counsel may submit an Application to the Panel for a Fee Award to be paid as provided in sections 16, 17 and 18 hereof.

SECTION 8. *Payment of Liquidated Fee.*

In the event that the Original Participating Manufacturers and STATE Outside Counsel agree in writing upon a Liquidated Fee, and until such time as the Designated Representative has received payments in full satisfaction of such Liquidated Fee —

(a) On February 1, 1999, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee before January 15, 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel, (ii) \$5 million or (iii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel as of January 15, 1999 exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

(b) On August 1, 1999, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee on or after January 15, 1999 and before July 15, 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel, (ii) \$5 million or (iii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel that became Payable Liquidated Fees on or after January 15, 1999 and before July 15, 1999 exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

(c) On December 15, 1999, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee on or after July 15, 1999 and before December 1, 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel, (ii) \$5 million or (iii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel that became Payable Liquidated Fees on or after July 15, 1999 and before December 1, 1999 exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

(d) On December 15, 1999, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee before December 1, 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel, or (ii) \$5 million or (iii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel that became Payable Liquidated Fees before December 1, 1999 exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

(e) On December 15, 1999, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee before December 1, 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel or (ii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel that became Payable Liquidated Fees before December 1, 1999 exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

(f) On the last day of each calendar quarter, beginning with the first calendar quarter of 2000 and ending with the fourth calendar quarter of 2003, if the Liquidated Fee of STATE Outside Counsel became a Payable Liquidated Fee at least 15 Business Days prior to the last day of each such calendar quarter, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the lesser of (i) the Payable Liquidated Fee of STATE Outside Counsel or (ii) in the event that the sum of all Payable Liquidated Fees of all Outside Counsel as of the date 15 Business Days prior to the date of the payment in question exceeds the Applicable Liquidation Amount, the Allocable Liquidated Share of STATE Outside Counsel.

SECTION 9. *Limitations on Payments of Liquidated Fees.*

Notwithstanding any other provision hereof, all payments by the Original Participating Manufacturers with respect to Liquidated Fees shall be subject to the following:

(a) Under no circumstances shall the Original Participating Manufacturers be required to make any payment that would result in aggregate national payments of Liquidated Fees:

(i) during 1999, totaling more than \$250 million;

(ii) with respect to any calendar quarter beginning with the first calendar quarter of 2000 and ending with the fourth calendar quarter of 2003, totaling more than \$62.5 million, except to the extent that a payment with respect to any prior calendar quarter of any calendar year did not total \$62.5 million; or

(iii) with respect to any calendar quarter after the fourth calendar quarter of 2003, totaling more than zero.

(b) The Original Participating Manufacturers' obligations with respect to the Liquidated Fee of STATE Outside Counsel, if any, shall be exclusively as provided in this STATE Fee Payment Agreement, and notwithstanding any other provision of law, such Liquidated Fee shall not be entered as or reduced to a judgment against the Original Participating Manufacturers or considered as a basis for requiring a bond or imposing a lien or any other encumbrance.

SECTION 10. *Fee Awards.*

(a) In the event that the Original Participating Manufacturers and STATE Outside Counsel do not agree in writing upon a Liquidated Fee as described in section 7 hereof, the Original Participating Manufacturers shall pay, pursuant to the terms hereof, the Fee Award awarded by the Panel to STATE Outside Counsel.

(b) The Original Participating Manufacturers' payment of any Fee Award pursuant to this STATE Fee Payment Agreement shall be subject to the payment schedule and the annual and quarterly aggregate national caps specified in sections 17 and 18 hereof, which shall apply to:

(i) all payments of Fee Awards in connection with an agreement to pay fees as part of the settlement of any Tobacco Case on terms that provide for payment by the Original Participating Manufacturers or other defendants acting in agreement with the Original Participating Manufacturers (collectively, "Participating Defendants") of fees with respect to any Private Counsel, subject to an annual cap on payment of all such fees; and

(ii) all payments of attorneys' fees (other than fees for attorneys of Participating Defendants) pursuant to Fee Awards for activities in connection with any Tobacco Case resolved by operation of Federal Legislation.

SECTION 11. *Composition of the Panel.*

(a) The first and the second members of the Panel shall both be permanent members of the Panel and, as such, will participate in the determination of all Fee Awards. The third Panel member shall not be a permanent Panel member, but instead shall be a state-specific member selected to determine Fee Awards on behalf of Private Counsel retained in connection with litigation within a single state. Accordingly, the third, state-specific member of the Panel for purposes of determining Fee Awards with respect to litigation in the State of STATE, shall not participate in any determination as to any Fee Award with respect to litigation in any other state (unless selected to participate in such determinations by such persons as may be authorized to make such selections under other agreements).

(b) The members of the Panel shall be selected as follows:

(i) The first member shall be the natural person selected by Participating Defendants.

(ii) The second member shall be the person jointly selected by the agreement of Participating Defendants and a majority of the committee described in the fee payment agreements entered in connection with the settlements of the Tobacco Cases brought by the Previously Settled States. In the event that the person so selected is unable or unwilling to continue to serve, a replacement for such member shall be selected by agreement of the Original Participating Manufacturers and a majority of the members of a committee composed of the following members: Joseph F. Rice, Richard F. Scruggs, Steven W. Beriman, Walter Umphrey, one additional representative, to be selected in the sole discretion of NAAG, and two representatives of Private Counsel in Tobacco Cases, to be selected at the sole discretion of the Original Participating Manufacturers.

(iii) The third, state-specific member for purposes of determining Fee Awards with respect to litigation in the State of STATE shall be a natural person selected by STATE Outside Counsel, who shall notify the Director and the Original Participating Manufacturers of the name of the person selected.

SECTION 12. *Application of STATE Outside Counsel.*

(a) STATE Outside Counsel shall make a collective Application for a single Fee Award, which shall be submitted to the Director. Within five Business Days after receipt of the Application by STATE Outside Counsel, the Director shall serve the Application upon the Original Participating Manufacturers and the STATE. The Original Participating Manufacturers shall submit all materials in response to the Application to the Director by the later of (i) 60 Business Days after service of the Application upon the Original Participating Manufacturers by the Director, (ii) five Business Days after the date of State-Specific Finality in the State of STATE or (iii) five Business Days after the date on which notice of the name of the third, state-specific panel member described in paragraph (b)(iii) of section 11 hereof has been provided to the Director and the Original Participating Manufacturers.

(i) in the case of the first quarterly allocation for any calendar year, such monthly amount shall be allocated among all Eligible Counsel for such month in proportion to the amounts of their respective Unpaid Fees.

(ii) in the case of a quarterly allocation after the first quarterly allocation, the Quarterly Fee Amount shall be allocated among only those Private Counsel, if any, that were Eligible Counsel with respect to any monthly amount for any prior quarter of the calendar year but were not allocated a proportionate share of such monthly amount (either because such Private Counsel's applications for Fee Awards were still under consideration as of the last day of the calendar quarter containing the month in question or for any other reason), until each such Eligible Counsel has been allocated a proportionate share of all such prior monthly payments for the calendar year (each such share of each such Eligible Counsel being a "Payable Proportionate Share"). In the event that the sum of all Payable Proportionate Shares exceeds the Quarterly Fee Amount, the Quarterly Fee Amount shall be allocated among such Eligible Counsel on a monthly basis in proportion to the amounts of their respective Unpaid Fees (without regard to whether there may be other Eligible Counsel with respect to such prior monthly amounts that have not yet been granted or denied a Fee Award as of the last day of the Applicable Quarter). In the event that the sum of all Payable Proportionate Shares is less than the Quarterly Fee Amount, the amount by which the Quarterly Fee Amount exceeds the sum of all such Payable Proportionate Shares shall be allocated among each month of the calendar quarter, each such monthly amount to be allocated among those Eligible Counsel having Unpaid Fees in proportion to the amounts of their respective Unpaid Fees (without regard to whether there may be Eligible Counsel that have not yet been granted or denied a Fee Award as of the last day of the Applicable Quarter).

(c) Adjustments pursuant to subsection (b)(ii) of this section 17 shall be made separately for each calendar year. No amounts paid in any calendar year shall be subject to refund, nor shall any payment in any given calendar year affect the allocation of payments to be made in any subsequent calendar year.

SECTION 18. *Credits to and Limitations on Payment of Fee Awards.*

Notwithstanding any other provision hereof, all payments by the Original Participating Manufacturers with respect to Fee Awards shall be subject to the following:

(a) Under no circumstances shall the Original Participating Manufacturers be required to make payments that would result in aggregate national payments and credits by Participating Defendants with respect to all Fee Awards of Private Counsel:

(i) during any year beginning with 1999, totaling more than the sum of the Quarterly Fee Amounts for each calendar quarter of the calendar year, excluding certain payments with respect to any Private Counsel for 1998 that are paid in 1999; and

(ii) during any calendar quarter beginning with the first calendar quarter of 1999, totaling more than the Quarterly Fee Amount for such quarter, excluding certain payments with respect to any Private Counsel for 1998 that are paid in 1999.

(b) The Original Participating Manufacturers' obligations with respect to the Fee Award of STATE Outside Counsel, if any, shall be exclusively as provided in this STATE Fee Payment Agreement, and notwithstanding any other provision of law, such Fee Award shall not be entered as or reduced to a judgment against the Original Participating Manufacturers or considered as a basis for requiring a bond or imposing a lien or any other encumbrance.

SECTION 19. *Reimbursement of Outside Counsel's Costs.*

(a) The Original Participating Manufacturers shall reimburse STATE Outside Counsel for reasonable costs and expenses incurred in connection with the Action, provided that such costs and expenses are of the same nature as costs and expenses for which the Original Participating Manufacturers ordinarily reimburse their own counsel or agents. Payment of any Approved Cost Statement pursuant to this STATE Fee Payment Agreement shall be subject to (i) the condition precedent of approval of the Agreement by the Court for the State of STATE and (ii) the payment schedule and the aggregate national caps specified in subsection (c) of this section, which shall apply to all payments made with respect to Cost Statements of all Outside Counsel.

(b) In the event that STATE Outside Counsel seek to be reimbursed for reasonable costs and expenses incurred in connection with the Action, the Designated Representative shall submit a Cost Statement to the Original Participating Manufacturers. Within 30 Business Days after receipt of any such Cost Statement, the Original Participating Manufacturers shall either accept the Cost Statement or dispute the Cost Statement, in which event the Cost Statement shall be subject to a full audit by examiners to be appointed by the Original Participating Manufacturers (in their sole discretion). Any such audit will be completed within 120 Business Days after the date the Cost Statement is received by the Original Participating Manufacturers. Upon completion of such audit, if the Original Participating Manufacturers and STATE Outside Counsel cannot agree as to the appropriate amount of STATE Outside Counsel's reasonable costs and expenses, the Cost Statement and the examiner's audit report shall be submitted to the Director for arbitration before the Panel or, in the event that STATE Outside Counsel and the Original Participating Manufacturers have agreed upon a Liquidated Fee pursuant to section 7 hereof, before a separate three-member panel of independent arbitrators, to be selected in a manner to be agreed to by STATE Outside Counsel and the Original Participating Manufacturers, which shall determine the amount of STATE Outside Counsel's reasonable costs and expenses for the Action. In determining such reasonable costs and expenses, the members of the arbitration panel shall be governed by the Protocol of Panel Procedures attached as an Appendix hereto. The amount of

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(b) The Original Participating Manufacturers may submit to the Director any materials that they wish and, notwithstanding any restrictions or representations made in any other agreements, the Original Participating Manufacturers shall be in no way constrained from contesting the amount of the Fee Award requested by STATE Outside Counsel. The Director, the Panel, the State of STATE, the Original Participating Manufacturers and STATE Outside Counsel shall preserve the confidentiality of any attorney work-product materials or other similar confidential information that may be submitted.

(c) The Director shall forward the Application of STATE Outside Counsel, as well as all written materials relating to such Application that have been submitted by the Original Participating Manufacturers pursuant to subsection (b) of this section, to the Panel within five Business Days after the later of (i) the expiration of the period for the Original Participating Manufacturers to submit such materials or (ii) the earlier of (A) the date on which the Panel issues a Fee Award with respect to any Application of other Private Counsel previously forwarded to the Panel by the Director or (B) 30 Business Days after the forwarding to the Panel of the Application of other Private Counsel most recently forwarded to the Panel by the Director. The Director shall notify the Parties upon forwarding the Application (and all written materials relating thereto) to the Panel.

(d) In the event that either Party seeks a hearing before the Panel, such Party may submit a request to the Director in writing within five Business Days after the forwarding of the Application of STATE Outside Counsel to the Panel by the Director, and the Director shall promptly forward the request to the Panel. If the Panel grants the request, it shall promptly set a date for hearing, such date to fall within 30 Business Days after the date of the Panel's receipt of the Application.

SECTION 13. *Panel Proceedings.*

The proceedings of the Panel shall be conducted subject to the terms of this Agreement and of the Protocol of Panel Procedures attached as an Appendix hereto.

SECTION 14. *Award of Fees to STATE Outside Counsel.*

The members of the Panel will consider all relevant information submitted to them in reaching a decision as to a Fee Award that fairly provides for full reasonable compensation of STATE Outside Counsel. In considering the amount of the Fee Award, the Panel shall not consider any Liquidated Fee agreed to by any other Outside Counsel, any offer of or negotiations relating to any proposed liquidated fee for STATE Outside Counsel or any Fee Award that already has been or yet may be awarded in connection with any other Tobacco Case. The Panel shall not be limited to an hourly-rate or lodestar analysis in determining the amount of the Fee Award of STATE Outside Counsel, but shall take into account the totality of the circumstances. The Panel's decisions as to the Fee Award of STATE Outside Counsel shall be in writing and shall report the amount of the fee awarded (with or without explanation or opinion, at the Panel's discretion). The Panel shall determine the amount of the Fee Award to be paid to STATE Outside Counsel within the later of 30 calendar days after receiving the Application (and all related materials) from the Director or 15 Business Days after the last date of any hearing held pursuant to subsection (d) of section 12 hereof. The Panel's decision as to the Fee Award of STATE Outside Counsel shall be final, binding and non-appealable.

SECTION 15. *Costs of Arbitration.*

All costs and expenses of the arbitration proceedings held by the Panel, including costs, expenses and compensation of the Director and of the Panel members (but not including any costs, expenses or compensation of counsel making applications to the Panel), shall be borne by the Original Participating Manufacturers in proportion to their Relative Market Shares.

SECTION 16. *Payment of Fee Award of STATE Outside Counsel.*

On or before the tenth Business Day after the last day of each calendar quarter beginning with the first calendar quarter of 1999, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the Allocated Amount for STATE Outside Counsel for the calendar quarter with respect to which such quarterly payment is being made (the "Applicable Quarter").

SECTION 17. *Allocated Amounts of Fee Awards.*

The Allocated Amount for each Private Counsel with respect to any payment to be made for any particular Applicable Quarter shall be determined as follows:

(a) The Quarterly Fee Amount shall be allocated equally among each of the three months of the Applicable Quarter. The amount for each such month shall be allocated among those Private Counsel retained in connection with Tobacco Cases settled before or during such month (each such Private Counsel being an "Eligible Counsel" with respect to such monthly amount), each of which shall be allocated a portion of each such monthly amount up to (or, in the event that the sum of all Eligible Counsel's respective Unpaid Fees exceeds such monthly amount, in proportion to) the amount of such Eligible Counsel's Unpaid Fees. The monthly amount for each month of the calendar quarter shall be allocated among those Eligible Counsel having Unpaid Fees, without regard to whether there may be Eligible Counsel that have not yet been granted or denied a Fee Award as of the last day of the Applicable Quarter. The allocation of subsequent Quarterly Fee Amounts for the calendar year, if any, shall be adjusted, as necessary, to account for any Eligible Counsel that are granted Fee Awards in a subsequent quarter of such calendar year, as provided in paragraph (b)(ii) of this section.

(b) In the event that the amount for a given month is less than the sum of the Unpaid Fees of all Eligible Counsel:

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STATE Outside Counsel's reasonable costs and expenses determined pursuant to arbitration as provided in the preceding sentence shall be final, binding and non-appealable.

(c) Any Approved Cost Statement of STATE Outside Counsel shall not become a Payable Cost Statement until approval of the Agreement by the Court for the State of STATE. Within five Business Days after receipt of notification thereof by the Designated Representative, each Original Participating Manufacturer shall severally pay to the Designated Representative its Relative Market Share of the Payable Cost Statement of STATE Outside Counsel, subject to the following: STATEMENTS became Payable Cost Statements.

(i) All Payable Cost Statements of Outside Counsel shall be paid in the order in which such Payable Cost Statements became Payable Cost Statements.

(ii) Under no circumstances shall the Original Participating Manufacturers be required to make payments that would result in aggregate national payments by Participating Defendants of all Payable Cost Statements of Private Counsel in connection with all of the actions identified in Exhibits D, M and N to the Agreement, totaling more than \$75 million for any given year.

(iii) Any Payable Cost Statement of Outside Counsel not paid during the year in which it became a Payable Cost Statement as a result of paragraph (i) of this subsection shall become payable in subsequent years, subject to paragraphs (i) and (ii), until paid in full.

(d) The Original Participating Manufacturers' obligations with respect to reasonable costs and expenses incurred by STATE Outside Counsel in connection with the Action shall be exclusively as provided in this STATE Fee Payment Agreement, and notwithstanding any other provision of law, any Approved Cost Statement determined pursuant to subsection (b) of this section (including any Approved Cost Statement determined pursuant to arbitration before the Panel or the separate three-member panel of independent arbitrators described therein) shall not be entered as or reduced to a judgment against the Original Participating Manufacturers or considered as a basis for requiring a bond or imposing a lien or any other incumbrance.

SECTION 20. *Distribution of Payments among STATE Outside Counsel.*

(a) All payments made to the Designated Representative pursuant to this STATE Fee Payment Agreement shall be for the benefit of each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the governmental prosecuting authority of the Litigating Political Subdivision], each of which shall receive from the Designated Representative a percentage of each such payment in accordance with the fee sharing agreement, if any, among STATE Outside Counsel (or any written amendment thereto).

(b) The Original Participating Manufacturers shall have no obligation, responsibility or liability with respect to the allocation among those persons or entities identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the governmental prosecuting authority of the Litigating Political Subdivision], or with respect to any claim of misallocation, of any amounts paid to the Designated Representative pursuant to this STATE Fee Payment Agreement.

SECTION 21. *Calculations of Amounts.*

All calculations that may be required hereunder shall be performed by the Original Participating Manufacturers, with notice of the results thereof to be given promptly to the Designated Representative. Any disputes as to the correctness of calculations made by the Original Participating Manufacturers shall be resolved pursuant to the procedures described in Section XI(c) of the Agreement for resolving disputes as to calculations by the Independent Auditor.

SECTION 22. *Payment Responsibility.*

(a) Each Original Participating Manufacturer shall be severally liable for its share of all payments pursuant to this STATE Fee Payment Agreement. Under no circumstances shall any payment due hereunder or any portion thereof become the joint obligation of the Original Participating Manufacturers or the obligation of any person other than the Original Participating Manufacturer from which such payment is originally due, nor shall any Original Participating Manufacturer be required to pay a portion of any such payment greater than its Relative Market Share.

(b) Due to the particular corporate structures of R. J. Reynolds Tobacco Company ("Reynolds") and Brown & Williamson Tobacco Corporation ("Brown & Williamson") with respect to their non-domestic tobacco operations, Reynolds and Brown & Williamson shall each be severally liable for its respective share of each payment due pursuant to this STATE Fee Payment Agreement up to (and its liability hereunder shall not exceed) the full extent of its assets used in, and earnings and revenues derived from, its manufacture and sale in the United States of Tobacco Products intended for domestic consumption, and no recourse shall be had against any of its other assets or earnings to satisfy such obligations.

SECTION 23. *Termination.*

In the event that the Agreement is terminated with respect to the State of STATE pursuant to Section XVIII(u) of the Agreement (or for any other reason) the Designated Representative and each person or entity identified in Exhibit S to the Agreement by the Attorney General of the State of STATE [or as certified by the governmental prosecuting authority of the Litigating Political Subdivision] shall immediately refund to the Original Participating Manufacturers all amounts received under this STATE Fee Payment Agreement.

SECTION 24. *Intended Beneficiaries.*

No provision hereof creates any rights on the part of, or is enforceable by, any person or entity that is not a Party or a person covered by either of the releases described in section 4 hereof, except that sections 5 and 20 hereof create rights on the part of, and shall be enforceable by, the State of STATE. Nor shall any provision hereof bind any non-signatory or determine, limit or prejudice the rights of any such person or entity.

SECTION 25. *Representations of Parties.*

The Parties hereto hereby represent that this STATE Fee Payment Agreement has been duly authorized and, upon execution, will constitute a valid and binding contractual obligation, enforceable in accordance with its terms, of each of the Parties hereto.

SECTION 26. *No Admission.*

This STATE Fee Payment Agreement is not intended to be and shall not in any event be construed as, or deemed to be, an admission or concession or evidence of any liability or wrongdoing whatsoever on the part of any signatory hereto or any person covered by either of the releases provided under section 4 hereof. The Original Participating Manufacturers specifically disclaim and deny any liability or wrongdoing whatsoever with respect to the claims released under section 4 hereof and into this STATE Fee Payment Agreement for the sole purposes of memorializing the Original Participating Manufacturers' rights and obligations with respect to payment of attorneys' fees pursuant to the Agreement and avoiding the further expense, inconveniences, burden and uncertainty of potential litigation.

SECTION 27. *Non-admissibility.*

This STATE Fee Payment Agreement having been undertaken by the Parties hereto in good faith and for settlement purposes only, neither this STATE Fee Payment Agreement nor any evidence of negotiations relating hereto shall be offered or received in evidence in any action or proceeding other than an action or proceeding arising under this STATE Fee Payment Agreement.

SECTION 28. *Amendment and Waiver.*

This STATE Fee Payment Agreement may be amended only by a written instrument executed by the Parties. The waiver of any rights conferred hereunder shall be effective only if made by written instrument executed by the waiving Party. The waiver by any Party of any breach hereof shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this STATE Fee Payment Agreement.

SECTION 29. *Notices.*

All notices or other communications to any party hereto shall be in writing (including but not limited to telex, facsimile or similar writing) and shall be given to the notice parties listed on Schedule A, hereto, at the addresses therein indicated. Any Party hereto may change the name and address of the person designated to receive notice on behalf of such Party by notice given as provided in this section including an updated list conformed to Schedule A hereto.

SECTION 30. *Governing Law.*

This STATE Fee Payment Agreement shall be governed by the laws of the State of STATE without regard to the conflict of law rules of such State.

SECTION 31. *Construction.*

None of the Parties hereto shall be considered to be the drafter hereof or of any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

SECTION 32. *Captions.*

The captions of the sections hereof are included for convenience of reference only and shall be ignored in the construction and interpretation hereof.

SECTION 33. *Execution of STATE Fee Payment Agreement.*

This STATE Fee Payment Agreement may be executed in counterparts. Facsimile or photocopied signatures shall be considered valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this STATE Fee Payment Agreement.

SECTION 34. *Entire Agreement of Parties.*

This STATE Fee Payment Agreement contains an entire, complete and integrated statement of each and every term and provision agreed to by and among the Parties with respect to payment of attorneys' fees by the Original Participating Manufacturers in connection with the Action and is not subject to any condition or covenant, express or implied, not provided for herein.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have agreed to this STATE Fee Payment Agreement as of this ___th day of _____, 1998.

[SIGNATURE BLOCK]

[Intentionally Omitted]

APPENDIX
to MODEL FEE PAYMENT AGREEMENT
PROTOCOL OF PANEL PROCEEDINGS

This Protocol of proceedings has been agreed to between the respective parties to the STATE Fee Payment Agreement, and shall govern the arbitration proceedings provided for therein.

SECTION 1. Definitions.

All definitions contained in the STATE Fee Payment Agreement are incorporated by reference herein.

SECTION 2. Chairman.

The person selected to serve as the permanent, neutral member of the Panel as described in paragraph (b)(ii) of section 11 of the STATE Fee Payment Agreement shall serve as the Chairman of the Panel.

SECTION 3. Arbitration Pursuant to Agreement.

The members of the Panel shall determine those matters committed to the decision of the Panel under the STATE Fee Payment Agreement, which shall govern as to all matters discussed therein.

SECTION 4. ABA Code of Ethics.

Each of the members of the Panel shall be governed by the *Code of Ethics for Arbitrators in Commercial Disputes* prepared by the American Arbitration Association and the American Bar Association (the "*Code of Ethics*"), in conducting the arbitration proceedings pursuant to the STATE Fee Payment Agreement, subject to the terms of the STATE Fee Payment Agreement and this Protocol. Each of the party-appointed members of the Panel shall be governed by Canon VII of the *Code of Ethics*. No person may engage in any *ex parte* communications with the permanent, neutral member of the Panel selected pursuant to paragraph (b)(ii) of section 11, in keeping with Canons I, II and III of the *Code of Ethics*.

SECTION 5. Additional Rules and Procedures.

The Panel may adopt such rules and procedures as it deems necessary and appropriate for the discharge of its duties under the STATE Fee Payment Agreement and this Protocol, subject to the terms of the STATE Fee Payment Agreement and this Protocol.

SECTION 6. Majority Rule.

In the event that the members of the Panel are not unanimous in their views as to any matter to be determined by them pursuant to the STATE Fee Payment Agreement or this Protocol, the determination shall be decided by a vote of a majority of the three members of the Panel.

SECTION 7. Application for Fee Award and Other Materials.

(a) The Application of STATE Outside Counsel and any materials submitted to the Director relating thereto (collectively, "submissions") shall be forwarded by the Director to each of the members of the Panel in the manner and on the dates specified in the STATE Fee Payment Agreement.

(b) All materials submitted to the Director by either Party (or any other person) shall be served upon all Parties. All submissions required to be served on any Party shall be deemed to have been served as of the date on which such materials have been sent by either (i) hand delivery or (ii) facsimile and overnight courier for priority next-day delivery.

(c) To the extent that the Panel believes that information not submitted to the Panel may be relevant for purposes of determining those matters committed to the decision of the Panel under the terms of the STATE Fee Payment Agreement, the Panel shall request such information from the Parties.

SECTION 8. Hearing.

Any hearing held pursuant to section 12 of the STATE Fee Payment Agreement shall not take place other than in the presence of all three members of the Panel upon notice and an opportunity for the respective representatives of the Parties to attend.

SECTION 9. Miscellaneous.

(a) Each member of the Panel shall be compensated for his services by the Original Participating

Manufacturers on a basis to be agreed to between such member and the Original Participating Manufacturers.

(b) The members of the Panel shall refer all media inquiries regarding the arbitration proceeding to the respective Parties to the STATE Fee Payment Agreement and shall refrain from any comment as to the arbitration proceedings to be conducted pursuant to the STATE Fee Payment Agreement during the pendency of such arbitration proceedings, in keeping with Canon IV(B) of the *Code of Ethics*.

EXHIBIT Q
EXCLUSION OF CERTAIN BRAND NAMES

EXHIBIT Q
1996 AND 1997 DATA

(1) 1996 Operating Income	Operating Income	<u>Brown & Williamson Tobacco Corporation</u>
<u>Original Participating Manufacturer</u>	\$801,640,000	GPC
Brown & Williamson Tobacco Corp.	\$719,100,000	State Express 555
Lorillard Tobacco Co.	\$4,206,600,000	Riviera
Philip Morris Inc.	\$1,468,000,000	<u>Philip Morris Incorporated</u>
R.J. Reynolds Tobacco Co.	\$7,195,340,000	Players
Total (Base Operating Income)		B&H

(2) 1997 volume (as measured by shipments of Cigarettes)	<u>Number of Cigarettes</u>	
<u>Original Participating Manufacturer</u>		Belmont
Brown & Williamson Tobacco Corp.*	78,911,000,000	Mark Ten
Lorillard Tobacco Co.	42,288,000,000	Viscount
Philip Morris Inc.	236,203,000,000	Accord
R.J. Reynolds Tobacco Co.	118,254,000,000	L&M
Total (Base Volume)	475,656,000,000	Lark

(3) 1997 volume (as measured by excise taxes)	<u>Number of Cigarettes</u>	
<u>Original Participating Manufacturer</u>		Rothman's
Brown & Williamson Tobacco Corp.*	78,758,000,000	Best Buy
Lorillard Tobacco Co.	42,315,000,000	Bronson
Philip Morris Inc.	236,326,000,000	F&L
R.J. Reynolds Tobacco Co.	119,099,000,000	Genco

* The volume includes 2,847,595 pounds of "roll your own" tobacco converted into the number of Cigarettes using 0.0325 ounces per Cigarette conversion factor.		
		None
		<u>Lorillard Tobacco Company</u>
		None
		<u>R.J. Reynolds Tobacco Company</u>
		Best Choice
		Cardinal
		Director's Choice
		Jacks
		Rainbow
		Scotch Buy
		Slim Price
		Smoker Friendly
		Valu Time
		Worth

Section ____ Findings and Purpose.¹

(a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(e) On _____, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

Section ____ Definitions.

(a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(b) "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 organization or group of persons.

(c) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(d) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(e) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on _____, 1998 by the State and leading United States tobacco product manufacturers.

(f) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with section ____ (b)-(c) of this Act.

(g) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(h) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

¹ [A State may elect to delete the "findings and purposes" section in its entirety. Other changes or substitutions with respect to the "findings and purposes" section (except for particularized state procedural or technical requirements) will mean that the statute will no longer conform to this model.]

(i) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections I(f)(m) of the Master Settlement Agreement and that pays the taxes specified in subsection II(2) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) 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; or

(3) becomes a successor of an entity described in paragraph (1) or (2).

The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of (1) - (3) above.

(i) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the State. The [fill in name of responsible state agency] shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Section ____ Requirements.

Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in section II(j)) of the Master Settlement Agreement and generally perform its financial obligations under the Master Settlement Agreement; or

(b) (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation) --

1999: \$.0094241 per unit sold after the date of enactment of this Act;²

2000: \$.0104712 per unit sold after the date of enactment of this Act;³

for each of 2001 and 2002: \$.0136125 per unit sold after the date of enactment of this Act;

for each of 2003 through 2006: \$.0167539 per unit sold after the date of enactment of this Act;

for each of 2007 and each year thereafter: \$.0188482 per unit sold after the date of enactment of this Act.

(2) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances --

(A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (i) in the order in which they were placed into escrow and (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(3) of that Agreement other than the Inflation Adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(C) to the extent not released from escrow under subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General [or other State official] that it is in compliance with this subsection. The Attorney General [or other State official] may bring a civil action on behalf of the State against any tobacco product

² [All per unit numbers subject to verification]

³ [The phrase "after the date of enactment of this Act" would need to be included only in the calendar year in which the Act is enacted.]

manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall --

(A) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty [to be paid to the general fund of the state] in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow;

(B) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty [to be paid to the general fund of the state] in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and

(C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years. Each failure to make an annual deposit required under this section shall constitute a separate violation.⁴

Each failure to make an annual deposit required under this section shall constitute a separate violation.⁴

⁴ [A State may elect to include a requirement that the violator also pay the State's costs and attorney's fees incurred during a successful prosecution under this paragraph (3).]

EXHIBIT U
STRATEGIC CONTRIBUTION FUND PROTOCOL

The payments made by the Participating Manufacturers pursuant to section IX(c)(2) of the Agreement ("Strategic Contribution Fund") shall be allocated among the Settling States pursuant to the process set forth in this Exhibit U.

Section 1

A panel committee of three former Attorneys General or former Article III judges ("Allocation Committee") shall be established to determine allocations of the Strategic Contribution Fund, using the process described herein. Two of the three members of the Allocation Committee shall be selected by the NAAG executive committee. Those two members shall choose the third Allocation Committee member. The Allocation Committee shall be geographically and politically diverse.

Section 2

Within 60 days after the MSA Execution Date, each Settling State will submit an itemized request for funds from the Strategic Contribution Fund, based on the criteria set forth in Section 4 of this Exhibit U.

Section 3

The Allocation Committee will determine the appropriate allocation for each Settling State based on the criteria set forth in Section 4 below. The Allocation Committee shall make its determination based upon written documentation.

Section 4

The criteria to be considered by the Allocation Committee in its allocation decision include each Settling State's contribution to the litigation or resolution of state tobacco litigation, including, but not limited to, litigation and/or settlement with tobacco product manufacturers, including Liggett and Myers and its affiliated entities.

Section 5

Within 45 days after receiving the itemized requests for funds from the Settling States, the Allocation Committee will prepare a preliminary decision allocating the Strategic Contribution Fund payments among the Settling States who submitted itemized requests for funds. All Allocation Committee decisions must be by majority vote. Each Settling State will have 30 days to submit comments on or objections to the draft decision. The Allocation Committee will issue a final decision allocating the Strategic Contribution Fund payments within 45 days.

Section 6

The decision of the Allocation Committee shall be final and non-appealable.

Section 7

The expenses of the Allocation Committee, in an amount not to exceed \$100,000, will be paid from disbursements from the Subsection VIII(c) Account.

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APPENDIX C

**NPM ADJUSTMENT SETTLEMENT AGREEMENT AND 2016 AND 2017 NPM ADJUSTMENTS
SETTLEMENT AGREEMENT**

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I. RECITALS

WHEREAS, the Settling States and the Participating Manufacturers are parties to the Master Settlement Agreement ("MSA");

WHEREAS, pursuant to the MSA, the Participating Manufacturers make certain payments for the benefit of the Settling States each year;

WHEREAS, the MSA provides that certain of the Participating Manufacturers' payments for the benefit of the Settling States are subject to the Non-Participating Manufacturer Adjustment ("NPM Adjustment");

WHEREAS, the Settling States and the Participating Manufacturers have disputes concerning the NPM Adjustments for 2003-2012;

WHEREAS, the Settling States (other than Montana) and the Participating Manufacturers were parties to an arbitration regarding the 2003 NPM Adjustment (the "2003 arbitration");

WHEREAS, 26 Settling States and 34 Participating Manufacturers have entered into a Term Sheet for settlement in order to avoid the further expense, delay, inconvenience, burden and uncertainty of continued disputes with respect to the applicability of such NPM Adjustments;

WHEREAS, the Term Sheet provides for the settlement of specified NPM Adjustment disputes as among the Signatory Parties, including the final resolution as among them of the 2003-2012 NPM Adjustments and certain provisions as among them regarding the NPM Adjustments for subsequent years;

WHEREAS, the PMs reserve all rights regarding the NPM Adjustment with respect to all Non-Signatory States;

I

WHEREAS, the arbitration panel in the 2003 arbitration has entered a Stipulated Partial Settlement and Award ("Award") incorporating specified terms of the Term Sheet and permitting the Signatory Parties to proceed with the settlement pursuant to the Term Sheet;

WHEREAS, the Award satisfies the second condition of Section IV.E of the Term Sheet, and the Term Sheet is binding on the Signatory Parties;

WHEREAS, the Independent Auditor has implemented the provisions of the Term Sheet with respect to the April 15, 2013, April 15, 2014, April 15, 2015, April 15, 2016, and April 17, 2017 MSA payments;

WHEREAS, the Term Sheet provides that the Signatory Parties will cooperate in the drafting and execution of a comprehensive final settlement agreement incorporating the terms of that Term Sheet, as well as all other customary terms and conditions acceptable to the Signatory Parties;

WHEREAS, this Settlement Agreement constitutes such comprehensive final settlement agreement and, upon execution by all Signatory Parties, will supersede the Term Sheet and be binding upon all Signatory Parties;

NOW, THEREFORE, BE IT KNOWN THAT, in consideration for the payments and credits provided for in this Settlement Agreement, and such other consideration as described in this Settlement Agreement, the sufficiency of which is hereby acknowledged, the Signatory Parties, acting by and through their authorized representatives, memorialize and agree as follows:

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II. DEFINITIONS

- A. All capitalized terms not otherwise defined in this Settlement Agreement shall be defined as in the MSA.
- B. "[Year]NPM Adjustment," or "NPM Adjustment for [Year]" means the NPM Adjustment based on the Market Share Loss for the specified year and applicable to the payments due pursuant to MSA Section IX(c) on April 15 of the year following the specified year, calculated as provided in the MSA. For example, the 2003 NPM Adjustment, or the NPM Adjustment for 2003, means the NPM Adjustment based on the Market Share Loss for 2003 and applicable to the MSA payments due on April 15, 2004.
- C. "Allocable Share" means the percentage for the State in question as set forth in Exhibit A to the MSA.
- D. "IX(c)(2) Allocable Share" means the percentage for the State in question as determined in 1999 pursuant to Exhibit U to the MSA.
- E. "IX(c)(1) Allocated Settlement Percentage" of a Signatory State means the percentage set forth for that State in the second column of Exhibit A to this Settlement Agreement.
- F. "IX(c)(2) Allocated Settlement Percentage" of a Signatory State means the percentage set forth for that State in the third column of Exhibit A to this Settlement Agreement.
- G. "Allocable Share Repeal" means an amendment to a Signatory State's Escrow Statute substantially in the form of the attachment to Amendment 21 to the MSA, dated January 9, 2003.

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H. "Complementary Legislation" means a State statute substantially in the form of the Model Complementary Legislation proposed by the National Association of Attorneys General in December of 2002. Solely for purposes of this Settlement Agreement, a statute listed in Exhibit B, as such statute is in effect in the respective Signatory State as of the Effective Date, shall be considered to be substantially in the form of such Model Complementary Legislation so long as the respective State continuously has such statute in full force and effect. The PMs reserve all rights to contend otherwise for purposes other than this Settlement Agreement.

I. "Effective Date" means the date by which PMs with an aggregate Market Share in 2016 equal to at least 90%, and Signatory States with an aggregate Allocable Share equal to at least 90% of the aggregate Allocable Share of (i) the 2016 Signatory States, (ii) Oregon, and (iii) Rhode Island, have executed this Settlement Agreement.

J. "Equity Fee" means a payment imposed by an Equity Fee Law.

K. "Equity Fee Law" means a statute, regulation or other State directive in effect in a Previously Settled State that, by its terms: (i) imposes a per-Cigarette payment (including payments per carton, per pack, or per other package of Cigarettes), whether denominated as a "fee," "tax," "assessment," or by any other name, on the distribution or sale in such Previously Settled State of all Cigarettes manufactured or imported by NPMs (including without limitation legislation or regulation or other State directive requiring distributors, retailers, or consumers to make such payments) that are within such State's authority under federal law with respect to a tax described in subsection II.V(i); (ii) sets the per-Cigarette payment at an amount equal to or greater than 90% of the escrow amount per Cigarette sold in the same year under subsection (b)(1) of the Requirements section of the Model Statute (attached as Exhibit T to the MSA) (as

II

such amount is adjusted for inflation pursuant to the Model Statute); (iii) exempts from any part of such payment Cigarettes on which payments are made under that Previously Settled State's Tobacco Settlement Agreement; and (iv) if the PSS Amendment has not become effective, exempts from at least 73% of such payment Cigarettes manufactured or imported by an SPM (other than Cigarettes of a brand previously owned by an OPM). The NPM fee laws in effect as of the Effective Date in Mississippi, Minnesota and Texas shall be deemed to be Equity Fee Laws solely for purposes of this Agreement whether or not they otherwise would meet the foregoing definition, so long as (w) such laws continue to apply to all NPM Cigarettes to which they apply as of the Effective Date, (x) the per-Cigarette amount in effect under such laws (including any inflation requirement in such laws) remains at least as large as it was on the Effective Date, (y) the fee under such laws is not subsequently imposed on the sale or distribution of any Cigarettes on which payments are made under that Previously Settled State's Tobacco Settlement Agreement, and (z) with respect to the NPM fee law in Texas, until after the PSS Amendment becomes effective, the fee under such law is not subsequently imposed on the sale or distribution of any Cigarettes manufactured or imported by any SPM (other than Cigarettes of a brand previously owned by an OPM) in excess of the amount imposed on that SPM on the Effective Date. The PMs will cooperate in good faith with respect to the enactment of an Equity Fee Law in Florida and any proposed amendments to the Equity Fee Laws in Mississippi, Minnesota or Texas, in each case as consistent with the foregoing (including not supporting any reduction of the per-Cigarette amount in effect under such laws) and provided that any such legislation is not in conjunction with any other legislative proposal, except that each PM reserves its rights to support or oppose the enactment, amendment or interpretation of any legislation in any Previously Settled State with respect to (1) Cigarettes

manufactured or imported by an SPM that has a Tobacco Settlement Agreement with that Previously Settled State and (2) Cigarettes manufactured or imported by an SPM of a brand previously owned by an OPM. If PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% support the enactment in Florida (or in Texas, Mississippi or Minnesota if an Equity Fee Law is no longer effective in those States) of an NPM fee law that does not meet the definition of Equity Fee Law and such law is enacted, the law shall be deemed to meet the definition of Equity Fee Law solely for purposes of this Agreement as to all PMs.

L. "Escrow Statute" of a State means a State statute in the form set forth in Exhibit T to the MSA, if enacted without modification or addition (except for particularized state procedural or technical requirements) and not in conjunction with any other legislative or regulatory proposal. A statute listed in Exhibit C, as such statute is in effect in the respective Signatory State as of the Effective Date, shall be considered to be such Escrow Statute so long as the respective State continuously has such statute in full force and effect. The PMs reserve all rights with respect to what constitutes an Escrow Statute in a Non-Signatory State.

M. "Initial OPM" means Philip Morris USA Inc. (as successor-in-interest to Philip Morris Incorporated) and R.J. Reynolds Tobacco Company (for itself and as successor-in-interest to Brown & Williamson Tobacco Corporation and Lorillard Tobacco Company).

N. "Non-Compliant NPM Cigarettes" means Cigarettes described in subsection V.B.3.

O. "Non-Signatory State" means a Settling State that is not a signatory to this Settlement Agreement.

P. "NPM" means a Non-Participating Manufacturer. For purposes of this Settlement Agreement, a Tobacco Product Manufacturer shall be treated as a Participating Manufacturer or an NPM as it would be treated under the MSA.

Q. "OPM" means an Initial OPM; in addition, any SPM that assumes the obligations of an Original Participating Manufacturer within the meaning of MSA Section XVIII(c) with respect to a brand formerly owned by an Original Participating Manufacturer shall be treated for purposes of this Settlement Agreement the same way as the Independent Auditor determines it should be treated under the MSA (subject to the MSA parties' right to dispute any such determination pursuant to MSA Section XI(c) and to the outcome of any such dispute), and shall be considered an OPM or SPM with respect to such brand, as applicable. Each such SPM shall continue to be treated as, and considered, an SPM as to a particular brand or brands it manufactures that were not formerly owned by an Original Participating Manufacturer.

R. "Potential Maximum NPM Adjustment" for the OPMs for a year in question means the OPMs' total aggregate amount of the NPM Adjustment for such year in question calculated pursuant to MSA Section IX(d) (without regard to any subsequent revisions to such formula pursuant to any agreement between the PMs and any States), assuming that all Settling States' Allocated Payments are subject to the NPM Adjustment for that year and the NPM Adjustment for that year would be applied pursuant to MSA Section IX(d)(1)(C)-(D). An SPM's "Potential Maximum NPM Adjustment" for a year in question means the SPM's total amount of the NPM Adjustment for such year calculated pursuant to MSA Section IX(d) (without regard to any subsequent revisions to such formula pursuant to any agreement between the PMs and any States), assuming that all Settling States' Allocated Payments are

subject to the NPM Adjustment for that year and the NPM Adjustment for that year would be applied pursuant to MSA Section IX(d)(1)(C)-(D) and (4). For avoidance of doubt, if an SPM owns a brand previously owned by an OPM and is entitled to a share of the OPMs' Potential Maximum NPM Adjustment for a year based on Cigarettes of that brand, the calculation of such SPM's Potential Maximum NPM Adjustment for that year shall not include Cigarettes of that brand.

S. "PM" means a Participating Manufacturer that is a signatory to this Settlement Agreement.

T. "PSS Amendment" means an amendment to the MSA substantially in the form of the draft Amendment 27 to the MSA dated October 2008.

U. "Previously Settled States" means Florida, Minnesota, Mississippi and Texas.

V. "SET" of a State means, for purposes of this Settlement Agreement: (i) State excise tax or other State tax on the distribution or sale of any Cigarettes (other than a State or local sales tax that is applicable to consumer products generally and is not in lieu of an excise tax); and (ii) an excise or other tax on the distribution or sale of any Cigarettes imposed by a State-recognized or federally-recognized Native American tribe located in whole or in part within the geographic boundaries of the State (other than a tribal sales tax that is applicable to consumer products generally and is not in lieu of an excise tax), if such distribution or sale was within the State's taxing authority under federal law with respect to a tax described in clause (i), provided, however, that this clause (ii) does not include a tribal tax as to which the State establishes that it did not formally or informally acquiesce in the tax's imposition or collection in lieu of a tax described in clause (i) (including, without limitation, acquiescing by making the rate of a tax described in clause (i) zero). A tax falling within the foregoing definition of SET

qualifies as an SET whether or not the State or a tribe required that packages or containers of the Cigarettes be stamped with an SET or other tax stamp.

W. "Signatory Parties" means, collectively, all Signatory States and all PMs.

X. "Signatory State" means any Settling State that is or becomes a signatory to this Settlement Agreement, including Subsequent-Joining Signatory States.

Y. "SPM" means a PM that is a Subsequent Participating Manufacturer, subject to subsection II.Q.

Z. "Subsequent-Joining Signatory State" means a Settling State that becomes a Signatory State after the end of individual state hearings in the 2003 arbitration.

AA. "Tobacco Settlement Agreement" of a Previously Settled State means, respectively (and, in each case, as such agreement is amended, supplemented or replaced):

- (i) the August 25, 1997 Settlement Agreement among the State of Florida, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company and United States Tobacco Company; (ii) the May 8, 1998 Settlement Agreement and Stipulation for Entry of Consent Judgment among the State of Minnesota, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation and Lorillard Tobacco Company; (iii) the October 17, 1997 Comprehensive Settlement Agreement and Release among the State of Mississippi, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation and Lorillard Tobacco Company; (iv) the January 16, 1998 Comprehensive Settlement Agreement and Release among the State of Texas, Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company and United States Tobacco Company; and (v) for purposes of the penultimate

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sentence of Section II.K, the March 15, 1996 and March 20, 1997 Settlement Agreements among certain States, Liggett Group, Inc., Liggett & Myers Inc. and Brooke Group Ltd.

BB. "2003 Contested Signatory State Whose Diligent Enforcement Was Not Determined" means a Signatory State whose diligent enforcement of its Escrow Statute during 2003 was contested by the PMs in the 2003 arbitration but was not determined by the arbitration panel in the 2003 arbitration. Such States are listed in Exhibit D.

CC. "2003 Uncontested Signatory State" means a Signatory State whose diligent enforcement of its Escrow Statute during 2003 was not contested by the PMs in the 2003 arbitration. Both Signatory States and Non-Signatory States that were so not contested (including Montana) are listed in Exhibit E.

DD. "2016 Signatory State" means the following Signatory States: Alabama, Arizona, Arkansas, California, Connecticut, District of Columbia, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Virginia, West Virginia and Wyoming. The term does not include any Subsequent-Joining Signatory States other than Kentucky and Indiana.

III. 2003-2012 NPM ADJUSTMENTS

A. Settlement by the Initial OPMs.

1. The Signatory Parties agree that the aggregate amount of the disputed NPM Adjustments for 2003-2012 (including interest and earnings on such Adjustments) is (i) \$8,190,565,465.07 in respect of the Initial OPMs' payments under MSA Section IX(c)(1) and (ii) \$488,353,515.88 in respect of the Initial OPMs' payments under MSA Section IX(c)(2). The Signatory Parties further agree that such amounts shall not change

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notwithstanding any subsequent revision to or recalculation of any such Adjustments by the Independent Auditor.

2. In consideration of the final resolution of the disputes among the Signatory Parties regarding the 2003-2012 NPM Adjustments, the Initial OPMs shall receive a projected amount equal to the total of (i) the amount in subsection III.A.1(i) multiplied by the aggregate IX(c)(1) Allocated Settlement Percentage of the Signatory States and (ii) the amount in subsection III.A.1(ii) multiplied by the aggregate IX(c)(2) Allocated Settlement Percentage of the Signatory States. Such total amount is referred to as the "Projected OPM Settlement Amount."

3. Based on the States that became Signatory States prior to April 15, 2013 (as such States and their respective Allocated Settlement Percentages are listed in Exhibit A), the portion of the Projected OPM Settlement Amount attributable to MSA Section IX(c)(1) payments, as calculated pursuant to subsection III.A.2(i), equals \$1,621,321,258.46, and the portion of the Projected OPM Settlement Amount attributable to MSA Section IX(c)(2) payments, as calculated pursuant to subsection III.A.2(ii), equals \$79,239,110.99, for a total Projected OPM Settlement Amount of \$1,700,560,369.45. (The Projected OPM Settlement Amounts resulting from additional Settling States' becoming Signatory States after April 15, 2013 are addressed in subsections III.D-E below.)

4. The Initial OPMs shall receive the Projected OPM Settlement Amount set forth in subsection III.A.3 in a form of (i) a credit against their MSA payments due on April 15, 2013 (the "2013 Credit") and (ii) a percentage reduction to each of the Initial OPMs' four subsequent MSA payments due April 15, 2014-2017 (each a "[Year] Percentage Reduction," and collectively the "2014-2017 Percentage Reductions").

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5. The total dollar amount of the Initial OPMs' 2013 Credit shall equal 50% of the total Projected OPM Settlement Amount set forth in subsection III.A.3, or \$850,280,184.72. That total dollar amount shall consist of (i) 50% of the portion of the Projected OPM Settlement Amount attributable to MSA Section IX(c)(1) payments, or \$810,660,629.23, and (ii) 50% of the portion of the Projected OPM Settlement Amount attributable to MSA Section IX(c)(2) payments, or \$39,619,555.49.

6. The principal dollar amount due to the Initial OPMs as a result of the application of each of the 2014-2017 Percentage Reductions shall be determined by multiplying the aggregate payment amount due from all of the Initial OPMs pursuant to MSA Section IX(c)(1) on April 15 of the respective year by the applicable Percentage Reduction (determined as provided below). For purposes of this subsection III.A.6, this aggregate Initial OPM payment amount shall be after the application of the Inflation Adjustment, Volume Adjustment and Previously Settled States Reduction, but before the application of any remaining adjustments, reductions and offsets under the MSA or this Settlement Agreement, all as determined by the Independent Auditor in the latest Final Calculation prior to the respective Payment Due Date. (The dollar amount due to the Initial OPMs as a result of the application of a Percentage Reduction shall not change notwithstanding any subsequent revision to or recalculation of such aggregate Initial OPM payment amount by the Independent Auditor.)

Such principal dollar amount shall be increased by interest as provided in subsection III.A.9.

7. Each of the 2014-2017 Percentage Reductions shall be determined on November 15 of the year prior to the year the respective Percentage Reduction shall be applied. (For example, the 2014 Percentage Reduction shall be determined on November 15, 2013.) Absent other agreement by the Signatory States and each Initial OPM scheduled to

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receive a Percentage Reduction credit, each such Percentage Reduction shall be determined so that multiplying the applicable Estimated MSA Payment (as defined below) by such Percentage Reduction will produce a dollar amount equal to 12.5% of the total Projected OPM Settlement Amount set forth in subsection III.A.3, or \$212,570,046.18.

8. The "Estimated MSA Payment" shall mean an estimate of the aggregate amount due from all of the Initial OPMs pursuant to MSA Section IX(c)(1) on April 15 of the year following the year in which such estimate is being made, after the application of the Inflation Adjustment, Volume Adjustment and Previously Settled States Reduction, but before the application of any remaining adjustments, reductions and offsets under the MSA or this Settlement Agreement. Estimated MSA Payments due in each of 2014-2017 shall be estimated on November 15 of the year prior to the year in which the payment is due, as follows.

a. The Inflation Adjustment shall be calculated pursuant to Exhibit C to the MSA, except that such adjustment shall be based on the Consumer Price Index for September (as released in October) of the year prior to the year in which the payment is due.

b. The Volume Adjustment shall be calculated pursuant to Exhibit E to the MSA, except that shipment volume for the Applicable Year (which is also the year in which the estimate is being made) shall be the sum of the actual total OPM shipment volume in the first three quarters of the Applicable Year and an estimate of total OPM shipment volume in the fourth quarter of such year. For determining the 2014 and 2015 Percentage Reductions, fourth-quarter volume shall be estimated by calculating the percentage that the total OPM shipment volume in the fourth quarter of the year prior to the Applicable Year represented of the total OPM shipment volume in the first three quarters of that prior year, and then applying that percentage to the total OPM shipment volume in the first three quarters of the Applicable

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Year. (For example, if, in 2012, 100 OPM Cigarettes were shipped in the first three quarters and 30 in the fourth quarter, then the percentage referenced in the preceding sentence would be 30%. If, in 2013, 90 OPM Cigarettes were shipped in the first three quarters, then the estimated volume for the fourth quarter of 2013 would be 27 (90 times 30%), and the total volume in 2013, for estimating the Estimated MSA Payment due in 2014, would be 117 (90 plus 27).) For determining the 2016 Percentage Reduction, shipment volume for the fourth quarter of 2015 shall be estimated in the same way, unless the net principal dollar amount that the Initial OPMs received from application of the 2014 and 2015 Percentage Reductions exceeded, by more than \$2 million, 25% of the Projected OPM Settlement Amount, in which case the Signatory States may elect to have such estimated shipment volume equal the actual shipment volume for the fourth quarter of 2014. For determining the 2017 Percentage Reduction, if the net principal dollar amount that the Initial OPMs received from application of the 2014, 2015 and 2016 Percentage Reductions equaled or was less than 37.5% of the Projected OPM Settlement Amount, then the shipment volume for the fourth quarter of 2016 shall be estimated in the same way as for the 2014 and 2015 Percentage Reductions; if and only if such net principal dollar amount exceeded such 37.5%, then the Signatory States may elect to have such estimated shipment volume equal the actual shipment volume for the fourth quarter of 2015.

c. For purposes of determining whether the Signatory States may elect the alternative estimation of shipment volumes for the fourth quarters of 2015 and 2016 pursuant to subsection III.A.8.b (to determine the 2016 and 2017 Percentage Reductions, respectively), the Projected OPM Settlement Amount shall not include settlement amounts due from Indiana and Kentucky. For all other purposes of determining the 2015, 2016 and 2017

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Percentage Reductions, the Projected OPM Settlement Amount shall include settlement amounts due from Indiana and Kentucky. For determining the 2018 Percentage Reduction applicable to Indiana and Kentucky, the method of estimating the shipment volume for the fourth quarter of 2017 shall be selected and operate in the same way as the method for estimating the shipment volume for the fourth quarter of 2016 (for determining the 2017 Percentage Reduction), except that, in determining whether the 37.5% threshold was exceeded, only the settlement amounts received and projected to be received from Indiana and Kentucky through the 2015, 2016 and 2017 Percentage Reductions shall be considered, and, if those Signatory States are authorized to and do elect the second method stated in the last sentence of subsection III.A.8.b, then the estimated shipment volume for the fourth quarter of 2017 shall equal the actual shipment volume for the fourth quarter of 2016.

d. The volume of any brand formerly owned by an Initial OPM that is now manufactured by an SPM shall continue to be included in the calculations of the Volume Adjustment pursuant to subsection III.A.8.b. Provided, however, that, because the Percentage Reductions under subsections III.A.6-8 apply only to the Initial OPMs, the Estimated MSA Payment and the aggregate payment amount due from all of the Initial OPMs as referenced in subsection III.A.8 shall not include the MSA payments due from such SPM with respect to such brand.

9. The principal dollar amount of each Percentage Reduction determined pursuant to subsection III.A.6 shall be increased by interest accruing at the Prime Rate from April 15, 2013, to April 15 of the year in which the relevant Percentage Reduction is applied. Provided, however, that for purposes of calculating such interest only, each such principal dollar amount shall be reduced by the aggregate Allocable Share of the States that became

III.B

Signatory States before April 15, 2013 of \$83,748,186.69, or \$36,039,003.34. (The calculation of the principal for purposes of calculating the interest, and the reduction in principal for purposes of calculating such interest, resulting from additional Settling States becoming Signatory States after April 15, 2013 are addressed in subsections III.D and III.E below.)

10. The total dollar amount of the 2013 Credit and of each of the 2014-2017 Percentage Reductions shall be allocated among the Initial OPMs as they direct.

B. Settlement by the SPMs.

1. In consideration of the final resolution of the disputes among the Signatory Parties regarding the 2003-2012 NPM Adjustment, and as further addressed in Exhibit F, the Signatory Parties agree that the aggregate settlement amounts related to the disputed MSA Section IX(c)(1) and MSA Section IX(c)(2) NPM Adjustments for 2003-2012 (including interest and earnings on such Adjustments) for each SPM are the amounts for that SPM set forth in Exhibit F, Chart F.1. The Signatory Parties further agree that such amounts shall not change notwithstanding any subsequent revision to or recalculation of any such Adjustments by the Independent Auditor.

2. Based on the States that became Signatory States prior to April 15, 2013 (as listed in Exhibit A), each SPM's settlement amount attributable to MSA Section IX(c)(1) payments is calculated pursuant to subsection III.B.2(i) and Exhibit F, and each SPM's settlement amount attributable to MSA Section IX(c)(2) payments is calculated pursuant to subsection III.B.2(ii) and Exhibit F. (The settlement amounts resulting from additional Settling States' becoming Signatory States after April 15, 2013 are addressed in subsections III.D-E below and Exhibit F.)

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3. Each SPM shall receive its total settlement amount in the manner provided in Exhibit F.

4. Exhibit F further provides for (i) the treatment of SPMs that withheld amounts attributable to NPM Adjustments for 2003-2012, and (ii) the calculation of credits, including the application of interest, as to those SPMs that elected to receive their credits over time.

C. Allocation Among the Signatory States.

1. All credits and reductions described in subsections III.A-B shall be allocated solely to and among the Signatory States as follows. No part of such credits or reductions shall be allocated to any Settling State that is a Non-Signatory State.

2. For the States that became Signatory States prior to April 15, 2013:

a. All credits described in subsections III.A-B that are attributable to MSA Section IX(c)(1) payments for the benefit of such Signatory States shall be allocated among those Signatory States in proportion to their respective IX(c)(1) Allocated Settlement Percentages. All credits described in subsections III.A-B that are attributable to MSA Section IX(c)(2) payments for the benefit of such Signatory States shall be allocated among those Signatory States in proportion to their respective IX(c)(2) Allocated Settlement Percentages.

b. For purposes of allocating the dollar amount due to the Initial OPMs as a result of the application of each of the 2014-2017 Percentage Reductions, each such dollar amount shall be divided into two parts, one part attributable to MSA Section IX(c)(1) payments and another part attributable to MSA Section IX(c)(2) payments, in proportion to the corresponding portions of the total Projected OPM Settlement Amount set forth in subsection III.A.3. The part attributable to MSA Section IX(c)(1) payments for the benefit of such

III.C

Signatory States shall be allocated among those Signatory States in proportion to their respective IX(c)(1) Allocated Settlement Percentages. The part attributable to MSA Section IX(c)(2) payments for the benefit of such Signatory States shall be allocated among those Signatory States in proportion to their respective IX(c)(2) Allocated Settlement Percentages. Allocation of the dollar amount due to the SPMs that receive Percentage Reductions pursuant to Exhibit F shall be determined in the same manner, except that, for each such SPM, the payments shall be divided into two parts, one part attributable to MSA Section IX(c)(1) payments and another part attributable to MSA Section IX(c)(2) payments, in proportion to the corresponding portions of the Projected SPM Settlement Amount for that SPM set forth in Exhibit F, Chart F. 1.

c. Any such credits and reductions may be reallocated among such Signatory States as they direct.

3. All credits and reductions due to a PM pursuant to section III that are allocated to a Signatory State shall be applied up to the full amount of that PM's payment for the benefit of such Signatory State in the year in question pursuant to MSA Sections IX(c)(1) and IX(c)(2). If a PM's credit or reduction amount allocated to a particular Signatory State cannot be applied in full in any year because that Signatory State does not have sufficient total payments due from that PM under MSA Sections IX(c)(1) and IX(c)(2) for the benefit of that Signatory State against which it could be used as a result of the application of the NPM Adjustment or as pursuant to this Settlement Agreement, all unused amounts shall carry forward (with interest at the Prime Rate) and apply against subsequent eligible payments due from that PM for the benefit of that Signatory State until all such amounts have been applied. This provision does not apply to an SPM that falls within the circumstances described in

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subsection IX.K, except that, if such SPM would be entitled to interest under this paragraph if it did not fall within the circumstances described in subsection IX.K, it will be entitled to such interest.

D. States That Joined Between April 15, 2013 and the End of Individual State Hearings in the 2003 Arbitration.

1. Two States joined the settlement and became Signatory States between April 15, 2013 and the end date of the last individual State hearing in the 2003 arbitration. The respective IX(c)(1) and IX(c)(2) Allocated Settlement Percentages of these States are set forth in Exhibit A.

2. Such joinder by each of these Signatory States gives rise to a Projected OPM Settlement Amount in addition to that set forth in subsection III.A.3. For each such additional Signatory State, such additional Projected OPM Settlement Amount shall be calculated as follows: (i) the portion of the additional Projected OPM Settlement Amount attributable to MSA Section IX(c)(1) payments shall equal the amount in subsection III.A.1(i) multiplied by the IX(c)(1) Allocated Settlement Percentage of such State, and (ii) the portion of the additional Projected OPM Settlement Amount attributable to MSA Section IX(c)(2) payments shall equal the amount in subsection III.A.1(ii) multiplied by the IX(c)(2) Allocated Settlement Percentage of such State. The total additional Projected OPM Settlement Amount attributable to each such Signatory State shall equal the sum of the amounts in clauses (i) and (ii).

3. The Initial OPMs shall receive the total additional Projected OPM Settlement Amount attributable to each such Signatory State, as referenced in subsection III.D.2, in the form of (i) a credit against their MSA payments due on April 15, 2014 (the "2014 Credit") and (ii) an increase in the 2014-2017 Percentage Reductions. Such amounts shall be

III.D

- determined and provided to the Initial OPMs consistent with the provisions of subsections III.A.4-10, except as follows.
- a. The principal amount of the 2014 Credit attributable to each such Signatory State shall equal 50% of the respective additional Projected OPM Settlement Amount determined pursuant to subsection III.D.2.
 - b. The 2014-2017 Percentage Reductions shall be increased by (i) adding, for purposes of determining the Percentage Reduction pursuant to subsection III.A.7, the total additional Projected OPM Settlement Amount determined pursuant to subsection III.D.2 for each such additional Signatory State to the total Projected OPM Settlement Amount set forth in subsection III.A.3, and (ii) adding, for purposes of determining the applicable amount of interest pursuant to subsection III.A.9, each such additional Signatory State's Allocable Share to the aggregate Allocable Share of the States that became Signatory States before April 15, 2013.
4. Such joinder by these additional Signatory States also gives rise to settlement amounts for each SPM in addition to those described in subsection III.B.3. For each such additional Signatory State, such additional settlement amounts due to an SPM shall be calculated as set out in Exhibit F. The SPMs shall receive such additional settlement amounts consistent with the provisions of Exhibit F.
 5. The additional settlement amounts described in subsections III.D.2-4 shall be allocated among the Signatory States and applied consistent with the provisions of subsection III.C, except as follows.
 - a. The 2014 Credit attributable to each such additional Signatory State shall be allocated solely to such State.

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- b. For purposes of allocating the total dollar amount of each Percentage Reduction, as determined pursuant to subsections III.A.6-9 and increased pursuant to subsection III.D.3 (or, for SPMs as determined and increased pursuant to Exhibit F), each such additional Signatory State's respective IX(c)(1) Allocated Settlement Percentages and IX(c)(2) Allocated Settlement Percentages shall be included for purposes of subsection III.C.2.
 - c. Notwithstanding the foregoing, the dollar amount of each of the 2014-2017 Percentage Reductions allocated to the State of Connecticut shall be carried forward one year and applied to the Initial OPMs' (and, for SPMs that receive a Percentage Reduction, each SPM's) next respective year's MSA payments for the benefit of Connecticut, with interest at the Prime Rate accruing during such year. (For example, the dollar amount of the 2014 Percentage Reduction allocated to Connecticut shall apply to the Initial OPMs' or an SPM's MSA payments for the benefit of Connecticut due on April 15, 2015, with interest at the Prime Rate accruing from April 15, 2014 to April 15, 2015.)
 - d. Such credits and reductions may be reallocated among the Signatory States as they direct.
- E. Subsequent-Joining Signatory States.
 1. Additional Settling States may join this Settlement Agreement before or after the Effective Date and become Subsequent-Joining Signatory States if the PMs, in their sole discretion, agree. A Subsequent-Joining Signatory State's IX(c)(1) Allocated Settlement Percentage shall equal 59% of its Allocable Share and its IX(c)(2) Allocated Settlement Percentage shall equal 59% of its IX(c)(2) Allocable Share. Provided, however, that the PMs, in their sole discretion, may agree to change the applicable percentage specified in the

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preceding sentence. The PMs, in their sole discretion, may further agree to add statutes then in effect in such Subsequent-Joining Signatory State to Exhibits B and C.

2. For purposes of any agreement by the PMs referenced in subsection III.E.1, agreement by the PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% of the aggregate Market Share of all the PMs shall be sufficient and shall bind any remaining PMs. The Signatory States agree that such agreement by the PMs (including such agreements already made with certain Signatory States after December 17, 2012 to reduce the applicable percentage for those States to 46%, and the agreements described in subsection III.E.6) shall not give rise to any claims pursuant to subsection IX.A and shall not obligate the PMs to agree to any similar agreement for any other Settling State.

3. Such joinder by Subsequent-Joining Signatory States shall give rise to Projected OPM Settlement Amounts in addition to those set forth in subsections III.A.3 and III.D.2, and to interest in addition to interest set forth in subsections III.A.9 and III.D.3.b. Unless the Initial OPMs and the respective Subsequent-Joining Signatory State agree otherwise, the Initial OPMs shall receive the additional Projected OPM Settlement Amounts and interest consistent with the provisions of subsection III.D, except that the 50% credit shall be applied against the first MSA payment following such State's execution of this Settlement Agreement, and the remaining settlement amount shall be divided into four equal percentage reductions applied against the four subsequent MSA payments. All such credits and reductions shall be allocated among the Initial OPMs as they direct.

4. Such joinder by Subsequent-Joining Signatory States shall also give rise to settlement amounts for each SPM in addition to those described in subsections III.B.3 and

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III.D.4. The SPMs shall receive such additional settlement amounts consistent with the provisions of Exhibit F, unless the respective SPM and Subsequent-Joining Signatory State agree otherwise.

5. The additional settlement amounts described in subsections III.E.3-4 attributable to each Subsequent-Joining Signatory State shall be allocated solely to such State, and otherwise applied consistent with the provisions of subsection III.C, except as directed by the Signatory States.

6. Four States, Indiana, Kentucky, Oregon and Rhode Island have become Subsequent-Joining Signatory States prior to the Effective Date, on the terms set forth in Exhibits G, H, I and J, respectively. All provisions of this Settlement Agreement apply to Indiana and Kentucky except as specifically provided in Exhibits G and H, in subsection III.A.8.c, and in Exhibit F. All provisions of this Settlement Agreement apply to Oregon except subsection V.A.10 and as specifically provided in Exhibit I. All provisions of this Settlement Agreement apply to Rhode Island except as specifically provided in Exhibit J, provided, however, that the applicability to Rhode Island of subsection V.A.10 and the provisions of subsections VIII.A.2 and VIII.B.2 related to the 2015 NPM Adjustment are subject to a condition subsequent that Rhode Island obtain bondholder approval of subsection V.A.10 as applied to Rhode Island prior to March 31, 2018 (which Rhode Island agrees it will use reasonable best efforts to obtain).

F. No Effect on MSA Payment Calculations. Other than applying as provided in this Settlement Agreement, the credits and reductions described in this section III shall not be included in, and shall not affect, any other calculations of payments due under the MSA,

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including calculations of the amount of the NPM Adjustments pursuant to the MSA and this Settlement Agreement.

G. The Profit Adjustment:

1. It is the intent of the Signatory Parties that any credits and reductions (including carry-forwards) described above in this section III with respect to 2016 Signatory States, and any adjustments pursuant to subsection V.A.2 with respect to 2016 Signatory States, shall not subject the OPMs in any year to a profit adjustment pursuant to Section B(ii) of MSA Exhibit E. Absent an OPM's election consistent with the requirements of subsection III.G.8, if the application of the full amount of such credit, reduction and/or adjustment would result in such profit adjustment in any year, such credit, reduction and/or adjustment amount applicable in such year to the OPMs shall be reduced so that no profit adjustment is due in such year due to such credit, reduction and/or adjustment; provided, however, that no OPM shall be required to return or repay to any State any amounts previously received by such OPM pursuant to the terms of this Settlement Agreement, whether by credit, reduction or adjustment, for the purpose of avoiding the application of the profit adjustment.

2. If any credit or reduction amounts described in section III cannot be used in a given year due to the application of this subsection III.G, the 12.5% number used to determine the Percentage Reduction applicable in the subsequent year pursuant to subsection III.A.7 (together with the corresponding numbers pursuant to subsections III.D-E, as applicable) shall be increased by adding to it the percentage number reflecting the share of the Projected OPM Settlement Amount represented by such unused credit or reduction amount. (For example, if the unused amount represents 2% of the Projected OPM Settlement Amount, 12.5% in subsection III.A.7 shall be increased to 14.5%.) If no percentage reduction is otherwise

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applicable in the subsequent year, then a percentage reduction shall apply by operation of this subsection, determined pursuant to subsections III.A.6-9, except that the 12.5% number referenced in subsection III.A.7 shall be substituted with the percentage number reflecting the share of the Projected OPM Settlement Amount represented by such unused credit or reduction amount.

3. If any adjustments pursuant to subsection V.A.2 cannot be used in a given year due to the application of this subsection III.G, the unused amount shall be converted into a percentage reduction applicable to the next MSA payment due from the OPMs. The percentage applicable to such percentage reduction shall be determined by dividing such unused amount of the adjustment by the next Estimated MSA Payment, and the percentage reduction shall be calculated and applied consistent with the procedures set forth in subsections III.A.6-9.

4. If any credit or reduction described in section III and an adjustment pursuant to subsection V.A.2 cannot both be used in the same year due to the application of this subsection III.G, then the provisions of subsection III.G.3 shall be applied first, and the provisions of subsection III.G.2 shall be applied second.

5. The Signatory Parties shall instruct the Independent Auditor sufficiently in advance of the issuance of Final Calculations for the MSA payments to which such credits, reductions and/or adjustments described in subsection III.G.1, if any, are due to be applied regarding any reduction to those credits, reductions and/or adjustments that is required pursuant to this subsection III.G.

6. If (i) notwithstanding the provisions of this subsection III.G, the application of any such credits, reductions and/or adjustments described in subsection III.G.1,

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or (ii) the application of a percentage reduction by operation of the last sentence of subsection III.G.2, subjects the OPMs in any year to a profit adjustment pursuant to Section B(ii) of MSA Exhibit E, each of the Signatory States hereby agrees that the payments due to it from any OPM pursuant to MSA Sections IX(c)(1) and IX(c)(2) shall be offset by an amount equal to its Allocable Share or IX(c)(2) Allocable Share, as applicable, of such profit adjustment attributable to application of any such credits, reductions and/or adjustments described in subsection III.G.1. The amount of the payments due from any OPM receiving such an offset shall thus be decreased by subtracting the value of such offset from the full amount otherwise due pursuant to MSA subsection IX(j), step Thirteenth.

7. If a credit, reduction or adjustment amount described in subsection III.G.1 and applicable to the payments due from an OPM is reduced in any year by the operation of subsections III.G.1-4, the reduced credit, reduction or adjustment amount shall be allocated among the OPMs as they direct. Any increase in subsequent percentage reduction resulting from the operation of subsections III.G.1-4 shall be allocated among the OPMs in proportion to their respective shares of the corresponding amount by which a credit or reduction was reduced by the operation of subsections III.G.1-6. Nothing in this Settlement Agreement shall affect the allocation of the profit adjustment as provided in Section B(iii) of MSA Exhibit E.

8. If an amount due to an OPM in a given year would be reduced by the operation of the provisions of subsections III.G.1-6, such OPM may at its option elect to receive such amount in full in such year notwithstanding such provisions by agreeing as described below that it will bear the entire cost of the additional profit adjustment pursuant to Section B(ii) of MSA Exhibit E and pursuant to the settlement agreements with the Previously Settled States

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that would result from its receipt of the amount that would otherwise be reduced by operation of the provisions of subsection III.G.1-6. Such an agreement shall be made prior to any such election through a binding agreement that provides that such OPM will instruct the Independent Auditor to allocate the entirety of such additional profit adjustment to such OPM and that, if the Independent Auditor does not do so or if for any other reason any other OPM bears a share of such additional profit adjustment, such OPM will indemnify each other such OPM and promptly re-pay it for any share of such additional profit adjustment that it bears. If, prior to the Effective Date, an OPM receives an amount that would have been reduced by the operation of the provisions of subsections III.G.1-6, that OPM shall be deemed to have made such an election and timely provided the binding agreement described in this subsection III.G.8.

9. If an OPM makes the election and timely provides the binding agreement described in subsection III.G.8, then the provisions of subsections III.G.1-6 shall not apply to such OPM's payments in the given year. Instead, in the year following the given year ("Deferred Year"), each of the 2016 Signatory States agrees that the payments due from any OPM pursuant to MSA Sections IX(c)(1) and IX(c)(2) shall be offset by an amount equal to the lesser of the following: (x) the offset amount that would have applied to its payment under subsection III.G.6 had that subsection applied to all credits, reductions or adjustment amounts described in subsection III.G.1 for the given year; or (y) its Allocable Share or IX(c)(2) Allocable Share, as applicable, of the Deferred Year profit adjustment attributable to an amount equal to the credits, reductions or adjustment amounts described in subsection III.G.1 in the given year. For purposes of subsection III.G.9(y) only, the profit adjustment for the Deferred Year shall be calculated pursuant to Section B(ii) of MSA Exhibit E, except that the "operating income for sales of Cigarettes" of the OPMs shall not include any NPM Adjustment-related

settlement credits or reductions to any charges or expenses other than those accrued under the Term Sheet or this Settlement Agreement.

10. This subsection III.G shall not be applicable to any credits, reductions or adjustments with respect to any Signatory State that is not a 2016 Signatory State.

H. The Independent Auditor. The Signatory States and the PMs shall jointly instruct the Independent Auditor and the Escrow Agent to apply all the credits and reductions as set forth in section III and Exhibit F, and allocate them among the PMs and the Signatory States, as provided in this Settlement Agreement, provided that instructions by those Signatory Parties whose MSA payments and receipt of MSA payments are affected by a particular application or allocation shall be sufficient for the Independent Auditor and the Escrow Agent to implement them.

IV. THE DISPUTED PAYMENTS ACCOUNT

A. Release of Amounts Attributable to 2003-2012 NPM Adjustments Held in the Disputed Payments Account as of April 15, 2013.

1. Except as provided in Exhibit F, any PMs that withheld from payment any amounts attributable to the 2003-2012 NPM Adjustments shall deposit such withheld amounts into the Disputed Payments Account by April 15, 2013.

2. The PMs and the Signatory States shall jointly instruct the Independent Auditor to determine the amounts held in the Disputed Payments Account (including the accumulated earnings thereon) as of April 15, 2013 that are attributable to the PMs' dispute over the applicability of the 2003-2012 NPM Adjustments to (i) MSA Section IX(c)(1) payments for any year, and (ii) MSA Section IX(c)(2) payments for any year. The Signatory Parties agree that such amounts shall change only due to additional earnings accumulating on such amounts from April 15, 2013 to the time of the release, and shall not change

notwithstanding any subsequent revision to or recalculation of any of the 2003-2012 NPM Adjustments by the Independent Auditor.

3. Following the Independent Auditor's confirmation that it will apply the settlement credits and reductions set forth in section III attributable to a Signatory State, the PMs and such Signatory State shall jointly instruct the Independent Auditor to release from the Disputed Payments Account such Signatory State's Allocable Share of the amount described in subsection IV.A.2(i) and such Signatory State's IX(c)(2) Allocable Share of the amount described in subsection IV.A.2(ii). Nothing in this Settlement Agreement shall require the release from the Disputed Payments Account of the Non-Signatory States' Allocable Shares or IX(c)(2) Allocable Shares, as applicable, of such amounts.

4. The PMs and the Signatory States shall jointly instruct the Independent Auditor to initially retain in the Disputed Payments Account \$10,000,000 of the amounts released pursuant to subsection IV.A.3 to be used to fund certain expenses related to the Data Clearinghouse described in section VI that are payable by the Signatory States. The Signatory States shall provide any necessary instructions regarding the subsequent placement of these funds and any contribution by Signatory States that join this Settlement Agreement after the Effective Date.

5. The PMs and the Signatory States shall jointly instruct the Independent Auditor to allocate the remainder of the amounts released from the Disputed Payments Accounts pursuant to subsection IV.A.3 solely to and among the Signatory States, as directed by them. Such Signatory States may instruct the Independent Auditor to reallocate any such released amounts among them as necessary (i) to allocate a portion of the Data Clearinghouse fund described in subsection IV.A.4 to the Signatory States that joined the settlement between

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April 15, 2013 and the Effective Date, and (ii) to reallocate with respect to the 2003 Uncontested Signatory States among the 2016 Signatory States pursuant to subsection IX.J.

6. An individual Signatory State may elect to have its share of the amounts to be released from the Disputed Payments Account pursuant to subsection IV.A.3 released in installments over the period of up to five years following the time the funds would first be released to such State pursuant to subsection IV.A.3. Such State shall inform the Signatory Parties of its selection in a reasonable time in advance of the time the funds would first be released and shall instruct the Independent Auditor accordingly. Such election shall not affect any credits, reductions or other calculations pursuant to this Settlement Agreement.

7. The Signatory Parties agree that the withheld amounts described in subsection IV.A.1 were properly deposited into the Disputed Payments Account.

B. NPM Adjustment Amounts Not in the Disputed Payments Account as of April 15, 2013.

1. NPM Adjustments for 2011-2014.

a. In connection with the MSA payments due on April 15 of each of 2014-2017, on or before the respective Payment Due Date each OPM shall deposit into the Disputed Payments Account the Signatory States' aggregate Allocable Share and the aggregate IX(c)(2) Allocable Share, as applicable, of that OPM's share (as such shares are determined pursuant to MSA Section IX(d)(3)) of the OPMs' Potential Maximum NPM Adjustment for the year preceding the payment year by three years. (For example, on April 15, 2014, the OPMs shall deposit such shares of the 2011 NPM Adjustment.)

b. In connection with the MSA payments due on April 15 of each of 2014-2015, on or before the respective Payment Due Date each SPM shall deposit into the Disputed Payments Account the Signatory States' aggregate Allocable Share and the aggregate

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IX(c)(2) Allocable Share, as applicable, of that SPM's respective Potential Maximum NPM Adjustment for the preceding year. (For example, on April 15, 2014, the SPMs shall deposit such shares of the NPM Adjustment for 2013.)

c. Following the Independent Auditor's confirmation that it will apply the settlement credits and reductions set forth in section III, the PMs and the Signatory States shall jointly instruct the Independent Auditor to release such amounts, and to allocate those released amounts solely to and among the Signatory States as they direct.

d. Deposits and releases described in this subsection IV.B.1 shall be based on the Allocable Shares and IX(c)(2) Allocable Shares of the States that are Signatory States at the time of the deposit in question.

2. NPM Adjustments for 2015 and thereafter.

a. In connection with the MSA payments due on April 15, 2016 and thereafter, on or before the respective Payment Due Date each OPM shall deposit into the Disputed Payments Account the Signatory States' aggregate Allocable Share and aggregate IX(c)(2) Allocable Share, as applicable, of its share of the OPMs' Potential Maximum NPM Adjustment for the preceding year. (For example, on or before April 15, 2016, the OPMs shall deposit such shares of the OPMs' Potential Maximum NPM Adjustment for 2015.)

b. Notwithstanding MSA Section IX(d)(3), the OPMs shall jointly determine and instruct the Independent Auditor as to their respective shares of such OPMs' Potential Maximum NPM Adjustments for purposes of the deposits required under subsection IV.B.2(e), and, provided that all OPMs agree to the allocation set forth in such joint instruction and that such OPMs' respective shares of their Potential Maximum NPM Adjustments total 100%, the Signatory States agree that each OPM shall be responsible for depositing only its

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share of such Adjustments as so determined and instructed by the OPMs. Such share percentages shall be the same as the OPMs' allocation of the adjustment for the year in question under subsections V.A-C.

c. In connection with the MSA payments due on April 15, 2016 and thereafter, on or before the respective Payment Due Date each SPM shall deposit into the Disputed Payments Account the Signatory States' aggregate Allocable Share and aggregate IX(c)(2) Allocable Share, as applicable, of that SPM's Potential Maximum NPM Adjustment for the preceding year. (For example, on April 15, 2016, the SPMs shall deposit such shares of their respective Potential Maximum NPM Adjustments for 2015.)

d. Each PM and the Signatory States shall jointly instruct the Independent Auditor to release the entire amount deposited by that PM pursuant to subsections IV.B.2.a-c promptly upon deposit, and distribute it as provided in subsection IV.B.2.e.

e. The amount to be released pursuant to subsection IV.B.2.d shall be allocated among the Signatory States pro rata in proportion to their respective Allocable Shares and IX(c)(2) Allocable Shares, as applicable. The amount so allocated to a Signatory State shall be released as follows: (i) the percentage of such allocated amount described in subsection V.C.9 – to such State; (ii) 50% of the portion of such allocated amount that remains after the release pursuant to clause (i) – to such State; and (iii) 50% of the portion of such allocated amount that remains after the release pursuant to clause (i) – to the PM that made the deposit. The amount released pursuant to subsection IV.B.2.e(i) shall be based on an estimate of the reimbursement percentage determined pursuant to subsection VII.1.1. (For example, if a PM makes a deposit of \$200 million pursuant to subsection IV.B.2.a for a year in question, the entire \$200 million will be released. If \$10 million of such released amount is allocated to a

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Signatory State, and such State's reimbursement percentage determined pursuant to subsection VII.1.1 for such year equals 40%, that \$10 million will be released as follows: (i) \$4 million will be released to such State pursuant to clause (i) (40% of \$10 million); (ii) another \$3 million will be released to such State pursuant to clause (ii) (50% of the \$6 million that remains after the release pursuant to clause (i)); and (iii) \$3 million will be released to the PM that made the deposit pursuant to clause (iii) (50% of the \$6 million that remains after the release pursuant to clause (i)).)

f. Releases to the PMs pursuant to subsection IV.B.2.e(iii) shall be made only with respect to the amounts deposited into the Disputed Payments Account before both party-selected arbitrators are appointed for the first NPM Adjustment arbitration involving the Signatory States and commenced pursuant to subsection VII.C.5.a or subsection VII.C.5.b. The amounts deposited into the Disputed Payments Account pursuant to subsections IV.B.2.a-c after both such arbitrators have been appointed for the first such arbitration shall be released to the Signatory States in their entirety.

g. Deposits and releases described in this subsection IV.B.2 shall be based on the Allocable Shares and IX(c)(2) Allocable Shares of the States that are Signatory States at the time of the deposit in question. The released amounts shall be subject to repayment as provided in subsections V.C.6-7.

h. Notwithstanding subsection VI.H.7 (but subject to disputes pursuant to subsections VI.H.2-7 and VII.B), once the amounts have been released and distributed pursuant to subsection IV.B.2.e(i)-(iii), the allocation of the released amounts shall not be revised or recalculated based on any new, additional or revised documents or data (including any revised calculations issued by the Independent Auditor), and the amounts so

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released and distributed shall remain in the respective Signatory Parties' possession, until such time as reimbursement pursuant to subsection V.C.9 becomes due upon conclusion of the NPM Adjustment arbitration for the relevant year. At such time, the reimbursement percentages shall be determined as provided in subsection VI.1.2.

3. Revisions to Prior Adjustment Amounts. If, prior to an MSA Payment Due Date, the Independent Auditor issues Revised Final Calculations for prior years that contain revised NPM Adjustment amounts for such prior years, the amounts the OPMs deposit into the Disputed Payments Account on such Payment Due Date pursuant to subsections IV.B.1.a and IV.B.2.a-b shall be based on a "net" adjustment amount, that is, the amount that reflects both the NPM Adjustment amount for the year that is first subject to deposit into the Disputed Payments Account and revisions to prior years' adjustment amounts (for example, if the prior years' adjustments are revised upwards, the OPMs shall deposit the amount of the increase into the Disputed Payments Account in the current year, if the prior years' adjustments are revised downwards, the OPMs shall deduct the amount of the decrease from the amount they deposit into the Disputed Payments Account in the current year). The amount to be released from the Disputed Payments Account each year pursuant to subsections IV.B.1.c and IV.B.2.d will likewise be based on such "net" amounts. If a portion of such released amount is to be provided to a Signatory State in the year in question pursuant to subsection IV.B.2.e(i), the amount so provided shall be determined based entirely on the estimated reimbursement percentage for that year without regard to the reimbursement percentages used in connection with prior years' releases. Each SPM also may elect to make such deposits and direct releases based on such "net" adjustment amounts on the same terms.

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4. No Effect on Deposits for Non-Signatory States. If, in addition to the Signatory States' shares of the Potential Maximum NPM Adjustments addressed in subsections IV.B.1-2, a PM also deposits into the Disputed Payments Account the Non-Signatory States' Allocable Shares or IX(c)(2) Allocable Shares, as applicable, of that PM's share of an NPM Adjustment, such PM and the Signatory States shall jointly instruct the Independent Auditor to release, as provided in subsections IV.B.1-2, only the Signatory States' Allocable Shares or IX(c)(2) Allocable Shares, as applicable, of the amounts described in subsections IV.B.1-2. Nothing in this section IV shall require the release from the Disputed Payments Account of the Non-Signatory States' Allocable Shares or IX(c)(2) Allocable Shares, as applicable, of such PM's share of any NPM Adjustment.

5. No Other Withholdings or Deposits into the Disputed Payments Account. Except as provided in subsections IV.B.1-2, the PMs shall not withhold or deposit into the Disputed Payments Account any amounts attributable to the Signatory States based on a dispute arising out of the adjustments set forth in subsections V.A-C. Provided, however, that, notwithstanding subsections IV.B.1-2:

a. If a PM notices for arbitration a dispute with a Signatory State with respect to an adjustment pursuant to subsections V.A-B, and the party-selected arbitrator for such State (or, if such dispute is noticed with more than one Signatory State, such States as a side) has not been appointed for such arbitration for over one year from the date such notice was first given despite good faith efforts by the PM, the PM may withhold, or deposit into the Disputed Payments Account and instruct the Independent Auditor not to release until such dispute is resolved with finality, the amount at issue in such dispute.

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b. If a PM notices for arbitration a dispute with the Signatory States with respect to an adjustment pursuant to subsection V.C at or after the time such arbitration may commence pursuant to subsection VII.C, and the party-selected arbitrator for such States as a side (or, in the case of a merged arbitration pursuant to subsection VII.C.2, for all the participating States as a side) has not been appointed for such arbitration for over one year from the date such notice was first given despite good faith efforts by the PM (and other than as a result of delays due to Non-Signatory States), the PM may withhold, or deposit into the Disputed Payments Account and instruct the Independent Auditor not to release until such dispute is resolved with finality, such Signatory States' Allocable Shares or IX(c)(2) Allocable Shares, as applicable, of the NPM Adjustment for the year in question.

C. Subsequent-Joining Signatory States.

1. Upon joinder by a Subsequent-Joining Signatory State, following the Independent Auditor's confirmation that it will apply the credits and reductions resulting from the additional settlement amounts attributable to such Subsequent-Joining Signatory State as set forth in subsection III.E and Exhibit F, the PMs and such Subsequent-Joining Signatory State shall jointly instruct the Independent Auditor to release from the Disputed Payments Account such Subsequent-Joining Signatory State's Allocable Share of the amount described in subsection IV.A.2(i) and such Subsequent-Joining Signatory State's IX(c)(2) Allocable Share of the amount described in subsection IV.A.2(ii), to the extent such State's shares of such amounts are in the Disputed Payments Account. If any such shares of such amounts are not in the Disputed Payments Account, such Subsequent-Joining Signatory State and the PMs shall agree on how such amounts shall be addressed, subject to the provisions of subsection IV.C.2. For any SPM that has withheld amounts attributable to the NPM Adjustment for 2003 through

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2012, unless the SPM and the Subsequent-Joining Signatory State agree otherwise, payment of such amounts for the benefit of the Subsequent-Joining Signatory State shall be determined in the manner described in Exhibit F.

2. The Signatory States shall instruct the Independent Auditor to reallocate the amounts released or otherwise provided to a Subsequent-Joining Signatory State pursuant to subsection IV.C.1 among them as necessary to allocate a portion of the Data Clearinghouse fund described in subsection IV.A.4 to the Subsequent-Joining Signatory State, subject to subsection IV.A.5. The Signatory States shall instruct the Independent Auditor to allocate the remainder of such amounts to such Subsequent-Joining Signatory State. For a Subsequent-Joining Signatory State that becomes a Signatory State in 2017 or later, the Signatory States may instruct the Independent Auditor to allocate to the Data Clearinghouse fund from the amounts to be released or otherwise provided to the Subsequent-Joining Signatory State pursuant to subsection IV.C.1 an amount equal to what that Subsequent-Joining Signatory State's share of the \$10 million Data Clearinghouse fund would have been if such State had been a 2016 Signatory State and allocated a portion of the Data Clearinghouse fund among the pool of 2016 Signatory States, thereby making this an additional deposit into the fund rather than reallocating the contribution among the Signatory States.

3. Unless the PMs and the Subsequent-Joining Signatory State agree otherwise, the PMs shall deposit into the Disputed Payments Account the Subsequent-Joining Signatory State's Allocable Share and IX(c)(2) Allocable Share, as applicable, of the amounts referenced in subsection IV.B, and the PMs and such State shall jointly instruct the Independent Auditor to release such amounts, consistent with the provisions of subsection IV.B (and taking into account the timing of the joinder by such Subsequent-Joining Signatory State).

V. ADJUSTMENTS FOR SUBSEQUENT YEARS.

A. Adjustments During the Transition Period.

1. There will be a three-year transition period during which the PMs will receive adjustments to their MSA payments for the benefit of the Signatory States as provided in this subsection V.A.
2. In lieu of the 2013 NPM Adjustment and the 2014 NPM Adjustment as applicable to the Signatory States, the PMs will receive the downward adjustment for the sales year in question calculated pursuant to subsections V.A.3-8 applied to their payments pursuant to MSA Sections IX(c)(1) and IX(c)(2) due on April 15, 2014 and April 15, 2015. Such adjustment shall be applied to such payments on the Payment Due Date of the respective payment and shall not be subject to any conditions or exclusions that may apply to adjustments pursuant to MSA Section IX(d).
3. To calculate the Initial OPMs' aggregate amount of the adjustment under subsection V.A.2 for 2013 and 2014, the Independent Auditor shall first compare the Market Share Loss for 2013 or 2014, as applicable, with the Market Share Loss for 2011. If the Market Share Loss for such year in question is less than or equal to the 2011 Market Share Loss, the Independent Auditor shall calculate the total IX(c)(1) and IX(c)(2) adjustment amounts each equal to 25% of the Initial OPMs' Potential Maximum NPM Adjustment applicable to MSA Section IX(c)(1) and IX(c)(2) payments, respectively. (For example, if the 2013 Market Share Loss is less than the 2011 Market Share Loss, the total IX(c)(1) adjustment amount applicable to the OPMs' payments pursuant to MSA Section IX(c)(1) due on April 15, 2014 shall equal 25% of the OPMs' Potential Maximum 2013 NPM Adjustment applicable to the OPMs' MSA

Section IX(c)(1) payments. Adjustments to Section IX(c)(2) payments shall be treated in the same way.)

4. If the Market Share Loss for 2013 or 2014, as applicable, is more than the 2011 Market Share Loss, the Independent Auditor shall calculate the total IX(c)(1) and IX(c)(2) adjustment amounts by adding together the following amounts.
 - a. 25% of the amount of the Potential Maximum NPM Adjustment for the year in question the Initial OPMs would be entitled to pursuant to the provisions of the MSA, if the Market Share Loss for such year were equal to the 2011 Market Share Loss.
 - b. 30% of any part of the Potential Maximum NPM Adjustment for the year in question the Initial OPMs would be entitled to pursuant to the provisions of the MSA, arising from NPM sales volumes in such year of 1 to 100 million Cigarettes above the 2011 Market Share Loss.
 - c. 40% of any part of the Potential Maximum NPM Adjustment for the year in question the Initial OPMs would be entitled to pursuant to the provisions of the MSA, arising from NPM sales volumes in such year of 100 million to 200 million Cigarettes above the 2011 Market Share Loss.
 - d. 50% of any part of the Potential Maximum NPM Adjustment for the year in question the Initial OPMs would be entitled to pursuant to the provisions of the MSA, arising from NPM sales volumes in such year of more than 200 million Cigarettes above the 2011 Market Share Loss.
5. The aggregate Initial OPM amounts of the adjustment for a year in question under subsection V.A.2 applicable to MSA Sections IX(c)(1) and IX(c)(2) payments shall be equal to, respectively, (i) the total IX(c)(1) adjustment amount determined pursuant to

subsection V.A.3 or V.A.4, as applicable, multiplied by the aggregate Allocable Share of all Signatory States, and (ii) the total IX(c)(2) adjustment amount determined pursuant to subsection V.A.3 or V.A.4, as applicable, multiplied by the aggregate IX(c)(2) Allocable Share of all Signatory States. Such aggregate Initial OPM amounts shall be allocated among the Initial OPMs as they direct.

6. Such aggregate Initial OPM amounts under subsection V.A.2 shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares or IX(c)(2) Allocable Shares, as applicable.

7. For each SPM, the amount of the adjustment under subsection V.A.2 for 2013 and 2014 applicable to MSA Section IX(c)(1) and IX(c)(2) payments shall be determined in the same manner as the aggregate amount of the respective OPMs' adjustment, applying the percentages determined pursuant to subsection V.A.3 or V.A.4, as applicable, to such SPM's Potential Maximum NPM Adjustment, and multiplying the resulting amounts by the aggregate Allocable Share of all Signatory States, in case of the adjustment applicable to MSA Section IX(c)(1) payments, and by the aggregate IX(c)(2) Allocable Share of all Signatory States, in case of the adjustment applicable to MSA Section IX(c)(2) payments. Each SPM's adjustment shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares or IX(c)(2) Allocable Shares, as applicable.

8. The amount of the adjustment pursuant to subsection V.A.2 for 2013 and 2014 shall be determined based on the Market Share Loss for 2013 or 2014, as applicable, the Potential Maximum NPM Adjustment for 2013 or 2014, as applicable, and the Market Share Loss for 2011, all as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the Payment Due Date of the MSA payment to which the

adjustment in question applies. The Signatory Parties agree that such adjustments for 2013 and 2014 shall not change after the Payment Due Date of the payment to which the adjustment in question is applied notwithstanding any subsequent revision or recalculation by the Independent Auditor of the amounts described in the preceding sentence.

9. In lieu of the calculation set out in subsections V.A.3 through V.A.8, the Signatory States and the PMs may provide the Independent Auditor with joint instructions specifying the dollar amounts to be used for the adjustment under subsection V.A.2.

10. In lieu of the 2015 NPM Adjustment as applicable to the Signatory States, the PMs will receive the following adjustments applied to their payments pursuant to MSA Section IX(c)(1) due on April 16, 2018:

a. The OPMs will receive an aggregate adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L., equal to the sum of (i) 25% of the OPMs' Potential Maximum 2015 NPM Adjustment applicable to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States, and (ii) 25% of the OPMs' Potential Maximum 2015 NPM Adjustment applicable to MSA Section IX(c)(2) multiplied by the aggregate IX(c)(2) Allocable Share of all Signatory States. Such aggregate OPM amount shall be allocated among the OPMs as they direct, and shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares and IX(c)(2) Allocable Shares, as applicable.

b. Each SPM will receive an adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L., equal to the sum of (i) 25% of that SPM's Potential Maximum 2015 NPM Adjustment applicable to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States, and (ii) 25% of that SPM's Potential

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Maximum 2015 NPM Adjustment applicable to MSA Section IX(c)(2) multiplied by the aggregate IX(c)(2) Allocable Share of all Signatory States. Each SPM's adjustment shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares and IX(c)(2) Allocable Shares, as applicable.

c. The amounts of the adjustments pursuant to this subsection V.A.10 shall be determined based on the Market Share Loss for 2015 and the Potential Maximum NPM Adjustment for 2015 as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the April 17, 2017 Payment Due Date. The Signatory Parties agree that the amounts of such adjustments shall not change after such Payment Due Date notwithstanding any subsequent revision or recalculation by the Independent Auditor of the amounts described in the preceding sentence.

d. The Signatory States and the PMs may provide the Independent Auditor with joint instructions specifying the dollar amounts to be used for the adjustments under this subsection V.A.10.

e. Each PM shall receive its amount under this subsection V.A.10 by repaying (without interest) all amounts previously released to that PM attributable to the 2015 NPM Adjustment as referenced in subsection IV.B.2 and then receiving its amount under this subsection V.A.10 in full (without interest); provided, however, that each PM's receipt of its amount under this subsection V.A.10 is conditioned on its prior release from the DPA to the Signatory States of all amounts, if any, that PM both deposited into the DPA and has retained in the DPA attributable to the Signatory States' Allocable Share or IX(c)(2) Allocable Share of the 2015 NPM Adjustment (and the earnings on those amounts).

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f. The PMs shall also receive the adjustment pursuant to subsection V.B, determined and applied as provided in that subsection.

B. SET-Paid NPM Sales.

1. Adjustment for the OPMs. Starting with the payments for sales year 2015, due on April 15, 2016, and each year thereafter, the OPMs' payments pursuant to MSA Section IX(c)(1) made for the benefit of each Signatory State shall be subject to a downward dollar adjustment as provided in this subsection V.B. (The timing of the application of the adjustment is addressed in subsection V.B.9.) The aggregate OPM amount of such adjustment for a given sales year shall equal the sum of the adjustments applicable to each Signatory State for such year, as such amounts are determined pursuant to this subsection V.B. Such aggregate OPM amount shall be allocated among the OPMs as they direct.

2. Amount of the OPMs' Adjustment Applicable to a Signatory State. The amount of such adjustment applicable to the OPMs' aggregate MSA payment for a given sales year allocated to a Signatory State shall equal the product of (i) three times the escrow amount per Cigarette, as such escrow amount is set forth in subsection (b)(1) of the Requirements Section of the Model Statute (attached as Exhibit T to the MSA) for that sales year (as such amount is adjusted for inflation pursuant to the Model Statute), and (ii) the total number of Non-Compliant NPM Cigarettes sold in the Signatory State in question during such year. (For example, to calculate the adjustment applicable to the OPMs' payment for 2015 sales year, due on April 15, 2016, allocated to a Signatory State, the total number of Non-Compliant NPM Cigarettes sold in that Signatory State during 2015 shall be multiplied by the dollar amount equal to three times the escrow amount due per Cigarette sold in 2015.)

3. Non-Compliant NPM Cigarettes. Except as provided in subsection V.B.5, Non-Compliant NPM Cigarettes sold in a Signatory State during a year in question shall mean NPM Cigarettes on which such State's SET was paid during such calendar year, but on which escrow was either (i) not deposited at the rate equal to or greater than the escrow amount per Cigarette, as set forth in subsection (b)(1) of the Requirements Section of the Model Statute (MSA Exhibit T) for the sales year in question (as such amount is adjusted for inflation pursuant to the Model Statute), or (ii) released or refunded other than (x) pursuant to the terms of the State's Escrow Statute (as amended by Allocable Share Repeal) or (y) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State. (The phrase "Non-Compliant NPM Cigarettes sold in a Signatory State" as used in this Settlement Agreement governs the application of the adjustment provided for in this subsection V.B, and is not intended to indicate whether or not the Cigarettes in question or the manufacturer of such Cigarettes were in compliance with such State's escrow requirements at the time of sale.)
4. Determining the Number of Non-Compliant NPM Cigarettes Sold in a State. A determination of the total number of Non-Compliant NPM Cigarettes sold in a Signatory State during a particular year shall be made as provided in subsection VI.I.4.
5. Exclusion of Certain Cigarettes from the Number of Non-Compliant NPM Cigarettes. Notwithstanding the foregoing, Non-Compliant NPM Cigarettes sold in a Signatory State shall not include Cigarettes described in this subsection V.B.5 (the "excluded Cigarettes"). If any such excluded Cigarettes have been included in the total number of Non-Compliant NPM Cigarettes sold in a State in question during a sales year determined pursuant

- to the preceding subsection V.B.4, the number of such excluded Cigarettes shall be subtracted from such total number of Non-Compliant NPM Cigarettes.
- a. Cigarettes on which the escrow was deposited at the rate set forth in subsection V.B.3(i) by either (i) any entity (other than the NPM) liable for such deposits under the laws of the Signatory State in question or (ii) a person or entity in the distribution chain on behalf of such NPM or other entity liable for such deposits under such laws, and in either case such State did not release or refund any part of the deposit with respect to the Cigarettes in question other than (x) pursuant to the terms of the State's Escrow Statute (as amended by Allocable Share Repeal) or (y) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State.
 - b. Cigarettes on which the Signatory State in question recovered at the escrow rate set forth in subsection V.B.3(i) on an escrow bond posted pursuant to the laws of that State, and such State did not release or refund any part of the deposit so recovered with respect to the Cigarettes in question other than (i) pursuant to the terms of the State's Escrow Statute (as amended by Allocable Share Repeal) or (ii) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State.
 - c. Cigarettes as to which the Signatory State in question is barred from requiring escrow deposits from all entities liable under its individual State law for such payments, and also is barred from recovery on any remaining escrow bond, by an automatic stay or subsequent order in a federal bankruptcy proceeding or by order of a court of competent jurisdiction that requiring escrow deposits is barred by federal or State constitutional law (other than State constitutional provisions added or amended after December 14, 2012 or state constitutional law as it may impact or be applied in relation to sovereign immunity or other

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Native American issues) or federal statutory or common law. Provided, however, that the preceding sentence applies only if (i) the State in question uses reasonable efforts to oppose and appeal such stay or order, and (ii) within 30 days prior to the time of sale the NPM and brand at issue were both properly on the State's directory of approved manufacturers and Cigarette brands, either in accordance with the terms of the State's Complementary Legislation or pursuant to the order of a court of competent jurisdiction barring removal of the NPM or brand from that directory. This subsection V.B.5.c only applies to a Signatory State that has requirements in effect (1) that the NPM at issue post a bond (or adjust the amount of a previously posted bond) at least 10 days in advance of each calendar quarter as a condition to being listed in the state directory of manufacturers and brands permitted to be sold in the States for that quarter in at least the amount equal to the greater of (x) the greatest required escrow amount due from the NPM or its predecessor for any of the 12 preceding calendar quarters and (y) \$25,000, and (2) that importers are jointly and severally liable for escrow deposits due from an NPM with respect to NPM Cigarettes that they import. Notwithstanding the preceding sentence, this subsection V.B.5.c shall apply to a Signatory State whose bonding requirement described in the preceding sentence has been stayed or held invalid by a court of competent jurisdiction on the basis that such requirement is barred by federal or State constitutional law (other than State constitutional provisions added or amended after December 14, 2012, or State constitutional law as it may impact or be applied in relation to sovereign immunity or other Native American issues) or federal statutory or common law, provided the State used reasonable efforts to oppose and appeal such stay or order. If the bonding requirement of such State is stayed or invalidated as provided in the preceding sentence only with respect to some

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Cigarettes, this subsection V.B.5.c shall apply only to those Cigarettes as to which the State is thereby barred from requiring, or recovering on, an escrow bond.

d. NPM Cigarettes on which such State's SET was paid and on which escrow was timely deposited at the rate equal to or greater than the rate set forth in subsection V.B.3(i), but as to which the State releases a portion of such escrow amount not to exceed 50% of the escrow deposited on the particular NPM Cigarettes pursuant to a tribal compact to a federally recognized tribe (or tribe that was recognized by that State as of January 1, 2012) with a reservation within the geographic boundaries of that State, provided each of the following conditions are satisfied: (i) the release occurs no earlier than one year after the deposit is made; (ii) the Cigarettes on which the escrow is released were sold in retail transactions to consumers on that tribe's reservation; (iii) the money released is provided to the tribe itself and used solely for public safety on such tribe's reservation and/or social services for tribal members (e.g., health care, education) and not for any function that could directly or indirectly promote or reduce the costs of Cigarette production, marketing or sales; (iv) the money released is not used in any way for the benefit of an NPM or to facilitate NPM sales; (v) the compact makes the requirements of subsection IX.D applicable to the tribe, and the tribe is in conformity with such requirements; and (vi) the State has amended its Escrow Statute to remove the NPM's right to reversion and interest as to (but only as to) the escrow to be released in conformity with the above requirements. Provided, however, that (x) a Signatory State may not release more than \$1 million in escrow as described in this subsection V.B.5.d in any year to all tribes collectively, and (y) in the event a court strikes down a Signatory State's removal of the NPM's right to reversion and interest described in subsection V.B.5.d(vi), such State may pay to tribes the amounts authorized under the remainder of this subsection out of its

general fund (subject to all other conditions and limits set forth above). A State that releases escrow as described in this subsection V.B.5.d has the responsibility of ensuring that conditions set forth in clauses d(i)-(vi) of this subsection and the terms of the preceding sentence are met. This subsection V.B.5.d applies only with respect to Cigarettes of those NPMs that existed in the U.S. market as of June 1, 2012 and does not apply with respect to Cigarettes of those NPMs that entered the U.S. market after that date. In addition, this subsection V.B.5.d does not apply where any NPM involved in the production, distribution or sale of the Cigarettes at issue is one (or an affiliate or successor of one) affiliated with the tribe (or any members of the tribe) to which the escrow would be released. For purposes of this subsection V.B.5.d, a tribe with reservation land located in more than one State is considered to have a reservation in, and to be eligible for release of escrow from, only the State in which the largest portion of its reservation land is located.

6. Adjustments for the SPMs. Each SPM shall receive a downward dollar adjustment to its MSA Section IX(c)(1) payment due for the benefit of a Signatory State if and when the OPMs' aggregate payment for the benefit of such State is adjusted pursuant to this subsection V.B. The amount of such SPM adjustment shall constitute the same share of the SPM's MSA Section IX(c)(1) payment due for the sales year in question for the benefit of such State (prior to any credits, reductions and adjustments pursuant to this Settlement Agreement) as the OPMs' aggregate adjustment applicable to such State pursuant to this subsection V.B constitutes of the OPMs' aggregate MSA Section IX(c)(1) payment due for the same sales year in question for the benefit of that State (prior to any credits, reductions and adjustments pursuant to this Settlement Agreement).

7. Subsequent Escrow Deposits and Releases.

a. If a stay or order, as referenced in subsection V.B.5.c, is reversed or otherwise becomes no longer operative and the full escrow amount is not then deposited on the Cigarettes at issue, any adjustment on those Cigarettes, determined in conformity with this subsection V.B, shall be applied to the PMS' next MSA Section IX(c)(1) payment made for the benefit of the Signatory State in question, unless a further stay or order is entered.

b. In the event that after the documents for the sales year in question are provided to the Data Clearinghouse as set forth in section VI, (i) additional or amended reports of SET-paid NPM Cigarette sales are provided to a Signatory State pursuant to the laws and/or regulations of the State in question or the State determines that there were different volumes of such sales based on evidence that the State is not prohibited from using for Escrow Statute enforcement purposes, (ii) additional escrow is deposited, or is released other than (x) pursuant to the provisions of the State's Escrow Statute (as amended by Allocable Share Repeal), (y) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State, or (z) in conformity with subsection V.B.5.d, or (iii) there has been an initial or additional recovery by the State on a bond posted pursuant to the laws of that State (unless the Cigarettes in question were excluded pursuant to subsection V.B.5.c), the adjustment for such sales year shall be revised accordingly and the revised instructions provided to the Independent Auditor.

c. In the event that the revision to prior calculations described in the preceding subsection takes place after the adjustment specified in this subsection V.B for a sales year in question is applied to a payment for the benefit of a Signatory State, the resulting underpayment or overpayment to such Signatory State by each PM shall be used (with interest

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at Prime Rate) to increase or decrease, as the case may be, the next MSA payment for the benefit of such Signatory State from each such PM by the amount of such PM's underpayment or overpayment.

d. Notwithstanding the foregoing, no revisions to the adjustment pursuant to subsection V.B shall be made more than five years after the Payment Due Date of the MSA payment to which the adjustment in question applies (that is, the payment following the sales year in which the NPM sales at issue were made, as stated in subsection V.B.1., not the Payment Due Date for the next available MSA payment to which an adjustment can be applied, as stated in subsection V.B.9), except that such revisions shall be made at any time to the extent that (i) the revision is attributable to releases of escrow other than (x) pursuant to the provisions of the State's Escrow Statute (as amended by Allocated Share Repeal), (y) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State, or (z) in conformity with subsection V.B.5.d, (ii) the revision is attributable to an escrow deposit made in the sixth year after the Payment Due Date of the MSA payment to which the adjustment in question applies and such deposit is with respect to NPM sales first identified during the fifth year after such Payment Due Date (provided the State in question provides to the Data Clearinghouse documents evidencing such deposit no later than 30 days following the end of such sixth year), (iii) the revision is attributable to an escrow deposit that results from litigation, bankruptcy, or contested proceeding in which the State in question was a fully participating party if such proceeding was commenced within three years after the Payment Due Date of the MSA payment to which the adjustment in question applies or two years after the determination of revised volumes of sales for which the deposit was made, whichever is later, or (iv) the revision is against a Signatory Party's interest and is based on

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information the Signatory Party possessed and was required to provide to the Data Clearinghouse pursuant to section VI but failed to do so. Provided, however, that no revisions to the number of NPM Cigarettes on which a Signatory State's SET was paid in a given year, as such number is used in calculating the adjustment pursuant to subsection V.B and the reimbursement pursuant to subsection V.C.9 applicable to such State for such year, shall be made after the commencement of discovery in an NPM Adjustment arbitration for such State for such year pursuant to subsection VII.C.

8. Safe Harbor.

a. The PMS' MSA Section IX(c)(1) payment for a given sales year for the benefit of a Signatory State shall not be subject to the adjustment under this subsection V.B if the State demonstrates (i) that the total number of Non-Compliant NPM Cigarettes sold in that State during such sales year did not exceed 4% of all NPM Cigarettes on which such State's SET was paid during such year, or (ii) that the total number of Non-Compliant NPM Cigarettes sold in such State during such sales year did not exceed 2 million Cigarettes. For purposes of this subsection V.B.8, the total number of Non-Compliant NPM Cigarettes sold in a State shall be determined pursuant to the provisions of subsections V.B.3-7 other than the exclusion set forth in subsection V.B.5.c. Such determination shall take into account any revisions to the calculation of Non-Compliant NPM Cigarettes made pursuant to subsection V.B.7, including the time frame limitations in subsection V.B.7.d.

b. If a Signatory State does not qualify for an exemption from the application of the adjustment pursuant to the preceding subsection V.B.8.a, the amount of the adjustment applicable to such State shall be determined based on the total number of Non-

Compliant NPM Cigarettes sold in that State (determined pursuant to this subsection V.B), that is, without subtracting either 4% or 2 million Cigarettes from such total number.

9. Timing of the Adjustment. Because some or all of the escrow deposits are due at the same time as the MSA payments for the same sales year, the number of Non-Compliant NPM Cigarettes sold in a State during a sales year cannot be determined by the Payment Due Date of the MSA payment for that sales year. Accordingly, each adjustment pursuant to this subsection V.B shall be applied to reduce the next available MSA payment due from the PMs for the benefit of the Signatory States. (For example, the adjustment with respect to the Non-Compliant NPM Cigarettes sold in 2019 and applicable to the MSA payment for sales year 2019, due on April 15, 2020, shall be applied to reduce the MSA payment due on April 15, 2021.) Provided, however, that the adjustments with respect to the Non-Compliant NPM Cigarettes sold in 2015 and 2016 shall be applied to the MSA payment due on April 15, 2019, and the adjustments with respect to the Non-Compliant NPM Cigarettes sold in 2017 and 2018 shall be applied to the MSA payments due on April 15, 2020.

C. NPM Adjustment Following the Transition Period.

1. In addition to any adjustments applicable under subsection V.B, the Signatory States shall be subject to a potential NPM Adjustment for 2016 and all subsequent sales years under MSA Section IX(d) as provided in this Settlement Agreement.
2. The calculation and applicability of the NPM Adjustment for each year shall be as under MSA Sections IX(d)(1) and (4), except that the significant factor condition to the applicability of the NPM Adjustment under MSA Section IX(d)(1)(C) shall be deemed satisfied as to the Signatory States for each year.

3. The NPM Adjustment for each year shall be allocated, and reallocated, as under MSA Section IX(d)(2).

4. Notwithstanding MSA Section IX(d)(3), NPM Adjustment amounts for the OPMs that are allocated to any Signatory States shall be allocated among the OPMs as they direct. NPM Adjustment amounts for the SPMs shall continue to be calculated and allocated among the SPMs on an SPM-specific basis as under MSA Section IX(d)(4).

5. The following provisions shall apply to any determination of whether a Signatory State diligently enforced the provisions of its Qualifying Statute to qualify for an exemption from the application of the NPM Adjustment.

- a. The diligent enforcement standard applies to all NPM Cigarettes on which federal excise tax was paid that the Signatory State reasonably could have known about and that such State has the authority under federal law to tax or to subject to the escrow requirement, including (i) all such sales made via the Internet, (ii) all such tribal sales or sales on tribal lands, and (iii) all such sales that may otherwise constitute contraband. The foregoing states the scope of the diligent enforcement standard applicable to a Signatory State regardless of whether the State's Escrow Statute imposes a broader or narrower escrow requirement.
- b. Notwithstanding subsection V.C.5.a, no determination that a Signatory State failed to diligently enforce an Escrow Statute may be based on the State's failure to collect escrow on NPM Cigarettes that federal law prohibits the State from subjecting to the escrow requirement, regardless of whether the State has authority under federal law to tax such Cigarettes, provided the State used reasonable efforts (i) to oppose any claims of such prohibition and (ii) to appeal any ruling finding that such prohibition exists.

c. The following are exempt from the diligent enforcement standard: (i) NPM Cigarettes sold on a federal installation in a transaction that is exempt from state taxation under federal law, and (ii) NPM Cigarettes sold on a Native American tribe's reservation (which shall include Indian Country as defined by federal law) by an entity more than 50% of which is owned, and which is operated, by that tribe or member of that tribe to a consumer who is an adult member of that tribe in a transaction that is exempt from state taxation under federal law.

d. Factors relevant to the diligent enforcement determination for a Signatory State shall include, but shall not be limited to: (i) whether the number of NPM Cigarettes on which SET was paid in such State in the year in question was reduced by virtue of a State policy or agreement not to require or collect SET of the State where due or not to enforce an SET stamping requirement of the State, or an indifference of the State to such SET collection or to enforcement of such SET stamping requirement, unless escrow was deposited on such SET-unpaid Cigarettes; and (ii) whether the actual number of NPM Cigarettes on which SET was paid in such State during that year significantly exceeded the number of such Cigarettes used in calculations pursuant to subsection V.B.4. A determination by an arbitration panel making the finding referenced in subsection V.C.5.d(ii) shall be relevant to the diligent enforcement determination only, and shall not affect the amount of the adjustment applicable to the State under subsection V.B or the reimbursement set forth in subsection V.C.9. Each Signatory State shall also have an option, but is not required, to enter into an additional agreement with the PMs, as set forth in Exhibit K to this Settlement Agreement. The PMs and Oklahoma also agree to the additional terms set forth in the second paragraph of Exhibit L.

e. The Signatory States and the PMs shall continue to discuss in good faith on an ongoing basis whether there are other actions that they can reasonably take to prevent sales of NPM Cigarettes on which SET is not paid.

6. The OPMs shall receive NPM Adjustment amounts allocated to any Signatory States as follows.

a. If the total amount of the NPM Adjustment for a year allocated to the Signatory States is less than or equal to the total amount previously released to the OPMs from the Disputed Payments Account pursuant to subsections IV.B.2.d-e with respect to the NPM Adjustment for that year, the OPMs shall retain a part of such total released amount equal to the total amount of such NPM Adjustment allocated to the Signatory States, with each OPM retaining the proportionate share of the released amount it received. (This subsection V.C.6.a does not apply if no such amount was released to the OPMs by virtue of subsection IV.B.2.f.)

b. If the total amount of the NPM Adjustment for a year allocated to the Signatory States is greater than the total amount previously released to the OPMs from the Disputed Payments Account pursuant to subsections IV.B.2.d-e with respect to the NPM Adjustment for that year, each OPM shall retain the entire released amount it received (if no such amount was released to the OPMs by virtue of subsection IV.B.2.f, the amount retained by each OPM shall be zero). Each OPM shall further receive the excess of that OPM's share of the total amount of the NPM Adjustment allocated to the Signatory States over the amount that OPM retains under the preceding sentence as follows: (i) first, through an offset against the OPM's subsequent MSA payment up to the amount that such OPM previously deposited into the Disputed Payments Account with respect to that NPM Adjustment and that was released to any Signatory State pursuant to subsections IV.B.2.d-e (whether or not the Signatory State that

received such release is allocated any part of that NPM Adjustment); (ii) if there is remaining excess and that OPM withheld funds with respect to that NPM Adjustment (i.e., did not either pay those funds for the benefit of the States or deposit them into the Disputed Payments Account), by that OPM retaining such withheld funds, unless the OPM is entitled to retain such funds as the means of receiving the NPM Adjustment for that year allocated to any Non-Signatory States and provided the OPM is entitled to retain such funds as the means of receiving the NPM Adjustment for that year allocated to any Signatory States; (iii) if there is remaining excess, through release of funds remaining in the Disputed Payments Account, if any, deposited by that OPM into the Disputed Payments Account with respect to that NPM Adjustment (with only the principal amount so deposited and released counting towards such remaining excess), unless such funds are subject to potential release to the OPM as the means of receiving the NPM Adjustment for that year allocated to any Non-Signatory States and provided the OPM is entitled to a release of such funds as the means of receiving the NPM Adjustment for that year allocated to any Signatory States; and (iv) if there is remaining excess above the amounts the OPM receives pursuant to clauses (i)-(iii), through an additional offset against the OPM's MSA payment.

c. Amounts due pursuant to subsection V.C.6.b(i) and (iv) shall be treated as overpayments by the OPM in question under MSA Section XI(i)(2)(B). Provided, however, that with respect to NPM Adjustments for those years for which amounts are released from the Disputed Payments Account to the OPMs pursuant to subsection IV.B.2.e(iii): (i) interest shall not be applied to amounts due pursuant to subsection V.C.6.b(i); and (ii) interest shall be applied to amounts due to an OPM pursuant to subsection V.C.6.b(iv) only if (x) the OPM used reasonable efforts to obtain release of funds from the Disputed Payments

Account as described in subsection V.C.6.b(iii), and (y) the OPM did not receive the full amount of excess from the Disputed Payments Account as described in subsection V.C.6.b(iii) for reasons other than because the OPM did not deposit the Non-Signatory States' share of the NPM Adjustment in question into the Disputed Payments Account or released such share from the Disputed Payments Account to the Non-Signatory States other than pursuant to the "commitment" referenced in paragraph V.4 of the Award. (The preceding sentence does not apply to NPM Adjustments for years for which no amounts are released from the Disputed Payments Account to the OPMs by virtue of subsection IV.B.2.f.) Amounts due pursuant to subsection V.C.6.b(i) and (iv) shall be allocated solely among those Signatory States that were allocated part of the NPM Adjustment for the year at issue, pro rata in proportion to the amount of that NPM Adjustment allocated to them.

d. The timing of the OPMs' receipt of the NPM Adjustment allocated to any Signatory States shall be as under the MSA, except that Signatory States shall not be required to offset amounts under subsection V.C.6.b in any one calendar year that are attributable to more than one year's NPM Adjustment (this limitation does not apply to any credits or offsets due to the OPMs under other provisions of this Settlement Agreement). Any amounts due pursuant to subsection V.C.6.b that cannot be offset in a calendar year due to the preceding sentence shall carry forward (without interest) and be provided pursuant to MSA Section XI(i)(2)(B) as soon as is consistent with this subsection V.C.6.d. Any subsequent revisions to the NPM Adjustment amount allocated to a Signatory State shall be treated consistently with the provisions of subsection V.C.6.

e. Beginning with the 2022 NPM Adjustment, the OPMs shall not receive any part of the NPM Adjustment allocated to any Signatory State for any year for

which the aggregate Market Share of all the Participating Manufacturers, as determined by the Independent Auditor using the 0.0325 RYO conversion factor, is equal to, or exceeds, 97%. The amount of the NPM Adjustment applicable to the Signatory States shall not be affected by the preceding sentence for any year for which the aggregate Market Share of all the Participating Manufacturers is less than 97%.

f. This subsection V.C.6 provides for the manner in which the OPMs shall receive NPM Adjustment amounts allocated to a Signatory State for a particular year, and it is not intended to, and shall not, result in the OPMs' receiving a total principal amount that is different from the principal amount of the NPM Adjustment for that year allocated to that State. Such principal amounts shall be increased by interest and/or DPA earnings as provided in this subsection V.C.6 and the MSA.

7. If one or more of the Signatory States is exempt from the NPM Adjustment for a year in question, those States shall receive their respective amounts previously released to the OPMs from the Disputed Payments Account pursuant to subsection IV.B.2.e(iii) with respect to the NPM Adjustment for that year in the following manner.

a. If all the Signatory States are exempt from the NPM Adjustment for that year, each OPM shall return the full released amount it received. If, pursuant to subsection V.C.6.a, the OPMs are to retain some, but not all, of such previously released amounts, each OPM shall return the excess of the released amount it received over the amount it is to retain.

b. If, pursuant to subsection V.C.6.b, the OPMs are to retain all such previously released amounts, the OPMs shall not be required to return any part of such amounts.

c. Amounts due under subsections V.C.7.a shall be treated as underpayments by the OPM in question under MSA Section XI(i)(1)(B), except that no interest shall be applied with respect to such amounts. Such amounts shall be allocated among the Signatory States that are exempt from the NPM Adjustment for the year in question, pro rata in proportion to their Allocable Shares and IX(c)(2) Allocable Shares, as applicable.

d. Notwithstanding subsection V.C.7.a, the OPMs shall not be required to return previously released amounts if doing that would reduce their recovery of the NPM Adjustment allocated to any Non-Signatory States.

e. If a Signatory State that is exempt from the NPM Adjustment for a year in question does not receive from the OPMs the full portion of the amount allocated to it pursuant to subsection IV.B.2.e with respect to the NPM Adjustment for that year that was previously released to the OPMs from the Disputed Payments Account pursuant to subsection IV.B.2.e(iii), including as a result of subsection V.C.7.d, such State shall receive such amount through reallocation of MSA payments among the Settling States as under the MSA.

f. The timing of the Signatory States' receipt of amounts to be returned pursuant to subsection V.C.7.a or reallocated pursuant to subsection V.C.7.e shall be the time under the MSA at which a Settling State that is exempt from the NPM Adjustment is entitled to receive the amounts attributable to that NPM Adjustment that it has not previously received. Provided, however, that the OPMs shall not be required to return amounts under subsection V.C.7.a in any one calendar year that are attributable to more than one year's NPM Adjustment. Any amounts due pursuant to subsection V.C.7.a that cannot be returned in a calendar year due to the preceding sentence shall carry forward (without interest) and be provided pursuant to MSA Section XI(i)(1)(B) as soon as is consistent with this subsection

V.C.7.f. Any subsequent revisions to the NPM Adjustment amount allocated to a Signatory State shall be treated consistently with the provisions of subsection V.C.7.

g. This subsection V.C.7 provides for the manner in which the Signatory States exempt from the NPM Adjustment for a year in question shall receive their respective amounts previously released to the OPMs from the Disputed Payments Account with respect to the NPM Adjustment for that year, and it is not intended to, and shall not, result in any Signatory State receiving an amount that is different from its respective amount previously released to the OPMs with respect to the NPM Adjustment for that year.

8. The SPMs shall receive NPM Adjustment amounts allocated to any Signatory States consistent with the provisions of subsection V.C.6. The Signatory States exempt from the NPM Adjustment for a year in question shall receive their Allocable Share and IX(c)(2) Allocable Share, as applicable, of the amounts previously released to an SPM from the Disputed Payments Account pursuant to subsection IV.B.2.e(iii) with respect to the NPM Adjustment for that year consistent with the provisions of subsection V.C.7.

9. If an NPM Adjustment for 2016 or any subsequent year is allocated to a Signatory State, each PM, promptly upon receiving its share of the NPM Adjustment allocated to such Signatory State as provided in subsection V.C.10, and subject to the provisions of subsection IX.E, shall severally reimburse such Signatory State (in a manner as reasonably directed by that Signatory State) in an amount equal to the percentage set forth below of the amount so received by that PM. The reimbursement percentage shall equal the sum of the following two percentages (which shall be determined pursuant to subsection VII.2).

a. The percentage equal to (i) the total number of NPM Cigarettes on which SET was paid in such year in the Settling States, divided by (ii) the total nationwide number of NPM Cigarettes on which federal excise tax was paid in such year.

b. In the case of a Signatory State that has, as of January 1 of such year, approved the PSS Amendment, the percentage equal to (i) the total number of NPM Cigarettes on which an Equity Fee was paid in such year in those Previously Settled States that had in effect an Equity Fee Law for the entirety of such year, divided by (ii) the total nationwide number of NPM Cigarettes on which federal excise tax was paid in such year. The Signatory States that have approved the PSS Amendment as of the Effective Date, and the dates of their respective approvals, are listed in Exhibit M.

10. A PM's obligation to reimburse a Signatory State pursuant to subsection V.C.9 shall not apply until the PM actually receives all of its share of the NPM Adjustment allocated to that Signatory State. For purposes of this subsection:

a. A release from the Disputed Payments Account is actually received when the full amount of such release, including any applicable earnings, is transferred to and received by such PM.

b. An overpayment offset pursuant to subsection V.C.6.c is actually received when the full amount of the offset, including any applicable interest, is applied to reduce an MSA payment due from such PM for the benefit of such Signatory State and the Payment Due Date for such payment has passed.

c. Any amounts retained pursuant to subsections V.C.6.a-b are actually received when the PM's right to retain them is no longer subject to dispute by a Signatory State.

VI. DATA CLEARINGHOUSE

A. Determinations and Calculations by Data Clearinghouse. Each year a Data Clearinghouse shall (i) determine the application of and calculate the adjustments pursuant to subsection V.B (including as applied in the transition period pursuant to subsection V.A.10.f), (ii) calculate the estimated NPM Adjustment reimbursement percentages pursuant to subsection IV.B.2.e, (iii) if requested by a Signatory Party, determine whether the conditions for early commencement of arbitration pursuant to subsections VII.C.5.a-b have been satisfied, and (iv) when applicable, calculate the NPM Adjustment reimbursement percentages pursuant to subsection V.C.9. The Data Clearinghouse shall perform all calculations and make all determinations that are necessary in connection with the foregoing. The Data Clearinghouse also shall promptly collect all information necessary to make such calculations and determinations, as provided in this section VI.

B. Identity of the Data Clearinghouse. The Data Clearinghouse shall be a nationally recognized professional services firm with substantial expertise in data collection and analysis. It shall also have or have means to obtain appropriate legal expertise to make determinations, including regarding Non-Compliant NPM Cigarettes described in subsection V.B.5. The Data Clearinghouse shall not be the entity, or an affiliate of the entity, that is serving or has served as the Independent Auditor or the Firm. The Data Clearinghouse shall also not be an entity, or an affiliate of an entity, that tracks, gathers, assembles or handles Cigarette sales data for any Signatory Party if such data are to be submitted to the Data Clearinghouse by such Signatory Party.

C. Selection of the Data Clearinghouse.

1. The Data Clearinghouse shall be jointly selected and retained by the Signatory States (and/or the National Association of Attorneys General) and the PMs.

2. Within 90 days of the Effective Date, the PMs and the Signatory States shall jointly send an agreed upon request for proposal to potential candidate firms meeting the above qualifications, and shall jointly interview those candidate firms that submit acceptable responses to such requests. Within 135 days of the Effective Date, the Signatory States and the PMs shall jointly compile a list of between three and five candidate firms. Within 10 days of compiling such a list, the Signatory States as one side, and the PMs as another side, shall each submit to a neutral party selected by them (the "Neutral") its rankings of its top three candidate firms from that list in order of preference, with one being the most preferred and three being the least preferred. The Neutral shall not reveal the rankings submitted by one side to the other side. The Neutral shall add the rankings for each candidate firm submitted by each side, with the candidates not ranked by either side excluded from consideration. The candidate firm that receives the lowest combined ranking shall be selected as the Data Clearinghouse. If two or more candidates receive the same combined ranking, the candidate that was not the least preferred by either side shall be selected (that is, the candidate ranked two by each side wins over the candidate ranked one by one side and three by another side). If two candidates receive identical rankings, the Neutral shall select one of them at random.

3. The firm selected to serve as the original or successor Data Clearinghouse may be terminated at any time by joint agreement of the two sides but cannot be terminated unilaterally by the PMs or the Signatory States for three years following its selection. Following such three-year period, either the PMs or the Signatory States, as a side,

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may unilaterally terminate the Data Clearinghouse upon reasonable cause. Reasonable cause shall include, but is not limited to, three separate reversals of the Data Clearinghouse's determinations or calculations by an arbitration panel pursuant to subsection VII.B. Provided, however, that an arbitration panel's decision shall not qualify as such a reversal if it only adjusts the amount of a subsection V.B adjustment applicable to a Signatory State by less than \$100,000 for reasons other than a reversal of a legal determination made by the Data Clearinghouse with respect to which Cigarettes should be counted as Non-Compliant NPM Cigarettes. The PMs and the Signatory States further agree to require that if the firm serving as the Data Clearinghouse resigns or is terminated for any reason, such firm will continue serving as the Data Clearinghouse until a successor firm is selected or appointed pursuant to this Settlement Agreement.

4. If the firm serving as the Data Clearinghouse resigns or is terminated by the PMs and/or the Signatory States, a successor firm shall be selected as provided in subsection VI.C.2, with the date such resignation or termination is noticed to the Signatory Parties being the Effective Date for purposes of such selection.

5. If for any reason the Signatory Parties are unable to select the original, or a successor, Data Clearinghouse within 165 days of the Effective Date, then, unless the PMs and the Signatory States agree otherwise, a firm satisfying the requirements set forth in subsection VI.B shall be appointed by a former Article III federal judge (who has not served as an arbitrator, and has not been included on a list of third arbitrator candidates prepared by the party-appointed arbitrators, in any MSA-related arbitration) selected by JAMS.

6. The principals of the firm selected or appointed as the Data Clearinghouse who are responsible for performing the calculations and making the

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determinations required by this Settlement Agreement shall be acceptable to both the Signatory States and the PMs, provided that such acceptance shall not be unreasonably withheld. The Data Clearinghouse shall be required to provide an advance notice to the Signatory Parties of any anticipated change in such principals.

7. For purposes of this subsection VIC, for any decision or action that is to be made or taken by the PMs or the Signatory States as a side, (i) a decision or action by the PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% of the aggregate Market Share of all the PMs shall be sufficient and shall bind any remaining PMs, and (ii) a decision or action by the Signatory States with an aggregate Allocable Share equal to at least 87% of the aggregate Allocable Share of all Signatory States shall be sufficient and shall bind any remaining Signatory States.

D. Funding for the Data Clearinghouse. The funding for the Data Clearinghouse shall be paid 50% by the PMs as a side and 50% by the Signatory States as a side. Such amounts shall be provided by, and allocated within, each side as determined and directed by that side. The Signatory States shall replenish the fund described in subsection IV.A.4 by future assessments in a manner consistent with Exhibit N.

E. Documents to Be Provided by the Signatory States.
I. Each year each of the Signatory States shall provide to the Data Clearinghouse: (i) a document sufficient to identify all distributors, wholesalers or other entities licensed or otherwise certified by the State to apply tax stamps to packages of Cigarettes and/or pay the SET on Cigarettes during the preceding calendar year (the "distributors"); (ii) a document sufficient to show the volume of NPM Cigarettes on which the State's SET was paid during the preceding calendar year sold by each such distributor, broken

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down to show sales by NPM, brand family and month (or by quarter for States that do not require monthly reporting); (iii) a document sufficient to show the total annual volume of such Cigarettes sold by each NPM, broken down by distributor, brand family and month (or by quarter for States that do not require monthly reporting), and the aggregate total of all such NPM Cigarette sales for the preceding calendar year; (iv) all escrow certifications submitted by, or on behalf of, NPMs reflecting the escrow deposits made for their Cigarettes sold in the State during such preceding calendar year (and any other documents reflecting such escrow deposits); (v) documentation reflecting all releases of funds from the escrow accounts held for the benefit of such State during such preceding calendar year; and (vi) any documents that directly relate to the Signatory State's claim that certain Cigarettes should be excluded from the number of Non-Compliant NPM Cigarettes sold in that State pursuant to subsection V.B.5.

2. Each Signatory State shall provide to the outside counsel designated by each PM: (i) copies of all documents provided by that Signatory State to the Data Clearinghouse pursuant to subsection V.I.E.1; (ii) copies of all distributor-submitted reports or sections thereof (or relevant print-outs from the State's database if distributors submit only electronic reports to the State) that reflect the volumes, manufacturers and brands of all Cigarettes on which the State's SET was paid for the preceding calendar year, but only for those distributors that reported a positive (i.e., non-zero) volume of NPM Cigarettes on which the State's SET was paid during any part of such year; and (iii) copies of any other source materials used by the State to prepare the documents referenced in subsection V.I.E.1(ii)-(iii).

3. Each Signatory State may provide to the outside counsel designated by each PM a list of those entities identified pursuant to subsection V.I.E.1(i) that did not report to the State the sale of any Cigarettes on which the State's SET was paid during each of the

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preceding calendar year and the two years immediately before that, but did report the sale of any other tobacco product on which such SET was paid during the preceding calendar year.

4. Each Signatory State shall also provide to the outside counsel designated by each PM additional documents as follows.

a. For each year for each Signatory State, the PMs may designate up to ten percent of the number of distributors that were required to be identified by the State pursuant to subsection V.I.E.1(i), excluding the distributors identified by the State pursuant to subsection V.I.E.3, but whose reports were not required to be provided to such counsel pursuant to subsection V.I.E.2(ii). For such designated distributors, each Signatory State shall provide the same types of documents as those described in subsection V.I.E.2(ii).

b. If the outside counsel for the PMs identifies (i) a discrepancy between the documents provided by a Signatory State to such counsel pursuant to subsection V.I.E.4.a and the documents provided by such State to the Data Clearinghouse pursuant to subsection V.I.E.1(ii)-(iii) that exceeds 12,000 NPM Cigarettes for a particular year, or (ii) a discrepancy between the documents provided to such counsel pursuant to subsection V.I.E.4.a and the data provided to the Data Clearinghouse pursuant to subsection V.I.F.1 that exceeds 100,000 Cigarettes for a particular NPM for the year in question, and if either of such discrepancies is confirmed by the Data Clearinghouse, then for each of the next three years the PMs may designate up to fifty percent of the number of the distributors that were required to be identified by the State pursuant to subsection V.I.E.1(i), excluding the distributors identified by the State pursuant to subsection V.I.E.3, but whose reports were not required to be provided to such counsel pursuant to subsection V.I.E.2(ii). For each of those three years, each Signatory

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State shall provide to the outside counsel designated by each PM the documents specified in subsection V.I.E.2(ii) for such designated distributors for the preceding calendar year.

c. If for any of the three years described in subsection V.I.E.4.b the outside counsel for the PMs identifies (i) a discrepancy between the documents provided by a Signatory State to such counsel pursuant to subsection V.I.E.4.b and the documents provided by such State to the Data Clearinghouse pursuant to subsection V.I.E.1(ii)-(iii) that exceeds 12,000 NPM Cigarettes for a particular year, or (ii) a discrepancy between the documents provided to such counsel pursuant to subsection V.I.E.4.b and the data provided to the Data Clearinghouse pursuant to subsection V.I.F.1 that exceeds 100,000 Cigarettes for a particular NPM for the year in question, and if either of such discrepancies is confirmed by the Data Clearinghouse, then for each of the next three years such Signatory State shall provide to the outside counsel designated by each PM the documents specified in subsection V.I.E.2(ii) for all distributors that were required to be identified by the State pursuant to subsection V.I.E.1(i) except those distributors identified by the State pursuant to subsection V.I.E.3 for such year.

d. As used in subsections V.I.E.4.b-c, a discrepancy "is confirmed by the Data Clearinghouse" if the Data Clearinghouse determines that the applicable document(s) provided by the State pursuant to subsection V.I.E.1(ii)-(iii) is (are) inaccurate.

5. Each State that identified distributors pursuant to subsection V.I.E.3 shall also provide to the outside counsel designated by each PM additional documents as follows:

a. For each year for each Signatory State, the PMs may designate up to ten percent of the number of distributors that were identified by the State pursuant to subsection V.I.E.3. For such designated distributors, each Signatory State shall provide the same types of documents as those described in subsection V.I.E.2(ii).

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b. If the outside counsel for the PMs identifies (i) a discrepancy between the documents provided by a Signatory State to such counsel pursuant to subsection V.I.E.5.a and the documents provided by such State to the Data Clearinghouse pursuant to subsection V.I.E.1(ii)-(iii) that exceeds 12,000 NPM Cigarettes for a particular year, or (ii) a discrepancy between the documents provided to such counsel pursuant to subsection V.I.E.5.a and the data provided to the Data Clearinghouse pursuant to subsection V.I.F.1 that exceeds 100,000 Cigarettes for a particular NPM for the year in question, and if either of such discrepancies is confirmed by the Data Clearinghouse, then for the next three years the PMs may designate up to fifty percent of the number of the distributors that were identified by the State pursuant to subsection V.I.E.3. For each of those three years, each Signatory State shall provide to the outside counsel designated by each PM the documents specified in subsection V.I.E.2(ii) for such designated distributors for the preceding calendar year.

c. If for any of the three years described in subsection V.I.E.5.b the outside counsel for the PMs identifies (i) a discrepancy between the documents provided by a Signatory State to such counsel pursuant to subsection V.I.E.5.b and the documents provided by such State to the Data Clearinghouse pursuant to subsection V.I.E.1(ii)-(iii) that exceeds 12,000 NPM Cigarettes for a particular year, or (ii) a discrepancy between the documents provided to such counsel pursuant to subsection V.I.E.5.b and the data provided to the Data Clearinghouse pursuant to subsection V.I.F.1 that exceeds 100,000 Cigarettes for a particular NPM for the year in question, and if either of such discrepancies is confirmed by the Data Clearinghouse, then for each of the next three years such Signatory State shall provide to the outside counsel designated by each PM the documents specified in subsection V.I.E.2(ii) for all distributors that were identified by the State pursuant to subsection V.I.E.3 for such year.

d. As used in subsections VI.E.5.b-c, a discrepancy "is confirmed by the Data Clearinghouse" if the Data Clearinghouse determines that the applicable document(s) provided by the State pursuant to subsection VI.E.1(ii)-(iii) is (are) inaccurate.

6. Each Signatory State shall have a continuing obligation to provide to the Data Clearinghouse and/or the PMs' designated counsel any additional or revised documents it becomes aware of (i) with respect to the documents described in subsections VI.E.1(i)-(iv), VI.E.1(vi) and VI.E.2-5, and documents containing information described in subsections V.B.7.a-b, during the respective time periods for revisions of prior calculations, as set forth in subsection V.B.7; and (ii) with respect to the documents described in subsection VI.E.1(v), for 25 years after the escrow amounts in question are deposited.

F. Data to Be Provided by the PMs.

1. The PMs as a side shall select data collected by one or more PMs in the ordinary course of business, if any, that, in their view, are the most accurate and reliable such data regarding sales of NPM Cigarettes by distributors to retailers located in the Signatory States and any Non-Signatory State described in subsection VI.I.1.e (the "database"). Each year the PMs, as a side, shall provide to the Data Clearinghouse such database reflecting sales during the preceding calendar year, broken down by distributor, brand family and month.

2. The PMs shall provide to the counsel in the office of the Attorney General and/or outside counsel, as designated by each Signatory State, (i) a portion of the database provided to the Data Clearinghouse that reflects NPM Cigarette sales to retailers in such Signatory State, and (ii) a portion of the database provided to the Data Clearinghouse that reflects NPM Cigarette sales to retailers located in any Non-Signatory State described in subsection VI.I.1.e. Upon the request by a Signatory State, the PMs also shall provide to that

State's designated counsel any other portion of the database provided to the Data Clearinghouse.

3. The PMs shall have a continuing obligation to provide a revised database, if any, to the Data Clearinghouse, and the portions of such revised database described in subsection VI.F.2 to the Signatory States, as follows: (i) on November 1 of the year following the sales year at issue; (ii) on July 1 and on December 1 of the following year; and (iii) thereafter, during the relevant time period for revisions of prior calculations as set forth in subsection V.B.7, only if the Data Clearinghouse relied on particular NPM sales volume data obtained from such database in making its calculations and the PM(s) become aware of revisions to such particular data in the database that could substantially affect the Data Clearinghouse's calculations.

4. In any arbitration under section VII the PMs may not use data that show NPM Cigarette sales by distributors to retailers located in the Signatory States if such data were not included in the PMs' database disclosure to the Data Clearinghouse pursuant to subsections VI.F.1 and/or VI.F.3 or otherwise disclosed to the Signatory States in connection with the Data Clearinghouse determinations and calculations, unless the PMs establish in such arbitration that such data (i) were not collected by any PM in the ordinary course of business, or (ii) were not known and available to any PM at the time of the PMs' database disclosure under subsections VI.F.1 and/or VI.F.3.

5. Any PM that paid an Equity Fee, or on whose Cigarettes an Equity Fee was otherwise paid, in a Previously Settled State, shall use reasonable efforts to obtain data regarding the number of its Cigarettes on which an Equity Fee was paid and the total amount of such Equity Fee paid on its Cigarettes in each of the Previously Settled States (the "PM Equity

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Fee Data"). Each year each such PM shall provide to the Data Clearinghouse its PM Equity Fee Data with respect to such Cigarettes sold in the preceding calendar year. Each such PM shall provide a copy of the PM Equity Fee Data it provided to the Data Clearinghouse to counsel designated by each Signatory State, along with any source materials used by such PM to prepare the PM Equity Fee Data submission to the Data Clearinghouse.

G. Requests for Additional Information.

1. The Data Clearinghouse shall have the right to request from the Signatory Parties additional documents and/or data that are reasonably necessary for the Data Clearinghouse to perform the calculations and determinations required by this Settlement Agreement. Provided however that, except to the extent reasonably necessary to resolve a specific discrepancy or issue, the Data Clearinghouse may not require the Signatory Parties to provide documents or data that do not fall within the categories described in subsections VI.E and VI.F. Copies of documents or data provided to the Data Clearinghouse pursuant to this subsection VI.G shall be provided to the designated counsel for each of the PMs or each of the Signatory States, as applicable.

2. If the Data Clearinghouse discovers, or is notified of and confirms, a discrepancy between the NPM Cigarette sales volumes reflected in the documents provided to the Data Clearinghouse by a Signatory State and (i) the NPM Cigarette sales volumes reflected in the database provided by the PMs or (ii) the NPM Cigarette sales volumes reflected in the documents provided by the Signatory State to the PMs, the Data Clearinghouse shall provide notice of such discrepancy to the Signatory State and the PMs. Instances in which an NPM's sales volume provided by a Signatory State is higher than that reflected in the database provided by the PMs as a result of a greater number of distributors providing sales reports to

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the State than to the PMs shall not be considered a discrepancy. Any notice of discrepancy provided to the Data Clearinghouse, including any such notice of discrepancy described in subsections VI.E.4 and VI.E.5, shall be served on the Signatory State that provided the documents or data at issue and the PMs. In response to a notice of discrepancy, the Signatory State and/or the PMs may provide revised or additional documents or data, and/or written comments, within 20 days of the notice.

H. Data Clearinghouse Schedule. The Data Clearinghouse shall perform all the calculations and make all the determinations it is required to make pursuant to this Settlement Agreement in a given calendar year on the following schedule.

1. All documents and data described in subsections VI.E and VI.F with respect to sales on which SET was paid in the calendar year 2015 shall be provided by the respective Signatory Parties on the schedule set forth in subsection VI.H.6. All documents and data described in subsections VI.E and VI.F with respect to sales on which SET was paid in the calendar year 2016 shall be provided by the Signatory Parties no later than August 1, 2018. All documents and data described in subsections VI.E and VI.F with respect to sales on which SET is paid in calendar years 2017 and 2018 shall be provided by the Signatory Parties no later than August 1, 2019. All documents and data described in subsections VI.E and VI.F with respect to sales on which SET is paid in calendar year 2019 and each year thereafter shall be provided by the respective Signatory Parties no later than August 1 of the year following the year in which the SET was paid.

2. No later than December 1 of each calendar year the Data Clearinghouse shall deliver to the counsel designated by the Signatory States and the PMs the preliminary results of all the calculations and determinations it is required to make in such year pursuant to

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section VI. Provided, however, that (i) by December 1, 2018, the Data Clearinghouse shall deliver the preliminary results of such calculations and determinations for 2016, and (ii) by December 1, 2019, the Data Clearinghouse shall deliver the preliminary results of such calculations and determinations for the respective two calendar years for which it is provided documents and data pursuant to subsection VI.H.1. The results of all required calculations and determinations shall include detailed explanations and Excel spreadsheets therefor.

3. Any Signatory State or PM may dispute any aspect of such preliminary calculations or determinations, including the accuracy and completeness of the documents or data provided to the Data Clearinghouse by any Signatory Party, by submitting a written notice to the Data Clearinghouse, with copy to the designated counsel for each Signatory State and each PM. Such notice shall be submitted by January 15 of the following year.

4. The Data Clearinghouse shall issue the final results of its calculations and determinations, including detailed explanations and Excel spreadsheets therefor, no later than February 15 of such following year, and shall deliver such results to the Independent Auditor and to the counsel designated by each Signatory State and each PM.

5. Any Signatory State or PM may dispute any aspect of such final calculations or determinations, including the accuracy and completeness of the documents and data provided to the Data Clearinghouse by any Signatory Party, by submitting a written notice to the Data Clearinghouse, with copy to the Independent Auditor and to the designated counsel for each Signatory State and each PM. Such notice shall be submitted by March 1 of such following year.

6. The schedule described in subsections VI.H.1-5 with respect to sales on which SET was paid in the calendar year 2015 shall be modified as follows: (i) all documents

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and data described in subsection VI.E and VI.F with respect to such sales shall be provided by the respective Signatory Parties no later than 60 days after the Data Clearinghouse contract and confidentiality agreement are executed, (ii) the Data Clearinghouse shall deliver to the counsel designated by the Signatory States and the PMs the preliminary results of all calculations and determinations it is required to make pursuant to subsection VI.H.2 no later than 180 days after the Data Clearinghouse contract and confidentiality agreement are executed, (iii) the Signatory Parties may submit the written dispute notices described in subsection VI.H.3 no later than 240 days after the Data Clearinghouse contract and confidentiality agreement are executed, (iv) the Data Clearinghouse shall issue and deliver the final results and explanations described in subsection VI.H.4 no later than 270 days after the Data Clearinghouse contract and confidentiality agreement are executed, and (v) any Signatory State or PM may submit a written notice of dispute described in subsection VI.H.5 no later than 320 days after the Data Clearinghouse contract and confidentiality agreement are executed.

7. During the time periods specifically allowed by subsections V.B.7, VI.E.6 and VI.F.3 for revisions to prior calculations and determinations based on new, additional or revised documents or data, a Signatory Party may request that the Data Clearinghouse issue such revised calculations and determinations. For any such request made prior to August 1 of a calendar year in question, the Data Clearinghouse shall issue the preliminary and final results of such calculations and determinations on the schedule for such year described in subsections VI.H.2 and VI.H.4. For any such request made after August 1 of a calendar year in question, the Data Clearinghouse shall issue the preliminary and final results of such calculations and determinations on the schedule described in subsections VI.H.2 and VI.H.4 for the following calendar year. The calculations described in the preceding two

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sentences shall be subject to disputes on the schedule described in subsections VI.H.3 and VI.H.5.

8. A failure to raise a dispute within the time periods specified in subsections VI.H.3, VI.H.5, VI.H.6 and VI.H.7 shall not constitute a waiver of such dispute. A Signatory Party may raise disputes specified in subsections VI.H.3, VI.H.5 and VI.H.6 at any time up to five years after the Payment Due Date of the next MSA payment following the issuance of the final calculations and determinations described in subsections VI.H.4 or VI.H.6. A Signatory Party may raise disputes referenced in subsection VI.H.7 at any time up to three years after the Payment Due Date of the next MSA payment following the issuance of the revised final calculations and determinations described in subsection VI.H.7. Provided, however, that a dispute with respect to the number of NPM Cigarettes on which a Signatory State's SET was paid in a given year, as that number is used in calculations pursuant to subsections V.B and V.C.9, must be raised before the commencement of discovery in an NPM Adjustment arbitration for such Signatory State for such year pursuant to subsection VII.C. A dispute not raised within the time periods set forth in this subsection VI.H.8 shall be deemed waived.

I. Data Clearinghouse Process.

1. The Data Clearinghouse shall calculate the estimated reimbursement percentages for purposes of determining the amounts to be released pursuant to subsection IV.B.2.e(i) as follows.

a. Because, at the time the releases pursuant to subsection IV.B.2 are due, documents and data for the immediately preceding calendar year will not yet be available, the Data Clearinghouse shall calculate the estimated reimbursement percentages

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based on documents and data for the previous calendar year. (For example, the estimated reimbursement percentages applicable to the amounts to be deposited and released in April 2020 shall be calculated using documents and data for sales year 2018.) Such estimate shall not be revised other than as provided in subsection IV.B.2.h.

b. The total nationwide number of NPM Cigarettes on which federal excise tax was paid in a year in question shall include Cigarettes on which *arbitrios de cigarrillos* were collected by the Puerto Rico taxing authority. The number shall equal (i) the nationwide aggregate NPM market share in that year (calculated as 100% minus the aggregate market share of all Participating Manufacturers in that year) multiplied by (ii) the total market volume in that year, both as determined by the Independent Auditor in the latest available calculations for that year using the 0.0325 RYO conversion factor.

c. The number of NPM Cigarettes on which a Signatory State's SET was paid in a year in question shall be determined based on the documents and data provided by the Signatory Parties pursuant to subsections VI.E-G. Such number shall equal the corresponding number for such State and such year used in calculations pursuant to subsection V.B, as such number is determined by the Data Clearinghouse pursuant to subsection VI.I.4.

d. Except as provided in subsection VI.I.1.e, for all the Non-Signatory States that had the Allocable Share Repeal in full force and effect during the entire calendar year in question, the aggregate number of NPM Cigarettes on which such Non-Signatory States' SET was paid during that year shall equal the product of: (i) the aggregate of all such Non-Signatory States' "State Tax-Paid Cigarette Sales," as such sales are reported for each such Non-Signatory State for such year in Orzechowski & Walker, *The Tax Burden on*

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Tobacco; (ii) 0.12; and (iii) the nationwide aggregate NPM market share in that year, as determined pursuant to subsection VI.I.1.b(i).

e. For each Non-Signatory State that did not have the Allocable Share Repeal in full force and effect during the entire calendar year in question or during any of the preceding three calendar years, the number of NPM Cigarettes on which such Non-Signatory State's SET was paid during that year shall equal the product of: (i) such Non-Signatory State's "State Tax-Paid Cigarette Sales," as such sales are reported for such Non-Signatory State for such year in Orzechowski & Walker, *The Tax Burden on Tobacco*; and (ii) the market share of NPM Cigarettes in such Non-Signatory State determined from the database provided pursuant to subsection V.I.F.

f. The number of NPM Cigarettes on which an Equity Fee was paid in a year in question in a Previously Settled State shall equal: (i) the quotient of (x) the total dollar amount of Equity Fees collected in such year in such Previously Settled State, as publicly reported or provided to the Data Clearinghouse by that State, divided by (y) the per-Cigarette Equity Fee in effect for that year in such Previously Settled State; minus (ii) the aggregate number of PM Cigarettes on which an Equity Fee was paid in that year in that State, as those numbers are provided pursuant to subsection V.I.F.5.

g. Prior to the issuance of the final calculations for a year in question pursuant to subsection V.I.H.4, a Signatory Party may present evidence to the Data Clearinghouse demonstrating that any of the methods for estimating the number of NPM Cigarettes pursuant to subsections VI.I.1.d-f produces an estimated reimbursement percentage for such year that is incorrect by more than one percentage point. (For example, if estimating the number of NPM Cigarettes pursuant to subsections VI.I.1.d-f produces an estimated

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reimbursement percentage of 3.5%, a Signatory Party may present evidence that the correct reimbursement percentage for such year is more than 36% or less than 34%). The Data Clearinghouse shall determine whether to rely on such evidence in estimating the reimbursement percentages for such year.

h. If *The Tax Burden on Tobacco* no longer is published or no longer reports the number of Cigarettes on which SET was collected in each State, if the database is no longer maintained or provided by the PMs, if the SPMs do not provide the Equity Fee Data, or if a Previously Settled State neither publicly reports nor provides to the Data Clearinghouse its Equity Fee collection data, unless the Signatory Parties affected by the respective calculations agree otherwise, the Data Clearinghouse shall use its best estimate of such numbers based on publicly available information and the documents and data provided by the Signatory Parties.

2. The Data Clearinghouse shall determine the reimbursement percentages for purposes of calculating the reimbursement amounts pursuant to subsection V.C.9 as follows.

a. The Data Clearinghouse shall determine such reimbursement percentages applicable to an NPM Adjustment for a year in question after the conclusion of an NPM Adjustment arbitration for such year pursuant to subsection VII.C. Such determination shall be made on the schedule set forth in subsection V.I.H.

b. The Data Clearinghouse shall determine the total nationwide number of NPM Cigarettes on which federal excise tax was paid in a year in question and the number of NPM Cigarettes on which an Equity Fee was paid in a year in question in the Previously Settled States as provided in subsection VI.I.1.

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- c. The number of NPM Cigarettes on which a Signatory State's SET was paid in a year in question shall equal the corresponding number for such State and such year used in calculations pursuant to subsection V.B, as such number is finally determined by the Data Clearinghouse pursuant to subsection VI.I.4 or by an arbitration panel pursuant to subsection VII.B.
- d. The Data Clearinghouse shall determine the number of NPM Cigarettes on which a Non-Signatory State's SET was paid in a year in question based on information obtained in discovery in such NPM A adjustment arbitration, as such information is provided to the Data Clearinghouse by the Signatory Parties. Provided, however, that if the Signatory Parties do not obtain such information in such discovery because such Non-Signatory State does not participate in such arbitration, or if the Signatory Parties are not able to provide such information to the Data Clearinghouse due to confidentiality or other legal restrictions, then the Data Clearinghouse shall decide on the best method for determining such number for such Non-Signatory State following a consultation with the Signatory Parties.
- 3. The Data Clearinghouse shall determine the number of NPM Cigarettes sold nationwide in a year in question on which SET was not paid, as referenced in subsection VIII.C.5, as follows.
 - a. Such number shall equal the difference between (i) the total nationwide number of NPM Cigarettes on which federal excise tax was paid in such year (as determined pursuant to subsection VI.I.1.b), and (ii) the sum of (x) the total number of NPM Cigarettes on which SET was paid in such year in the Settling States (as determined pursuant to subsections VII.1.c-e and VI.I.1.g) and (y) the total number of NPM Cigarettes on which SET

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- was paid in such year in the Previously Settled States (as determined pursuant to subsection VI.I.3.b).
- b. The number of NPM Cigarettes on which SET was paid in a Previously Settled State in a year in question shall be as publicly reported by such State. If a Previously Settled State does not publicly report such numbers, the number of NPM Cigarettes on which SET was paid in such State in a year in question shall equal the number of NPM Cigarettes on which an Equity Fee was paid in such State in such year, as determined pursuant to subsection VI.I.1.f. If neither of these two methods is available for a Previously Settled State, such number shall be determined as provided in subsection VI.I.1.h.
 - 4. The Data Clearinghouse shall determine the total number of Non-Compliant NPM Cigarettes sold in a Signatory State in a given year, as referenced in subsection V.B.3, as follows.
 - a. The number of NPM Cigarettes on which a Signatory State's SET was paid in a year in question shall be determined based on documents and data provided by the Signatory Parties pursuant to subsections VI.E-G. In making this determination, the Data Clearinghouse may rely only on documents and data that reflect actual sales of NPM Cigarettes and shall not extrapolate from documents or data to conclude that there were any additional sales of NPM Cigarettes on which a Signatory State's SET was paid in a year in question.
 - b. For each NPM with sales in a State during the year in question, (i) the gross amount of escrow deposited by that NPM (or other entities or persons specified in subsection V.B.5.a) for that year's sales in that State, as such gross amount is reduced by any release or refund of escrow as to such sales other than (x) pursuant to the terms of the State's

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Escrow Statute (as amended by Allocable Share Repeat) or (y) a release to the State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State (as all such amounts are determined based on the documents provided by the Signatory Parties pursuant to subsections V.I.E-G) shall be divided by (ii) the applicable escrow rate per Cigarette (as set forth in subsection V.B.3(i)).

c. If the resulting number of Cigarettes is equal to or exceeds the number of such NPM's Cigarettes on which such State's SET was paid during the applicable year (as such number is determined pursuant to subsection VI.I.4.a), none of such NPM's Cigarettes should be considered Non-Compliant NPM Cigarettes.

d. If the resulting number of Cigarettes is less than the number of such NPM's Cigarettes on which such State's SET was paid during the applicable year, the excess of the latter over the former shall be considered Non-Compliant NPM Cigarettes sold by such NPM in such State during the year in question.

e. The total number of Non-Compliant NPM Cigarettes sold in a State in question during a calendar year shall equal the sum of the Non-Compliant NPM Cigarettes sold in such State by each of the NPMs selling in the State.

f. If an NPM owes escrow for sales in a State in more than one year, and escrow for such sales is deposited or otherwise recovered by the State pursuant to a settlement agreement or another arrangement between the State and the NPM, for purposes of this Settlement Agreement such deposit or recovery shall be applied to each of such years for which escrow is due, in proportion to the amount due for each such year. Provided, however, that this subsection does not apply to a settlement or other arrangement that does not involve sales in a State in the year 2015 or thereafter.

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g. For purposes of this Settlement Agreement, SET shall be deemed to have been paid in a State on a package of Cigarettes at one of the following two times: (i) when a stamping agent applies an SET stamp to the package (or, if no stamp is required, pays the SET), or (ii) when a stamping agent sells the package of SET-paid Cigarettes. The time applicable to a State depends upon the rule governing when a stamping agent must report such package to the State that existed in the State at the time the stamping agent sold the package of SET-paid Cigarettes. The current applicable rule for each Signatory State is listed in Exhibit O. A Signatory State may change from the rule listed for it in Exhibit O to the other rule, but only prospectively and only if it notifies the PMs within 60 days after the change. The term "stamping agent" includes any entity that is licensed or otherwise certified to affix SET stamps or collect SET under the applicable State's law.

J. Failure to Provide Information. The following provisions shall apply if a Signatory State, or the PMs as a side, fails to provide to the Data Clearinghouse information as required by subsections V.I.E, V.I.F or V.I.G (including because of claims of confidentiality or other legal restrictions) and such information was in such State's, or a PM's, possession at the time of the failure to provide such information.

1. The Data Clearinghouse shall determine the range of reasonably possible outcomes of calculations that would rely, in whole or in part, on such missing information and include such outcomes in its preliminary and final calculations and determinations. The Data Clearinghouse shall perform the preliminary and final calculations and determinations by assuming the outcome within such range that is the least favorable to the Signatory Party, or the side of the Signatory Party, that failed to provide such information.

2. The Signatory Party, or the side of the Signatory Party, that failed to provide information may dispute the Data Clearinghouse's determination and calculations described in subsection VI.J.1 as part of such Party's, or side's, dispute of preliminary or final calculations and determinations described in subsections VI.H.3 and VI.H.5. In so doing, the Signatory Party, or the side of the Signatory Party, that failed to provide the information may provide such missing information and request that the Data Clearinghouse's determinations reflect such information. The Data Clearinghouse shall consider such missing information only if the Data Clearinghouse determines that the failure to provide such missing information was inadvertent or otherwise excusable.

3. The Signatory Party, or the side of the Signatory Party, that failed to provide information may challenge the Data Clearinghouse's determinations and calculations described in subsections VI.J.1-2 in an arbitration pursuant to subsection VII.B. In such arbitration, such Signatory Party (or side) may then provide the missing information and request that the determinations and calculations reflect such new information, but such information that is provided for the first time in the arbitration shall be considered as evidence in the arbitration only if the arbitration panel determines that the reason for the Signatory Party's failure to provide information during the Data Clearinghouse process is no longer operative at the time such missing information is provided in the arbitration. The missing information that was provided to the Data Clearinghouse pursuant to subsection VI.J.2 but not considered by it pursuant to the last sentence of subsection VI.J.2 shall be considered as evidence in the arbitration only if the arbitration panel determines that the failure to provide such missing information was inadvertent or otherwise excusable.

4. Regardless of the cause of the failure to provide information, the Signatory Party (or side) opposite to the Signatory Party, or to the side of the Signatory Party, that failed to provide information may (i) dispute the determinations and calculations described in subsections VI.J.1-2 as part of its dispute of preliminary or final calculations and determinations described in subsections VI.H.3 and VI.H.5, and (ii) challenge the Data Clearinghouse's determinations and calculations described in subsections VI.J.1-2 in an arbitration pursuant to subsection VII.B.

5. Nothing in this subsection VI.J precludes the Data Clearinghouse, before issuing its preliminary determinations and calculations, from (i) communicating with the Signatory Parties regarding a failure to provide to the Data Clearinghouse information required by subsections VI.E, VI.F or VI.G, or (ii) accepting and considering such information if the Signatory Party, or the side of a Signatory Party, that had failed to provide such information submits such information to the Data Clearinghouse before the Data Clearinghouse issues its preliminary determinations and calculations.

K. Confidentiality Protections.

1. The PMs and the Signatory States shall enter into the confidentiality agreement attached as Exhibit P to this Settlement Agreement. To protect from further disclosure any confidential information provided to the Data Clearinghouse, as a precondition to the obligation to provide documents and data pursuant to subsections VI.E-G, the Signatory Parties shall enter into a confidentiality agreement with the Data Clearinghouse that is fully consistent with the provisions of section VI and Exhibit P.

2. Each Signatory State shall seek authority to provide documents to the Data Clearinghouse and to the PMs' designated counsel as specified in subsections VI.E and

VI.G (if such authority does not already exist), either by obtaining a court order or by enacting legislation recognizing or providing such authority. The PMs shall cooperate in the Signatory States' efforts to do so, and, if requested to do so by a Signatory State, shall join with the State in seeking to obtain such court orders. If a Signatory State's attempt to obtain such authority is unsuccessful, then the State shall undertake a renewed attempt when the Attorney General of such State determines in good faith that such a renewed attempt could be successful. In any event, such State shall also cooperate with, and support reasonable efforts by, the PMs to obtain the appropriate confidentiality protections that would permit disclosure of such documents to the PMs' outside counsel.

3. A Signatory State's obligation to provide documents to the outside counsel for the PMs pursuant to subsections VI.E and VI.G shall be further subject to the following:

a. If a Signatory State believes that, despite the confidentiality agreement entered into pursuant to subsection VI.K.1 and other confidentiality protections that are then in effect with respect thereto, and despite its efforts pursuant to subsection VI.K.2, the State cannot provide such documents to the PMs' outside counsel because doing so would violate the laws of such State, the State shall so notify the PMs and the Data Clearinghouse in writing in advance of the due date for providing such documents. Upon providing such written notice, the State shall not be obligated to provide such documents to the PMs' outside counsel, unless and until the requisite authority for it to do so is obtained pursuant to subsection VI.K.2. In that event, such State shall provide all such documents to the Data Clearinghouse.

b. If a Signatory State cannot provide such documents to the PMs' outside counsel without violating the laws of such State, it shall inform the Data Clearinghouse

whether the laws of such State permit the Data Clearinghouse to provide such documents to the outside counsel for the PMs. If the State in question informs the Data Clearinghouse that the laws of such State permit the Data Clearinghouse to do so, then upon receipt of such documents from the State the Data Clearinghouse shall provide a copy of such documents to the PMs' outside counsel. If the laws of such State do not permit the Data Clearinghouse to provide such documents to the outside counsel for the PMs, the Data Clearinghouse shall review such documents itself, if requested to do so by the PMs. In that event, the Signatory State in question and the PMs shall equally bear the additional cost that results from the Data Clearinghouse's need to review such documents itself.

c. The outside counsel designated by the PMs to receive such documents shall not publicly disclose such documents or the information they contain, shall not share them with the PMs, and shall only use them for the purposes contemplated by this Settlement Agreement and in the manner that preserves the confidential nature of such documents and the information they contain.

4. The PMs' obligation to provide data to the counsel designated by a Signatory State pursuant to subsections VI.F and VI.G shall be further subject to the following:

a. The PMs shall be obligated to provide such data to such designated counsel only if such State notifies the PMs in writing prior to the due date for providing such data that (i) such data will be treated by such counsel as confidential, and (ii) the State has legislation in effect, or a court has issued a protective order, pursuant to which such data will be protected from public records disclosure. Absent such notice, the PMs shall not be obligated to provide such data to such State.

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- b. The PMs shall cooperate in the Signatory States' reasonable efforts to obtain such court orders or enact statutory amendments to such effect, and, if requested to do so by a Signatory State, shall join with the State in seeking to obtain such court orders.
- c. The counsel designated by a Signatory State to receive such data shall not publicly disclose such data or the information they contain, and shall use them only for the purposes contemplated by this Settlement Agreement and in the manner that preserves the confidential nature of such data and the information they contain. Such designated counsel may share such data with the State's outside counsel and with other persons in the Attorney General's office and/or the State's revenue department (or other state agency that enforces the State's tobacco laws) only to the extent such outside counsel and other persons are involved in proceedings before the Data Clearinghouse or an arbitration pursuant to subsection VII.B, and provided such other persons maintain the confidentiality of such data and the information they contain.
- d. Notwithstanding the foregoing subsection V.I.K.4.c, such designated counsel may inform the appropriate persons in the State's Attorney General's office and/or revenue department (or other state agency that enforces the State's tobacco laws) of particular discrepancies in the NPM Cigarette sales data between those provided by the PMs and those reported to the State by distributors. Such data provided by the PMs shall not otherwise be disclosed or used by the State in any audit, investigation or enforcement proceeding, or otherwise used in a way that would make it subject to disclosure.
- e. The PMs shall not maintain in an arbitration under subsection VIII.C that a State's failure to obtain such data from the PMs or use such data in the

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- enforcement of Escrow Statute or Complementary Legislation is evidence of a failure by such State to diligently enforce its Escrow Statute.
- 5. The provisions in subsections V.I.K.3-4 shall not prevent persons who receive such documents or data from sharing them with third-party consultants or experts, but only to the extent such consultants or experts are assisting the State or the PMs by accessing or converting the documents or data into a more useable form or are involved in proceedings before the Data Clearinghouse or an arbitration pursuant to subsection VII.B, and provided such consultants or experts maintain the confidentiality of such documents and data and the information they contain.
 - 6. If, despite its good faith efforts to obtain authority to preserve the confidentiality of data described in subsections V.I.F.2-3, a State is unable to provide to the PMs the written notice described in subsection V.I.K.4.a, and, as a result of that inability, the PMs do not provide such data to such State, then, in addition to providing the documents described in subsections V.I.E.2(ii)-(iii), V.I.E.3, V.I.E.4, V.I.E.5 and V.I.E.6 to the PMs (subject to the conditions and limitations described in subsections V.I.K.1 and V.I.K.3), the Signatory State in question may provide such documents to the Data Clearinghouse and request that the Data Clearinghouse review such documents and the PMs' data and identify any discrepancies among such documents, such data and the documents provided by the State to the Data Clearinghouse pursuant to subsection V.I.E.1. In that event, the PMs and the Signatory State in question shall equally share the additional cost that results from such review.

VII. ARBITRATION

- A. Independent Auditor. Any dispute, controversy or claim arising out of or relating to any calculations performed by, or any determinations made by, the Independent

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Auditor pursuant to this Settlement Agreement shall be submitted to binding arbitration in accordance with MSA Section XI(c).

B. Data Clearinghouse.

1. Any dispute, controversy or claim arising out of or relating to (i) the accuracy of the information provided to and relied on by the Data Clearinghouse, or (ii) any aspect of the calculations or determinations made by the Data Clearinghouse, shall be submitted to binding arbitration as provided in this subsection VII.B. A Signatory State or a PM may initiate such arbitration by sending a written notice thereof to all the Signatory States and all the PMs. The Signatory Parties shall cooperate in prompt commencement and conduct of such arbitrations, and may agree to pursue mediation in lieu of arbitration. Provided, however, that, subject to subsection VII.B.3, a Signatory State need not participate in such arbitration if none of the disputes, controversies or claims apply to such State.

2. The arbitration panel shall be selected as follows. The PMs participating in the arbitration (collectively as one side, provided that, for purposes of this subsection VII.B.2, agreement by the PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% of the aggregate Market Share of all the PMs shall be sufficient and shall bind any remaining PMs) and the Signatory States with an aggregate Allocable Share equal to at least 87% of the aggregate Allocable Share of all Signatory States participating in the arbitration (collectively as another side) shall each select one neutral arbitrator chosen from JAMS (unless the parties to the arbitration agree to a substitute) within 90 days of the sending of the initial arbitration notice by a Signatory Party under this subsection VII.B. If the 90-day period expires without a side having selected its arbitrator, JAMS (unless the parties to the arbitration agree to a substitute) shall choose the arbitrator for that side.

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Within 60 days of the selection of the two arbitrators, those two arbitrators shall choose the third neutral arbitrator, who shall be a retired Article III federal judge. Once selected, the panel will establish a scheduling order either as agreed to by the parties to the arbitration or, if not agreed to, as determined by the panel.

3. If a Signatory Party commences an arbitration about (i) the estimated NPM Adjustment reimbursement percentages pursuant to subsection IV.B.2.e, (ii) the NPM Adjustment reimbursement percentages and reimbursement amounts pursuant to subsection V.C.9, or (iii) the conditions for early commencement of arbitration pursuant to subsections VII.C.5.a-b, the arbitration shall include all disputes that could be raised at the time by any Signatory Party about such matters for the year in question. Any such dispute that is not raised in that arbitration shall be deemed waived. Provided, however, that a Signatory Party's failure to raise a dispute with respect to the estimated NPM Adjustment reimbursement percentages pursuant to subsection IV.B.2.e shall not affect the Signatory Party's right to commence an arbitration about the NPM Adjustment reimbursement percentages and reimbursement amounts pursuant to subsection V.C.9, or affect the position that a Signatory Party may take in such arbitration.

4. If a Signatory Party commences an arbitration about the application of the adjustment pursuant to subsection V.B (including as applied in the transition period pursuant to subsection V.A.10.f) and such arbitration is not limited to issues applicable solely to one Signatory State or one PM, the arbitration shall include all disputes that could be raised at the time by any Signatory Party about the application of the adjustment pursuant to subsection V.B for the year in question, except for any disputes about issues applicable solely

to one Signatory State or one PM. Any such dispute that is not raised in that arbitration (other than disputes falling within the exception described above) shall be deemed waived.

5. For purposes of subsections VII.B.3-4, a dispute could be raised at the time unless it is based on evidence that, with reasonable diligence, could not have been discovered and timely submitted prior to the conclusion of the arbitration at issue for decision by the arbitration panel.

C. Diligent Enforcement.

1. The Signatory States agree that diligent enforcement as to each of them shall be determined for any particular year in a single NPM Adjustment arbitration before a single arbitration panel in accordance with MSA Section XI(c). Such arbitrations are governed by MSA Section XI(c).

2. The Signatory States and the PMs shall cooperate in merging such NPM Adjustment arbitration as to the Signatory States with the NPM Adjustment arbitration under MSA Section XI(c) for the year in question as to the Non-Signatory States.

3. Subsections VII.C.1-2 do not apply to any Settling State as to which the PMs have released their claim to an NPM Adjustment for the year in question (provided that the reference in this sentence to the PMs releasing their claim as to a Settling State does not include determination by the PMs not to contest a State's diligent enforcement claim unless the PMs received consideration from that State in return for such determination). Subject to subsection VII.C.4, the Signatory States agree not to oppose, in such case, any argument that the proper treatment of the NPM Adjustment claim against the remaining Settling States (and thus the NPM Adjustment amount allocable to a non-diligent Settling State) is to reduce the amount of such claim pro rata in proportion to the Allocable Share or IX(c)(2) Allocable Share,

as applicable, of such released Settling State without the need for a determination of whether such released State diligently enforced its Eserow Statute.

4. The obligation of the PMs and the Signatory States whom the PMs have not released from an NPM Adjustment claim for the year in question to cooperate in merging the NPM Adjustment arbitration as to such Signatory States with the NPM Adjustment arbitration as to the Non-Signatory States whom the PMs have not released from an NPM Adjustment claim for the year in question is further subject to the following.

a. The arbitration with respect to such Signatory States' diligent enforcement during calendar year 2016 (and any subsequent year) shall not commence until the commencement of the arbitration with respect to diligent enforcement during calendar year 2016 (or such respective subsequent year) by such Non-Signatory States.

b. If any such Non-Signatory State refuses to participate in such merged arbitration for a year in question, the PMs shall use reasonable efforts to compel that Non-Signatory State to participate in such merged arbitration. If any such Non-Signatory State succeeds in refusing to participate in such merged arbitration for a particular year, the merged arbitration for that year shall proceed with all such Non-Signatory States that do not succeed in refusing to participate in such merged arbitration. If all such Non-Signatory States succeed in refusing to participate in such merged arbitration for a year in question, the PMs shall have the option to proceed separately with an NPM Adjustment arbitration for that year as to such Signatory States, with such separate arbitration commencing at the time the merged arbitration for that year would have commenced pursuant to subsection VII.C.4.a, but for the refusal of such Non-Signatory States to participate in such merged arbitration.

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c. Except by agreement of all parties to an arbitration, the arbitration with respect to a Signatory State's diligent enforcement during a particular year shall not commence until the NPM Adjustment arbitrations for every prior year have either concluded or been commenced before an arbitration panel for all the Settling States whom the PMs have not released from an NPM Adjustment claim for the year(s) in question and, as to a Non-Signatory State, that did not succeed in refusing to participate in merged arbitrations for the years for which the PMs have not released it from an NPM Adjustment claim.

d. If an arbitration with respect to a Settling State's diligent enforcement during a particular year is commenced, and in the course of such arbitration the PMs decide not to continue to challenge such State's diligent enforcement for such year, the arbitration for such State for such year shall be considered to have concluded for purposes of subsection VII.C.4.c.

5. Notwithstanding the provisions of subsections VII.C.1-4:

a. The PMs, in their sole discretion, shall have the right to commence the 2016 (and subsequent) NPM Adjustment arbitrations as to the Signatory States prior to the time set forth in subsection VII.C.4 if the number of NPM Cigarettes sold nationwide on which SET was not paid exceeded 9 billion Cigarettes in each of any two years (whether or not consecutive). (After the first such year, the PMs and the Signatory States shall discuss measures that could be taken to avoid such sales.) Any early commencement of arbitration under this subsection VII.C.5.a requires the approval by the PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% of the aggregate Market Share of all the PMs.

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b. The Signatory States, in their sole discretion, shall have the right to commence the 2016 (and subsequent) NPM Adjustment arbitrations as to the PMs prior to the time set forth in subsection VII.C.4 if the number of NPM Cigarettes sold nationwide on which SET was not paid was less than 2 billion Cigarettes in each of any two years (whether or not consecutive). Any early commencement of arbitration under this subsection VII.C.5.b requires the unanimous approval of all the Signatory States.

D. This Settlement Agreement. Any dispute arising out of or relating to this Settlement Agreement that is not otherwise specifically addressed in this section VII shall be submitted to binding arbitration as set forth in, and governed by the provisions of, subsection VII.B. Provided, however, that disputes regarding whether legislation, or a protective order issued by a court, authorizes the disclosure of confidential documents or information shall be resolved by a court of competent jurisdiction.

E. MSA Section XI(c). Except as specifically provided in this section VII with respect to arbitration between a PM or PMs and one or more Signatory States, the arbitration provision set forth in MSA Section XI(c) applies according to its terms.

F. FAA. All arbitrations described in this section VII shall be governed by the United States Federal Arbitration Act.

VIII. RELEASES

A. Release by PMs. Except as provided in this Settlement Agreement:

1. Effective upon payment of all sums due from a Signatory State under section III, all PMs absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2003-2012 NPM Adjustments.

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2. Effective upon payment of all sums due from a Signatory State under subsection V.A with respect to the 2013 NPM Adjustment, all PMs absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2013 NPM Adjustment. Effective upon payment of all sums due from a Signatory State under subsection V.A with respect to the 2014 NPM Adjustment, all PMs absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2014 NPM Adjustment. Effective upon payment of all sums due from a Signatory State under subsection V.A with respect to the 2015 NPM Adjustment, all PMs absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2015 NPM Adjustment.
3. The foregoing releases (i) apply to the PMs, their respective past, present and future Affiliates, the respective divisions, officers, directors, employees, agents and legal representatives of each such PM and each such Affiliate, and the successors and assigns of each of the foregoing, and (ii) inure to the benefit of the applicable Signatory State and its past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, any political subdivision of such Signatory State, and the successors and assigns of each of the foregoing.
4. The PMs reserve all rights with respect to all Non-Signatory States, including, without limitation, as to the 2003-2015 NPM Adjustments.

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- B. Release by Signatory States. Except as provided in this Settlement Agreement:
 1. Effective upon the deposit by a PM and release of the 2003-2012 NPM Adjustment amounts as required in subsections IV.A.1-5, each Signatory State absolutely and unconditionally releases and discharges such PM from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2003-2012 NPM Adjustments.
 2. Effective upon deposit by a PM and release of the 2013 NPM Adjustment amount provided in subsection IV.B.1, each Signatory State absolutely and unconditionally releases and discharges such PM from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2013 NPM Adjustment. Effective upon deposit by a PM and release of the 2014 NPM Adjustment amount provided in subsection IV.B.1, all Signatory States absolutely and unconditionally release and discharge such PM from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2014 NPM Adjustment. Effective upon repayment and release by a PM of the 2015 NPM Adjustment amounts described in subsection V.A.10.c, all Signatory States absolutely and unconditionally release and discharge such PM from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2015 NPM Adjustment.
 3. The foregoing releases (i) apply to such Signatory States and their respective past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, any political subdivision of a Signatory State, and the successors and assigns of each of the foregoing, and (ii) inure to the benefit of such PMs, their respective past, present and future Affiliates (except to the extent

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that such Affiliate is a Participating Manufacturer), the respective divisions, officers, directors, employees, agents and legal representatives of each such PM and each such Affiliate, and the successors and assigns of each of the foregoing.

4. The Signatory States reserve all rights with respect to all Participating Manufacturers that are not Signatory Parties, including, without limitation, as to the 2003-2015 NPM Adjustments.

C. Unknown Claims. Notwithstanding any provision of law, statutory or otherwise, that provides that a general release does not extend to claims which the creditor does not know or suspect to exist in its favor at the time of executing the release, which if known by it must have materially affected its settlement with the debtor, the releases set forth in subsections VIII.A-B release all Claims within the scope of the applicable release, whether known or unknown, foreseen or unforeseen, suspected or unsuspected, and each party giving the applicable release understands and acknowledges the significance and consequences of waiver of any such provision of law and hereby assumes full responsibility for any injuries, damages or losses that such party may incur as a result.

D. Instructions to Independent Auditor. The PMs and Signatory States shall cooperate with each other in providing instructions to the Independent Auditor to the extent reasonably necessary to satisfy the conditions for the releases set forth in subsections VIII.A and VIII.B.

E. No Effect on This Settlement Agreement. None of the foregoing releases applies to a Signatory Party's obligation to comply with the provisions of this Settlement Agreement or is intended to interfere with a Signatory Party's ability to enforce such provisions.

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F. 2004-2015 Arbitrations with Non-Signatory States.

1. The Signatory States agree (i) to forgo any right to participate in the selection of the arbitration panels for the 2004-2015 NPM Adjustment disputes between the PMs and the Non-Signatory States, and (ii) not to argue that such panels do not have jurisdiction to determine the Signatory States' diligent enforcement on the specific ground that they did not participate in the selection of such panels. The Signatory States reserve any other objections they may have to (x) such panels' jurisdictions related to them, and (y) any claim by a Non-Signatory State contesting a Signatory State's diligent enforcement for 2004-2015.

2. If a Non-Signatory State advances a claim in any forum that the amount of the NPM Adjustment for any of the years 2004-2015 allocated to it or recoverable from it by the PMs should be lower because a Signatory State was non-diligent for the year at issue, then:

a. The Signatory State shall have the option, but shall not be required, to appear in such forum to substantiate its diligent enforcement for the year at issue.

b. Whether or not the Signatory State elects to exercise the option in subsection VIII.F.2.a, the PMs shall have the option, but shall not be required, to appear in such forum to substantiate that State's diligent enforcement for the year at issue.

c. If the PMs elect to exercise the option in subsection VIII.F.2.b, upon request from the PMs, the Signatory State shall provide documents and witnesses to the PMs or their outside counsel in an amount and in a time and manner reasonably necessary under the circumstances to substantiate the Signatory State's diligent enforcement for the year at issue. Without limiting further requests that may be reasonably necessary under the circumstances, the Signatory Parties agree that the following requests for witnesses are presumptively reasonable for purposes of this subsection VIII.F.2.c: (i) that the Signatory State

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provide for interview and to testify at the hearing, if any, on the State's diligent enforcement of the percipient witness with the greatest personal knowledge regarding the State's diligent enforcement for the year at issue from each government agency or department with responsibility for administering, implementing, or enforcing the State's Esrow Statute (for example, the Attorney General's office and the department of revenue or its equivalent); and (ii) that the Signatory State make reasonable efforts to provide witnesses described in clause (i) above who are no longer in the State's employ, and, if such witnesses nonetheless cannot be provided, to provide the best available substitute. This subsection VIII.F.2.c does not require a Signatory State to provide to the PMs or their outside counsel any taxpayer confidential information, or other documents that are confidential under such State's law, absent a protective order entered in accordance with such State's law. The PMs and the Signatory State in question shall cooperate to obtain such a protective order to the extent such an order may be entered pursuant to applicable state law.

d. The PMs shall reimburse the Signatory State for the reasonable expenses incurred by the Signatory State to provide the documents and witnesses requested by the PMs under subsection VIII.F.2.c.

e. Documents provided by a Signatory State pursuant to this subsection VIII.F.2 shall be used only for the purpose of substantiating such State's diligent enforcement. At the request of the Signatory State that provided such documents, the PMs and/or their outside counsel shall promptly destroy or return all such documents to the Signatory State, provided that all Non-Signatory-State contests of such State's diligent enforcement for that year have been fully and finally resolved.

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f. If a Non-Signatory State prevails on a claim described in this subsection VIII.F.2, and a Signatory State is found or deemed non-diligent for any of the years 2004-2015, the PMs shall ensure that the effect of such finding of non-diligence will not reduce any payment that otherwise would have been made by the PMs to such Signatory State but-for that decision.

3. Nothing in this Settlement Agreement is intended to provide any Non-Signatory State with a judgment reduction greater than that provided by the applicable arbitration panel. However, the following provisions will govern in the event that this Settlement Agreement gives rise to a Contribution Claim by a Non-Signatory State against a Signatory State with respect to any of the 2004-2015 NPM Adjustments and the Non-Signatory State is permitted to maintain such Claim:

a. Subject to the conditions in subsection VIII.F.3.b, the PMs shall ensure that a Signatory State itself does not have to pay any judgment obtained by a Non-Signatory State against such Signatory State on such Contribution Claim, including, without limitation, reducing any amount the PMs recover from the Non-Signatory State on the NPM Adjustment at issue in such Contribution Claim by the full amount of any judgment obtained by the Non-Signatory State against the Signatory State on such NPM Adjustment on such Contribution Claim. As used in this subsection VIII.F.3.a, a judgment means a contested judgment on the merits, and does not include, for example, a court-entered settlement or other type of stipulated relief. The amount of the PMs' recovery from the Non-Signatory States on the NPM Adjustment at issue, after reduction pursuant to this subsection VIII.F.3.a, shall be allocated among the PMs in proportion to their respective shares of the NPM Adjustment

VIII.F

amount that would have been applicable to such Non-Signatory State absent such reduction, unless the PMs otherwise direct.

b. The PMs' obligations under subsection VIII.F.3.a shall apply only if the Signatory State gives notice to the PMs of the filing of the Contribution Claim within 30 days of its service and takes reasonable steps to defend against such Contribution Claim fully, including contending that the settlement bars such Contribution Claim (subject to any limitation arising from Rule 11 of the Federal Rules of Civil Procedure or similar state procedural or ethical rules). The Signatory Parties agree that this subsection VIII.F.3.b does not obligate a Signatory State to employ outside counsel or use an expert witness to defend against such Contribution Claim.

c. The Signatory State shall not oppose a request by a PM to intervene in the action in which such Contribution Claim is brought.

d. As used in this subsection VIII.F.3, a "Contribution Claim" means any contribution claim or similar claim-over on any theory (other than a claim based on an agreement entered after the MSA between or among any Settling States with respect to any NPM Adjustment) by which a Non-Signatory State seeks to recover from a Signatory State any part of the NPM Adjustment allocated to the Non-Signatory State or any portion of an amount by which a Non-Signatory State's MSA payment was reduced by virtue of an NPM Adjustment. "Contribution Claim" does not include a claim by a Non-Signatory State that does not seek recovery from a Signatory State. (For example, "Contribution Claim" does not include a claim by a Non-Signatory State that the amount of the NPM Adjustment allocated to it or recoverable from it by the PMs should be lower because a Signatory State(s) was or should

IX.A

be treated as non-diligent for the year at issue, but by which the Non-Signatory State does not seek monetary recovery from the Signatory State of part of the NPM Adjustment.)

4. As part of any settlement with a Non-Signatory State of the NPM Adjustment for any of 2004-2015, the PMs entering such settlement shall obtain from such Non-Signatory State for the benefit of each Signatory State a release of all Contribution Claims such Non-Signatory State may have with respect to the portion of the NPM Adjustment for each year(s) from 2004-2015 that is resolved as among such PMs and such Non-Signatory State in the settlement.

G. Claims Against Signatory States for 2016 and Subsequent NPM Adjustments. No determination that a Signatory State failed to diligently enforce a Qualifying Statute during 2016 or any subsequent year shall be based at all on (i) NPM Cigarettes sold before calendar year 2013, or (ii) NPM Cigarettes sold during calendar year 2013, 2014 or 2015 that such State had not treated as subject to the escrow requirement under its Escrow Statute prior to a change in policy or law, if any, that became effective in or after calendar year 2011.

IX. MISCELLANEOUS

A. Most Favored Nation.

1. If one or more PMs entered into a separate settlement agreement with a Settling State that resolves the 2003 NPM Adjustment as to that State prior to a panel determination in the 2003 arbitration as to whether that State diligently enforced a Qualifying Statute during 2003, and such settlement includes overall terms more favorable to such Settling State than the terms of this Settlement Agreement applicable to the Signatory States that signed the Term Sheet and determined to proceed with the settlement by December 17, 2012, then the overall terms of this Settlement Agreement shall be revised as to all Signatory States so that

IX.A

they will obtain from the PM(s) party to such separate settlement agreement overall terms as favorable as those obtained by such Settling State. Provided, however, that references to settling or resolving the 2003 NPM Adjustment as to a Settling State do not include determinations by a PM not to contest that State's diligent enforcement claim for 2003 unless the PM received consideration from that State in return for such determination.

2. If one or more Signatory States entered into a separate settlement agreement with a Participating Manufacturer that resolves the 2003 NPM Adjustment as to that State prior to a determination in the 2003 arbitration as to whether that State diligently enforced a Qualifying Statute during 2003, and such settlement includes overall terms more favorable to such Participating Manufacturer than the terms of this settlement, then the overall terms of this settlement shall be revised as to all PMs so that they will obtain from the Signatory State(s) party to such separate settlement agreement overall terms as relatively favorable as those obtained by such Participating Manufacturer.

3. The provisions of this subsection IX.A shall not apply to the following agreements: (i) Settlement Agreement Regarding 2003 NPM Adjustment Dispute between Canary Islands Cigar Company and certain Settling States dated May 25, 2006; (ii) Settlement Agreement Regarding 2003 NPM Adjustment Dispute between Wind River Tobacco Company, LLC and certain Settling States dated June 6, 2006; (iii) Settlement Agreement Regarding 2003 NPM Adjustment Dispute between Societe Nationale d'Exploitation Industrielle des Tabacs et Allumettes and certain Settling States dated June 18, 2006; and (iv) any similar settlement agreement entered into in 2006 by and between any Participating Manufacturer and any Settling State.

IX.C

B. RYO.

1. For purposes of determining the number of Non-Compliant NPM Cigarettes pursuant to subsection V.B, references to a number of Cigarettes include roll-your-own tobacco, with 0.09 ounces of "roll-your-own" tobacco constituting one individual Cigarette. For all other purposes of this Settlement Agreement, references to a number of Cigarettes include roll-your-own tobacco, with 0.0325 ounces of "roll-your-own" tobacco constituting one individual Cigarette. This provision does not apply to determining the Relative Market Shares for purposes of allocating any aggregate OPM amounts among the OPMs.

2. The Signatory States and the PMs shall continue to discuss in good faith and on an ongoing basis the issues of pipe tobacco being sold for use as RYO and of cigarette rolling machines being located at retail establishments and clubs.

C. Necessary Legislation.

1. All Signatory States must continuously have the Escrow Statute, Complementary Legislation and Allocable Share Repeal in full force and effect.

2. If a Signatory State does not have the Escrow Statute or Complementary Legislation in full force and effect during any part of a calendar year, such State shall not receive the benefit, if any, of the exclusion provisions of subsection V.B.5 and the reimbursement provisions of subsection V.C.9 with respect to such year. The adjustments pursuant to subsections V.B and V.C for such year shall fully apply to such State other than the provisions set forth in the preceding sentence. In addition, nothing in this Settlement Agreement amends or supersedes the provisions of MSA Section IX(d)(2)(B) that the NPM Adjustment for a year is applied, regardless of diligent enforcement, to the Allocated Payment

IX.D

of a State that does not have a Qualifying Statute in full force and effect during the entire such calendar year.

3. If a Signatory State that does not have the Allocable Share Repeal in full force and effect during any part of a calendar year, any NPM Cigarettes on which that State releases escrow in or for such year that would not be released under the Allocable Share Repeal shall be treated as Non-Compliant NPM Cigarettes under subsection V.B.

4. A Signatory State that does not have the Allocable Share Repeal in full force and effect as of the date it signs this Settlement Agreement shall have until the end of that calendar year to put it into full force and effect. If it does not do so, subsection IX.C.3 shall apply starting with NPM Cigarettes sold in the following year.

D. Taxes.

1. If a Signatory State has a law, regulation, systematic policy, compact or agreement with respect to taxes (applicability, amount, collection or refund) or stamping that is different for any NPM Cigarettes than any PM Cigarettes, or a law, regulation, systematic policy, compact or agreement with respect to stamping that does not set forth specific requirements regarding when and what stamps are required, the law, regulation, systematic policy, compact or agreement shall be relevant as evidence of lack of diligent enforcement by that State.

2. If the difference with respect to taxes or stamping between NPM and PM Cigarettes referenced in subsection IX.D.1 is material in a Signatory State, the reimbursement set forth in subsection V.C.9 (including the estimated amount of such reimbursement that would be applied under subsection IV.B.2) shall not apply to the NPM Adjustment allocated to that State (if any) for a year in which the difference is in effect.

IX.E

3. The provisions of subsections IX.D.1-2 shall not apply to (i) taxes or stamping requirements that differ for Native American reservation sales and non-Native American reservation sales, provided that the taxes and stamping requirements applicable to American reservation and non-reservation sales respectively are the same for both PM and NPM Cigarettes, or (ii) requirements that NPM Cigarettes bear a stamp of a different color or type solely for purposes of identification.

E. Cap of MSA Payment.

1. If the adjustment amount determined pursuant to subsections V.A.2, V.A.10 or V.C (prior to the reimbursement under subsection V.C.9) applicable to a PM's payment for the benefit of a Signatory State exceeds the total MSA payment amount for the benefit of such State from that PM for that year to which such adjustment applies pursuant to subsection IX.F.2 (i.e., before the application of the credits, reductions and adjustments described in subsections IX.F.3-4), such adjustment amount applicable to such PM's payment for the benefit of such State shall be reduced to equal such total MSA payment amount (determined as described in this sentence). The reimbursement under subsection V.C.9 shall then be determined based on such reduced adjustment amount. Pursuant to the MSA, any excess described in the first sentence of this subsection IX.E.1 shall be reallocated pursuant to MSA Section IX(d)(2).

2. If the adjustment amount determined pursuant to subsection V.B (including as applied in the transition period pursuant to subsection V.A.10.f) applicable to a PM's payment for the benefit of a Signatory State exceeds the total MSA payment amount due for the benefit of such State from that PM for that year to which such adjustment applies pursuant to subsection IX.F.3 (i.e., before the application of the credits, reductions and

IX.E

adjustments described in subsection IX.F.4, but after the application of the reduction described in subsection IX.E.1 and after the application of the reimbursement under subsection V.C.9, if any), such adjustment amount applicable to such PM's payment for the benefit of such State shall be reduced to equal such total MSA payment amount (determined as described in this sentence).

3. For purposes of this subsection IX.E only, until the applicability of an adjustment pursuant to subsection V.C for a particular year has been determined, the amount of such adjustment applicable to a PM's payment for the benefit of a Signatory State for such year shall be deemed to equal the amount allocated to such State and released to such PM for such year pursuant to subsection IV.B.2.e (if no such amount is so released to such PM for such year, the amount shall be zero). Once the applicability of the adjustment pursuant to subsection V.C for a particular year has been determined, this subsection IX.E shall apply using the actual amount of such adjustment allocated to each Signatory State, if any.

4. Nothing in subsections IX.E and IX.F shall require a PM to return or repay to any Signatory State any amounts previously received by such PM pursuant to the terms of this Settlement Agreement, whether by credit, reduction or adjustment. Any amount of an adjustment pursuant to section V that could be applied to a PM's MSA payment for the benefit of a Signatory State for a given year under the provisions of subsections IX.E.1-3, but cannot be so applied because of the preceding sentence, shall carry forward (with interest at the Prime Rate) and apply against subsequent eligible MSA payments due from that PM for the benefit of that Signatory State until all such amount has been applied.

IX.G

F. Order of Application of Credits, Reductions and Adjustments to MSA Payments. The Signatory Parties shall instruct the Independent Auditor to apply the credits, reductions and adjustments described in this Settlement Agreement as follows:

1. Except as provided below, the Independent Auditor shall calculate the payments due under the MSA by applying all clauses of MSA Section IX(j) as set forth in that Section.
2. The Independent Auditor shall apply the transition period adjustments under subsections V.A.2 and V.A.10, and the adjustments under subsection V.C, in applying clauses "Sixth" and "Seventh" of MSA Section IX(j).
3. The Independent Auditor shall apply the adjustments under subsection V.B (including as applied in the transition period pursuant to subsection V.A.10.f) to the results of clause "Seventh" of MSA Section IX(j).
4. The Independent Auditor shall apply the credits and the dollar amounts of the reductions under section III to the results of the preceding subsection IX.F.3, and then shall apply clause "Eighth" of MSA Section IX(j) to the resulting amounts due.

G. Additional Legislation.

1. If and to the extent requested by a Signatory State, the PMs will cooperate with the State Attorney General's office in drafting potential legislation that:
 - (i) permits the release of information to the Data Clearinghouse as provided in subsection VI.K.2; (ii) imposes the bonding requirement described in subsection V.B.5.c; (iii) imposes the joint-and-several liability requirement described in subsection V.B.5.c; (iv) modifies the Escrow Statute in a manner consistent with subsection V.C.5 with respect to the subjects described therein; and/or (v) permits a compact meeting the conditions described in subsection

IX.H

V.B.5.d and modifies the Escrow Statute in the manner described therein. The PMs will support the enactment in such State of legislation that contains no deviation of substance from such draft legislation, provided that such legislation is not in conjunction with any other legislative proposal.

2. The Signatory States and the PMs shall continue to discuss in good faith and on an ongoing basis support for other appropriate legislative enactments that would enhance enforcement of and/or improve compliance with the escrow requirement and for legislation prohibiting or limiting the sale of Cigarettes to any consumer who is not in the physical presence of the seller at the time of sale.

H. Potential New Participating Manufacturers.

1. Subject to the condition specified in subsection IX.H.2, the PMs agree to waive rights under MSA Section XVIII(b) as to any NPM signing the MSA and becoming a Participating Manufacturer without making back payments for sales in prior years that would otherwise be required under MSA Section II(jj) and/or without making full escrow deposits on such prior sales, provided that the following conditions are met: (i) the NPM signs the MSA within 120 days of the Effective Date; (ii) the NPM irrevocably assigns the full amount on deposit in all its existing escrow accounts to the Settling States; (iii) all other MSA terms are applicable to the NPM and the NPM waives any claim of immunity from enforcement of its MSA obligations; (iv) the NPM agrees to the other customary terms and conditions, apart from back payments and escrow deposits, that the Settling States have required for new Participating Manufacturers (including quarterly MSA payments and removal of brands and manufacturers from State directories if the MSA or Adherence Agreement provisions are breached); and (v) the NPM agrees that substantial non-compliance with its MSA obligations during the first

IX.J

five years after joining the MSA in the absence of a good-faith dispute would trigger the back-payment obligations that would otherwise have been required of it. The PMs do not waive rights under MSA Section XVIII(b) as to a new Participating Manufacturer's performance of its MSA obligations going forward.

2. The applicability of subsection IX.H.1 is conditioned upon the delivery to the PMs within 60 days of the Effective Date of a binding agreement executed by all Settling States and the Foundation that NPMs that sign the MSA pursuant to this provision without making full back payments will not be considered Participating Manufacturers for purposes of MSA Section IX(e).

3. Subsection IX.H.1 does not apply to any entity that agreed prior to the Effective Date to sign the MSA and to make any back payments. The PMs retain their rights under MSA Section XVIII(b) as to any such entity.

I. Release of Escrow. Except pursuant to the consent of the PMs with an aggregate Market Share in the immediately preceding calendar year equal to at least 93% of the aggregate Market Share of all the PMs, the Signatory States shall not release or refund escrow deposited for Cigarettes sold during the resolved years 1999-2012 or transition years 2013-2015 except as provided in the Escrow Statute (as amended by Allocable Share Repeal), or to the Signatory State pursuant to an irrevocable assignment of the escrow funds (including any interest thereon) to the State, or in conformance with subsection V.B.5.d. Any release or refund of escrow deposited for subsequent years shall be addressed as provided in subsections V.B, V.C and VI.I.

J. 2003 Uncontested Signatory States. The 2003 Contested Signatory States Whose Diligent Enforcement Was Not Determined shall fully compensate each 2003

IX.K

Uncontested Signatory State for such State's share of the settlement payments due under section III with respect to the 2003 NPM Adjustment, provided that such 2003 Uncontested Signatory State signed the Term Sheet prior to a panel determination in the 2003 arbitration as to whether any State diligently enforced a Qualifying Statute during 2003. Such compensation shall be provided as directed by the 2003 Contested Signatory States Whose Diligence Was Not Determined, and may be provided through a reallocation among those Signatory States of their respective shares of (i) the settlement credits and reductions described in section III, (ii) the releases from the Disputed Payments Account described in section IV, or (iii) MSA payments for the benefit of those Signatory States. Such compensation amounts shall be allocated to all the 2003 Contested Signatory States Whose Diligent Enforcement Was Not Determined, allocated among them pro rata in proportion to their respective Allocable Shares.

K. SPMs with Insufficient MSA Payment Obligations. If a credit, adjustment or overpayment offset due to a particular SPM pursuant to this Settlement Agreement, including Exhibit F to this Settlement Agreement, cannot be applied in full in a given year because such SPM (unlike other PMs) has insufficient or no MSA payments in such year because it had insufficient or no domestic sales in the preceding year, the SPM may carry forward such unused amount or transfer some or all of it to another PM, to be applied against that transferee PM's MSA payments. If such transfer occurs, the transferor PM and transferee PM shall jointly notify the Independent Auditor of the transfer and its amount, and the transferor PM, transferee PM and the Signatory States shall jointly instruct the Independent Auditor to apply the transferred amount as a dollar-for-dollar offset against the MSA payment(s) due from the transferee PM on the next MSA Payment Due Date following the date of the notice and instructions. If the transferee PM's combined MSA Sections IX(c)(1) and IX(c)(2) payment in

IX.L

the applicable year is not sufficient to offset the transferred amount, the carry-forward and transfer provisions of this Settlement Agreement shall apply. No interest shall accrue on such unused amount so carried forward or transferred by the SPM except insofar as interest is otherwise due under another provision of this Settlement Agreement as of the date on which the credit would have been applied had the SPM had sufficient MSA payment obligations.

L. Quarterly Certification. Beginning with the 2018 Payment Due Date, twenty-five percent of a year's credit against the payment of each PM due on the Payment Due Date in each year may be recognized at the end of each quarter of the prior year – that is, on March 31, June 30, September 30, and December 31 (the “quarterly date”) – subject to the following condition: Each PM will separately recognize its credits only if the respective PM certifies to the Independent Auditor, on or before each quarterly date, that the Signatory States' share of that PM's MSA payment that will be due on the Payment Due Date immediately following that year based on that PM's shipments of Cigarettes during that quarter as reported to Management Science Associates, Inc. (for purposes of this paragraph, “Signatory States' share”) equals or exceeds the amount of the credit to be recognized by that PM on that quarterly date. If a PM does not so certify, then in that quarter it will recognize its credit only for the amount that such PM does certify that Signatory States' share will be; if, due to this paragraph, the twenty-five percent of a year's credit is not recognized in full by a PM on a quarterly date, then the unrecognized amount of that credit will be recognized in a subsequent quarter (or quarters) of that year for the amount that the PM certifies in that subsequent quarter that Signatory States' share is sufficient. A PM may elect to opt out of the certification process described above for a stated period of time by notice to the Signatory States. If a PM does opt out of that process, nothing in this subsection IX.L shall require it to account or prohibit it from accounting for the

IX.Q

credits in a particular manner or to recognize or prohibit it from recognizing them at a particular time.

M. Reasonable Efforts. Where this Settlement Agreement refers to a Signatory Party using reasonable efforts, and such reasonable efforts may include court or arbitral proceedings, the required efforts do not include actions that would violate Rule 11 of the Federal Rule of Civil Procedure or similar state procedural or ethical rules.

N. Additional Participating Manufacturers. Any Participating Manufacturer that becomes a signatory to this Settlement Agreement after the conclusion of the 2003 arbitration hearings may join this Settlement Agreement on terms acceptable to the Signatory States, subject to subsection IX.A.

O. Office. Each Signatory State shall identify or establish an office, department or other point of contact to which information regarding potential violations of the provisions of the Model Esrow Statute, Complementary Legislation and Allocable Share Repeal, as enacted in each such Signatory State, can be reported by consumers, retailers, wholesalers, jobbers, manufacturers or others involved with the manufacture, distribution or sale of cigarettes.

P. Business Days. Any obligation under this Settlement Agreement that, under the terms of this Settlement Agreement, is to be performed on a day that is not a Business Day shall be performed on the first Business Day thereafter.

Q. Counterparts. This Settlement Agreement may be executed in counterparts. Electronically transmitted, facsimile or photocopied signatures shall be considered valid as of the date delivered, although the original signature pages shall thereafter be provided to:

IX.W

NAAAG Center for Tobacco and Public Health
Michael G. Hering, Director and Chief Counsel
c/o Erjona Fatusha, efatusha@NAAAG.ORG
1850 M Street, NW, 12th Floor
Washington, DC 20036
eFax# 202.521.4052

R. No Third Party Beneficiaries. Except as provided in subsections VIII.A-B, no portion of this Settlement Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a Signatory Party, including any Non-Signatory State.

S. Notices. All notices and other communications required by this Settlement Agreement shall be in writing and shall be deemed received (i) immediately if sent by electronic mail, or (ii) the next Business Day if sent by nationally recognized overnight courier to the respective address as provided by the recipient.

T. Non-Admissibility. No evidence of the negotiations of this Settlement Agreement, or any drafts of this Settlement Agreement, shall be admissible in any dispute between the Signatory Parties as to the meaning of this Settlement Agreement.

U. Construction. No Signatory State or PM shall be considered the drafter of this Settlement Agreement, or any provision thereof, for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter.

V. Headings. The headings of the sections and subsections of this Settlement Agreement are not binding and are for reference only and do not limit, expand or otherwise affect the contents or meaning of this Settlement Agreement.

W. Cooperation.

I. Each Signatory State and each PM agrees to use its best efforts and to cooperate with each other to cause this Settlement Agreement to become effective, to obtain all

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necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Signatory State and each PM agrees that it will not directly or indirectly assist or encourage any challenge to this Settlement Agreement by any other person, and will support the integrity and enforcement of the terms of this Settlement Agreement.

2. Each Signatory State further agrees to cooperate with the PMs in opposing any motions to vacate or modify the Stipulated Partial Award issued by the 2003 NPM Adjustment Dispute Arbitration Panel. Provided, however, that the foregoing sentence shall not require a Signatory State to submit to jurisdiction of any court if such State is not otherwise subject to such court's jurisdiction.

X. No Prejudice.

1. Nothing in this Settlement Agreement shall limit, prejudice or otherwise interfere with the rights of any PM or Signatory State to pursue any and all rights and remedies it may have against any Settling State that is a Non-Signatory State or any Participating Manufacturer that is not a PM.

2. This Settlement Agreement (including, but not limited to, subsections II.K, II.Q, II.R, II.AA, VI.F.5 and VI.I.1.f) is entered without prejudice to any Signatory Party's position regarding the effect of, or requirements with respect to, an Original Participating Manufacturer's sale of brands or an entity's acquisition of brands formerly owned by an Original Participating Manufacturer in connection with any dispute that does not directly arise under this Settlement Agreement. This Settlement Agreement (including, but not limited to, subsections II.K, II.Q, II.R, II.AA, VI.F.5 and VI.I.1.f) will not constitute evidence with respect to any such position and will not be admissible or used in connection with any dispute

IX.Y

that does not directly arise under this Settlement Agreement. For avoidance of doubt, disputes about allocation among the OPMs of adjustments under subsections IV.B.2.b and V.A-C or the profit adjustment under the MSA or any Previously Settled State's Tobacco Settlement Agreement do not directly arise under this Settlement Agreement.

3. Any joint determination and instruction to the Independent Auditor pursuant to subsection IV.B.2.b as to the OPMs' respective shares of the OPMs' Potential Maximum NPM Adjustments, or any direction to the Independent Auditor as to the allocation of adjustments under subsections V.A-C, shall be without prejudice to any disputes between or among the OPMs regarding such shares or regarding the OPMs' allocation of the adjustment for the year in question under subsections V.A-C. If such dispute is resolved so that the OPMs' new shares or allocation are different from those initially determined by the OPMs pursuant to subsection IV.B.2.b or initially directed by the OPMs pursuant to subsections V.A-C, then each OPM shall make any payments necessary to assure that each Signatory Party has received or paid the correct amounts based on such new shares or allocation.

Y. Representations of Signatory Parties. Each Signatory State and each PM hereby represents that this Settlement Agreement has been duly authorized and, upon execution, will constitute a valid and binding contractual obligation, enforceable in accordance with its terms, of each of them. The signatories to this Settlement Agreement expressly represent and warrant that they have the authority to settle and resolve all matters within the scope of this Settlement Agreement on behalf of their respective Signatory States and PMs and their respective past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, affiliates, successors and assigns, and that such signatories are aware of no authority to the contrary. Each Signatory Party shall have the

IX.BB

right to terminate this Settlement Agreement as to any other Signatory Party as to which the foregoing representation and warranty is breached or not effectively given.

Z. Integration. This Settlement Agreement contains an entire, complete and integrated statement of each and every term and provision agreed to by and among the PMs and Signatory States with respect to the settlement and resolution of specified NPM Adjustment disputes as among them, including the final resolution as among them of the 2003-2012 NPM Adjustments and provisions regarding the NPM Adjustments for subsequent years. This Settlement Agreement is not subject to any condition or covenant, express or implied, not provided for in this Settlement Agreement.

AA. No Admission of Liability. This Settlement Agreement is not intended to be and shall not in any event be construed or deemed to be, or represented or caused to be represented as, an admission or concession or evidence of any liability or any wrongdoing whatsoever on the part of any PM or any Signatory State.

BB. Amendment and Waiver. This Settlement Agreement may be amended only by a written instrument executed by all PMs affected by the amendment and by all Signatory States affected by the amendment. The waiver of any rights conferred by this Settlement Agreement shall be effective only if made by written instrument executed by the waiving Signatory Party. The waiver by any Signatory Party of any breach of this Settlement Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, nor shall such waiver be deemed to be or construed as a waiver by any other Signatory Party.

IN WITNESS THEREOF, each Signatory Party, through its authorized representative, has agreed to this Settlement Agreement on the respective date indicated below.

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

PHILIP MORRIS USA INC.

By: 
Kevin C. Crosthwaite, Jr.
President and Chief Executive Officer
Date: 9/21/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

R. J. REYNOLDS TOBACCO COMPANY, in its own capacity and as successor in interest to
Brown & Williamson Tobacco Corporation and as Successor in interest to Lorillard Tobacco
Company



By: Martin L. Holton III
Executive Vice President and General Counsel

Date: SEPTEMBER 25, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH BRANDS, INC.



By: Rob Wilkey
General Counsel and Secretary

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

DAUGHTERS & RYAN, INC.

By: Mark Ryan
Mark Ryan
President

Date: 9/27/12

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


COMPANIA INDUSTRIAL DE TABACOS MONTE PAZ S.A.

By: Elizabeth B. McCall
Elizabeth B. McCall, Outside Counsel

Date: 10 - 15 - 17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

ETS L LACROIX FILS S.A. (BELGIUM)

By: 
Rob Wilkey
Authorized Signatory
Date: September 20, 2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

FARMER'S TOBACCO CO. OF CYNTHIANA, INC.

By: 
Desha Henson
President
Date: 9/26/17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


IMPERIAL TOBACCO LIMITED (UK)

By:  _____
Rob Wilkey
Authorized Signatory
Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


HOUSE OF PRINCE A/S

By:  _____
Peter Helbo
Board Member
Date: 28/9-2017

By:  _____
James Yamamaka
Chief Executive Officer
Date: 25/9/2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO MULLINGAR (IRELAND)

By:  _____
Rob Wilkey
Authorized Signatory
Date: September 20, 2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO POLSKA S.A. (POLAND)

By:  _____
Rob Wilkey
Authorized Signatory
Date: September 20, 2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO PRODUCTION UKRAINE

By:  _____
Rob Wilkey
Authorized Signatory
Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO SIGARA VE TUTUNCULUK SANAYI VE TICARET S.A.
(TURKEY)

By:  _____
Rob Wilkey
Authorized Signatory
Date: September 20, 2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

ITG BRANDS, LLC (FORMERLY LIGNUM-2, LLC)

By: 
Rob Wilkey
General Counsel and Secretary
Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


JAPAN TOBACCO INTERNATIONAL U.S.A., INC.

By: 
Jerry Lotfin
President
Date: 10/4/17

By: Michael Mete
Chief Financial Officer
Date:

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

KING MAKER MARKETING, INC.

By: 
Edward W. Kaesuta
President
Date: 09.25.17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

JAPAN TOBACCO INTERNATIONAL U.S.A., INC.

By: _____
Jerry Loflin
President
Date: _____

By: 
Michael Mete
Chief Financial Officer
Date: 10/4/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


LIGGETT GROUP LLC

By: 
John Long
Vice President and General Counsel

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

KRETEK INTERNATIONAL, INC.

By: 
Henry C. Koerner
Counsel

Date: October 19, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


000 TABAKSFABRIK REEMTMA WOLGA (RUSSIA)

By: 
Rob Wilkey
Authorized Signatory

Date: September 20, 2017


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

PETER STOKKEBYE TOBAKSFABRIK A/S


By: 
Mette Valentin
Senior Vice President, Legal and Public Affairs

Date: 2 October 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


P.T. DJARUM
By: 
Henry C. Roemer
Counsel
Date: October 19, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

PREMIER MANUFACTURING, INC.
By: 
Edward W. Kacsuta
Chief Executive Officer
Date: 09.25.17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

REEMTSMA CIGARETTENFABRIKEN GMBH (REEMTSMA)

By: 
Rob Wilkey
Authorized Signatory
Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

SANTA FE NATURAL TOBACCO COMPANY, INC.

By: 
Michael R. Ball
President
Date: 09/20/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

SCANDINA VIAN TOBACCO GROUP LANE LTD (FORMERLY LANE LIMITED)



By: Mette Valentin
Senior Vice President, Legal and Public Affairs

Date: 2 October 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

SHERMAN'S 1400 BROADWAY N.Y.C., LLC

By: 
Brendon Scott
Vice President and Chief Financial Officer

Date: 9/20/2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

TABACALERA DEL ESTE S/A (TABESA)

By: 
Stephen Johnson
Director and Secretary

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

SOCIETE NATIONAL D'EXPLOITATION INDUSTRIELLE DES TABACS ET
ALLUMETTES (SEITA)

By: 
Rob Wilkey
Authorized Signatory

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

TOP TOBACCO, L.P.

By:  _____

Seth Gold
General Counsel

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

VAN NELLE TABAK NEDERLAND B.V. (NETHERLANDS)

By:  _____

Rob Wilkey
Authorized Signatory

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


U.S. FLUE-CURED TOBACCO GROWERS, INC.

By: 
Edward W. Kacsuta
Senior Vice President

Date: 09.25.17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


VECTOR TOBACCO INC.

By: 
Nick Anson
Vice President-Finance and Chief Financial Officer

Date: September 20, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

VON EICKEN GROUP

By: 
Henry C. Roemer
Counsel

Date: October 13, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


WIND RIVER TOBACCO COMPANY INC.

By: 
Mark Mansfield
President

Date: 9/21/17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF ALABAMA

By: 
Steve Marshall
Attorney General
Date: 9/26/17

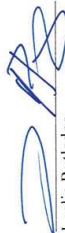
NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF ARIZONA

By: 
Mark Brnovich
Attorney General
Date: 4 Oct 17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF ARKANSAS

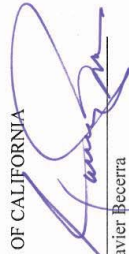


Leslie Rutledge
Attorney General

Date: 9/25/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF CALIFORNIA




Xavier Becerra
Attorney General

Date: October 6, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF CONNECTICUT

By: 
George Jepsen
Attorney General

Date: 7/24/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

DISTRICT OF COLUMBIA

By: 
Karl S. Racine
Attorney General

Date: 10/19/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

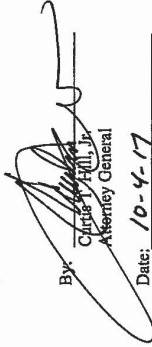
STATE OF GEORGIA

By: 
Christopher M. Carr
Attorney General

Date: 10/20/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF INDIANA

By: 
Charles T. Hill, Jr.
Attorney General

Date: 10-4-17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH OF KENTUCKY

By: 
Andy B. Gear
Attorney General
Date: 9/25/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF KANSAS

By: 
Derek Schmidt
Attorney General
Date: 10/10/2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF LOUISIANA

By: 
Jeff Landry
Attorney General

Date: 10/10/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


STATE OF MICHIGAN

By: 
Bill Schuette
Attorney General

Date: October 10, 2017

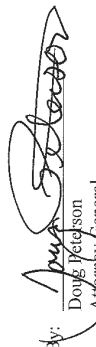
NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEVADA

By:  _____
Adam Paul Laxalt
Attorney General
Date: 10/11/17


NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEBRASKA

By:  _____
Doug Peterson
Attorney General
Date: 10/5/2017

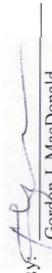
NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEW JERSEY

By: 
Christopher S. Porrino
Attorney General
Date: Sept 28, 2017

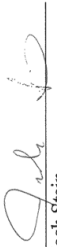
NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEW HAMPSHIRE

By: 
Gordon J. MacDonald
Attorney General
Date: 10/13/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NORTH CAROLINA

By: 
Josh Stein
Attorney General

Date: 9/27/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF OKLAHOMA

By: 
Mike Hühter
Attorney General

Date: 10/9/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


COMMONWEALTH OF PUERTO RICO

By: _____
Wanda Vázquez Garced
Attorney General

Date: _____

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF OREGON

By: 
Ellen F. Rosenblum
Attorney General

Date: September 27, 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF SOUTH CAROLINA

By: 
Alan Wilson
Attorney General

Date: 10/2/17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF RHODE ISLAND

By: 
Peter F. Kilmartin
Attorney General

Date: 27 Sept. 2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH OF VIRGINIA

By: Mark R. Herring
Mark Herring
Attorney General
Date: 10/10/2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF TENNESSEE

By: Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
Date: 10/12/2017

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF WEST VIRGINIA




By: Patrick Morrissey
Attorney General

Date: 10-3-17

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF WYOMING



By: Peter K. Michael
Attorney General

Date: October 4, 2017

STATE OF WEST VIRGINIA

EXHIBIT A

ALLOCATED SETTLEMENT PERCENTAGES OF SIGNATORY STATES

STATES THAT BECAME SIGNATORY STATES PRIOR TO APRIL 15, 2013

Signatory State	IX(c)(1) Allocated Settlement Percentage	IX(c)(2) Allocated Settlement Percentage
Alabama	0.7434202%	0.3472706%
Arizona	0.6779869%	1.4054391%
Arkansas	0.3809104%	0.3472706%
California	5.8714195%	2.3795988%
D.C.	0.2792744%	0.3472706%
Georgia	1.1290505%	0.4307199%
Kansas	0.3834888%	0.8511075%
Louisiana	1.0374624%	1.2088435%
Michigan	2.0018959%	1.1855016%
Nebraska	0.2736923%	0.3472706%
Nevada	0.2805701%	0.4739521%
New Hampshire	0.3063296%	0.4135229%
New Jersey	1.7788183%	1.3095982%
North Carolina	1.0728511%	0.8934603%
Oklahoma	0.4766230%	1.4350480%
Tennessee	1.1228115%	0.3472706%
Virginia	0.9405827%	0.3472706%
West Virginia	0.4077718%	1.0476228%
Wyoming	0.1142387%	0.3472706%
Puerto Rico	0.5157876%	0.7604597%

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STATES THAT BECAME SIGNATORY STATES BETWEEN APRIL 15, 2013 AND THE
END OF INDIVIDUAL STATE HEARINGS IN THE 2003 ARBITRATION

Signatory State	IX(c)(1) Allocated Settlement Percentage	IX(c)(2) Allocated Settlement Percentage
Connecticut	0.8540072%	1.5240431%
South Carolina	0.5411219%	0.6128180%

STATES THAT BECAME SIGNATORY STATES AFTER THE END OF INDIVIDUAL
STATE HEARINGS IN THE 2003 ARBITRATION AND BEFORE THE EFFECTIVE DATE

Signatory State	IX(c)(1) Allocated Settlement Percentage	IX(c)(2) Allocated Settlement Percentage
Indiana		(a)
Kentucky		
Oregon		
Rhode Island		

(a) Special Allocated Settlement Percentages for each of the States that became Signatory States after the end of the individual state hearings in the 2003 Arbitration and before the Effective Date are reflected in their respective joinder letters. See Exhibits G-J.

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EXHIBIT B

COMPLEMENTARY LEGISLATION IN EFFECT IN THE RESPECTIVE SIGNATORY STATES AS OF THE EFFECTIVE DATE

Signatory State	Complementary Legislation
Alabama	ALA. CODE §§ 6-12A-1-7 (2017).
Arizona	ARIZ. REV. STAT. ANN. § 44-7111 (2017).
Arkansas	ARK. CODE ANN. §§ 26-57-1301-1308 (2017).
California	CAL. REV. & TAX CODE § 30165.1 (2017).
Connecticut	CONN. GEN. STAT. ANN. §§ 4-28K-R (2016), <i>amended by</i> Conn. Pub. Act 17-105 (sub. H.B. 7263) (effective October 1, 2017).
D.C.	D.C. CODE ANN. §§ 7-1803.01-07 (2017).
Georgia	GA. CODE ANN. §§ 10-13A-1-10 (2017).
Indiana	IN. CODE §§ 24-3-5.4-1-30 (2017).
Kansas	KAN. STAT. ANN. §§ 50-6a04-6a021 (2017).
Kentucky	KY. REV. STAT. §§ 131.606-131.630 (2017).
Louisiana	LA. REV. STAT. ANN. §§ 13:5071-5078 (2017).
Michigan	MICH. COMP. LAWS §§ 205.426 C-E (2017).
Nebraska	NEB. REV. STAT. §§ 69-2704-2711 (2017).
Nevada	NEV. REV. STAT. §§ 370.600-705 (2017).
New Hampshire	N.H. REV. STAT. ANN. §§ 541-D:1-9 (2017).
New Jersey	N.J. STAT. ANN. §§ 52:4D-4-13 (2017).
North Carolina	N.C. GEN. STAT. §§ 66-292-294.2 (2017).
Oklahoma	OKLA. STAT. tit. 68, §§ 360.1-10 (2017).

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Signatory State	Complementary Legislation
Oregon	OR. REV. STAT. §§ 180.400 TO 180.455 (2016), <i>amended by</i> 2017 Or. Laws 687 (H.B. 3461) (effective August 8, 2017).
Rhode Island	R.I. GEN. LAWS § 44-20-28.1 (2017).
South Carolina	S.C. CODE ANN. §§ 11-48-10-110 (2017).
Tennessee	TENN. CODE ANN. §§ 67-4-2601-2610 (2017).
Virginia	VA. CODE ANN. §§ 3.2-4204-4219 (2017).
West Virginia	W. VA. CODE §§ 16-9D-1-10 (2017).
Wyoming	WYO. STAT. ANN. §§ 9-4-1205-1210 (2016), <i>amended by</i> 2017 Wyo. Laws ch. 123 (S.F. 97) (effective July 1, 2017).
Puerto Rico	P.R. LAWS ANN. tit. 24, §§ 15005-15010 (2010).

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EXHIBIT C

ESCROW STATUTES IN EFFECT IN THE RESPECTIVE SIGNATORY STATES AS OF THE EFFECTIVE DATE

Signatory State	Escrow Statute
Alabama	ALA. CODE §§ 6-12-1-4 (2017).
Arizona	ARIZ. REV. STAT. ANN. § 44-7101 (2017).
Arkansas	ARK. CODE ANN. §§ 26-57-260-261 (2017).
California	CAL. HEALTH & SAFETY CODE §§ 104555-104558 (2017).
Connecticut	CONN. GEN. STAT. ANN. §§ 4-28H-1 (2017).
D.C.	D.C. CODE ANN. §§ 7-1801.01-02 (2017).
Georgia	GA. CODE ANN. §§ 10-13-1-4 (2017).
Indiana	IN. CODE §§ 24-3-3-1-14 (2017).
Kansas	KAN. STAT. ANN. §§ 50-6a01-6a03 (2017).
Kentucky	KY. REV. STAT. §§ 131.600-602 (2017).
Louisiana	LA. REV. STAT. ANN. §§ 13:5061-5063 (2017).
Michigan	MICH. COMP. LAWS §§ 445.2051-2052 (2017).
Nebraska	NEB. REV. STAT. §§ 69-2701-2703 (2017).
Nevada	NEV. REV. STAT. §§ 370A.010-170 (2017).
New Hampshire	N.H. REV. STAT. ANN. §§ 541-C:1-3 (2017).
New Jersey	N.J. STAT. ANN. §§ 52:4D-1-3.2 (2017).
North Carolina	N.C. GEN. STAT. §§ 66-290-291 (2017).
Oklahoma	OKLA. STAT. tit. 37, §§ 600.21-23 (2017).

Signatory State	Escrow Statute
Oregon	OR. REV. STAT. §§ 323.800-323.806 (2016), amended by 2017 Or. Laws 687 (H.B. 3461) (effective August 8, 2017) and 2017 Or. Laws 315 (S.B. 148) (effective January 1, 2018).
Rhode Island	R.I. GEN. LAWS §§ 23-71-1-3 (2017).
South Carolina	S.C. CODE ANN. §§ 11-47-10-40 (2017).
Tennessee	TENN. CODE ANN. §§ 47-31-101-103 (2017).
Virginia	VA. CODE ANN. §§ 3.2-4200-4201 (2017).
West Virginia	W. VA. CODE §§ 16-9B-1-4 (2017).
Wyoming	WYO. STAT. ANN. §§ 9-4-1201-1202 (2017).
Puerto Rico	P.R. LAWS ANN. tit. 24, §§ 15001-15004 (2010).

EXHIBIT D

2003 CONTESTED SIGNATORY STATES WHOSE
DILIGENT ENFORCEMENT WAS NOT DETERMINED

Alabama
Arizona
Arkansas
California
Connecticut
D.C.
Georgia
Kansas
Louisiana
Michigan
Nebraska
Nevada
New Hampshire
North Carolina
Oklahoma
South Carolina
Tennessee
Virginia
West Virginia
Puerto Rico

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EXHIBIT E

2003 UNCONTESTED STATES

Alaska
Delaware
Hawaii
Idaho
Massachusetts
Montana
New Jersey
Rhode Island
South Dakota
Utah
Vermont
Wisconsin
Wyoming
American Samoa
Guam
Northern Mariana Islands
Virgin Islands

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EXHIBIT F

SUBSEQUENT PARTICIPATING MANUFACTURER PAYMENTS FOR THE 2003-2012 NPM ADJUSTMENTS

- I. The provisions of this Exhibit F shall govern SPM payments for the 2003-2012 NPM Adjustments, notwithstanding any contrary or contradictory provisions in the Settlement Agreement to which this Exhibit is attached, and shall also govern if the Settlement Agreement is silent on a matter addressed in this Exhibit F.¹
- II. SPM Projected Settlement Amounts
 The Signatory Parties have determined by agreement the value of the settlement amounts to be received by the Signatory SPMs under the Settlement Agreement. Generally, the projected settlement amounts are equal to (i) the total Potential Maximum NPM Adjustment for each of the years 2003-2009, as determined by the Independent Auditor prior to the execution of the Term Sheet settlement agreement, multiplied by (ii) an agreed cumulative interest factor, applied to all years 2003-2009, equal to 1.128090288, except that no cumulative interest factor is applied to the Potential Maximum NPM Adjustment amounts for SPM Farmers Tobacco Co. of Cynthiaia, plus (iii) the total Potential Maximum NPM Adjustment for each of the years 2010-2012, as determined by the Independent Auditor in the last revised calculations for the year prior to the date on which the applicable settlement amounts were agreed upon by the parties.

The resulting total IX(c)(1) and IX(c)(2) NPM Adjustment amounts are then multiplied by (iv) the IX(c)(1) Allocated Settlement Percentage and IX(c)(2) Allocated Settlement Percentage for each Signatory State, respectively, as set forth in Exhibit A of the Settlement Agreement for the States that became Signatory States prior to April 15, 2013 and States that became Signatory States between April 15, 2013 and the end of individual State hearings in the 2003 arbitration and as set forth in Exhibits G-1 to the Settlement Agreement for the States that became Signatory States after the end of the individual state hearings in the 2003 arbitration and before the Effective Date.

Chart F.1, below, shows the projected settlement amounts for each SPM with respect to the Signatory States:

Chart F.1: Projected Settlement Amounts

SPM	Signatory States Prior to April 15, 2013	Connecticut and South Carolina	Indiana and Kentucky	Oregon and Rhode Island
Commonwealth Brands, Inc.	\$58,290,220.62	\$4,271,659.01	\$9,890,401.22	\$2,406,384.77
Compania Industrial de Tabacos Monte Paz, S.A.	\$151,491.36	\$11,329.21	\$17,576.75	\$71.35.69
Daughters and Ryan, Inc.	\$59,430.37	\$4,367.69	\$8,682.52	\$2,554.34
Eis L Lacosis Fils NV S.A.	\$0.00	\$0.00	\$0.00	\$0.00

¹ All payments for 2013, 2014, and later sales years are addressed elsewhere in the Agreement and its exhibits, except as specifically noted herein.

SPM	Signatory States Prior to April 15, 2013	Connecticut and South Carolina	Indiana and Kentucky	Oregon and Rhode Island
Farmers Tobacco Co. of Cynthiaia	\$5,259,398.38	\$384,579.41	\$1,028,740.38	\$206,735.19
House of Prince A/S	\$1,003,937.35	\$70,756.83	\$656,172.50	\$79.37
Imperial Tobacco Limited/ITL (UK)	\$0.00	\$0.00	\$0.00	\$0.00
Imperial Tobacco Mullingar (Ireland)	\$0.00	\$0.00	\$0.00	\$0.00
Imperial Tobacco Polska S.A. (Poland)	\$0.00	\$0.00	\$0.00	\$0.00
Imperial Tobacco Production Ukraine	\$0.00	\$0.00	\$0.00	\$0.00
Imperial Tobacco Sigara ve Tütünçuk Sanayi Ve Ticaret S.A. (Turkey)	\$0.00	\$0.00	\$0.00	\$0.00
ITG Brands, LLC	\$1,280,873.36	\$96,217.40	\$138,626.76	\$62,276.16
Japan Tobacco International U.S.A., Inc.	\$1,653,815.46	\$122,699.22	\$285,636.22	\$69,760.17
King Maker Marketing, Inc.	\$1,760,385.11	\$128,897.83	\$344,927.52	\$68,508.73
Ketek International	\$263,267.13	\$19,101.43	\$41,562.23	\$10,172.84
Liggett Group LLC	\$17,455,722.56	\$1,293,380.75	\$3,017,103.62	\$726,888.22
OOO Tabakofabrik Reemtsma Wolga (Russia)	\$0.00	\$0.00	\$0.00	\$0.00
P.T. Djarum	\$917,415.52	\$66,849.56	\$150,536.81	\$37,593.00
Peter Stokkebye Tobaksfabrik A/S	\$315,255.57	\$22,641.19	\$74,933.27	\$10,839.38
Premier Manufacturing, Inc.	\$1,357,160.93	\$101,958.39	\$145,050.73	\$64,984.04
Reemtsma Cigarettenfabriken GmbH (Germany)	\$61.48	\$4.33	\$6.49	\$2.67
Sana Fe Natural Tobacco Company, Inc.	\$8,855,027.99	\$659,047.60	\$1,172,570.27	\$404,567.91
Scandinavian Tobacco Group Lane Ltd.	\$299,388.39	\$22,317.34	\$32,222.36	\$14,355.04
SEITA	\$0.00	\$0.00	\$0.00	\$0.00
Sherman's 1400 Broadway N.Y.C., LLC	\$259,406.59	\$19,066.07	\$44,773.60	\$10,696.13
TABESA	\$555,742.67	\$41,882.77	\$60,016.14	\$27,024.40

SPM	Signatory States Prior to April 15, 2013	Connecticut and South Carolina	Indiana and Kentucky	Oregon and Rhode Island
Top Tobacco, L.P.	\$2,909,913.53	\$212,211.30	\$469,684.56	\$120,086.30
U.S. Flue-Cured Tobacco Growers, Inc.	\$726,116.79	\$54,511.61	\$78,110.04	\$35,015.54
Vector Tobacco Inc.	\$691,770.69	\$51,539.71	\$74,033.76	\$32,802.43
Von Eicken Group	\$28,710.69	\$2,097.43	\$5,083.08	\$1,154.48
Wind River Tobacco Company, LLC	\$38,101.77	\$2,845.28	\$4,081.95	\$1,816.60
Total	\$104,132,614.31	\$7,659,961.36	\$17,740,532.78	\$4,321,433.36

III. SPM Receipt of Projected Settlement Amounts

A. No Projected Settlement Amounts. A number of SPMs joining the Settlement Agreement had no projected settlement amounts for the years 2003-2012. These SPMs neither received settlement credits from the Signatory States nor made additional payments or releases to the Signatory States. These Signatory SPMs are: Eis L Lacrois Fris NV S.A., Imperial Tobacco Limited/ITL (UK), Imperial Tobacco Mullingar (Ireland), Imperial Tobacco Polska S.A. (Poland), Imperial Tobacco Production Ukraine, Imperial Tobacco Sigara ve Tutunuculuk Sanayi Ve Ticaret S.A. (Turkey), OOO Tobaksfabrik Reemtsma Wolga (Russia), and SEITA.

B. Transferrable Settlement Credits.

1. A number of SPMs joining the Settlement Agreement elected to receive their projected settlement amounts for the years 2003-2012 in the form of transferrable settlement credits applicable in the first instance to the first Annual Payment following the Signatory States' respective joinders to the Term Sheet. SPMs that elected to receive such settlement credits could apply those credits against their Annual Payment obligation or, pursuant to Settlement Agreement subsection IX.K, transfer such credits to another SPM, or carry forward those settlement credits and apply them against future payment obligations. These Signatory SPMs are: Commonwealth Brands, Inc. (with respect to the projected settlement amounts from Indiana, Kentucky, Oregon and Rhode Island only), Compania Industrial de Tabacos Montie Paz, S.A., Daughters & Ryan, Inc., House of Prince A/S, ITG Brands, LLC (with respect to the projected settlement amounts from Indiana, Kentucky, Oregon and Rhode Island only), Japan Tobacco International U.S.A., Inc., King Maker Marketing, Inc., Kretak International, Scandinavian Tobacco Group Lane Limited, P.T. Djarum, Peter Stokkebye Tobaksfabrik, Premier Manufacturing, Inc., Reemtsma Cigarettenfabriken GmbH (Germany), Sherman 1400 Broadway N.Y.C., LLC, Tabacalera del Este, S.A. (TABESA), Top Tobacco, L.P., U.S. Flue-Cured Tobacco Growers, Inc., Von Eicken Group, and Wind River Tobacco Company, LLC.

2. Each of these SPMs has received transferrable settlement credits as set forth in the Settlement Agreement in the amounts determined by the Independent Auditor. The settlement credits related to the projected settlement amounts for the Signatory States that became Signatory States prior to April 15, 2013 were determined by

the Independent Auditor in connection with the April 15, 2013 Annual Payment. The settlement credits related to the projected settlement amounts for the Signatory States that became Signatory States between April 15, 2013 and the end of individual State hearings in the 2003 arbitration (i.e. Connecticut and South Carolina) were determined by the Independent Auditor in connection with the April 15, 2014 Annual Payment. Certain NPM Adjustment-related credits had already been determined by the Independent Auditor with respect to the 2003 NPM Adjustment for Indiana and Kentucky and applied against the April 15, 2014 Annual Payment prior to Indiana and Kentucky becoming Signatory States. Additional settlement credits, representing the difference between the projected settlement amounts for Indiana and Kentucky and the 2003 NPM Adjustment credit amounts already applied, were determined by the Independent Auditor in connection with the April 15, 2015 Annual Payment.² The settlement credits related to the projected settlement amounts for the other two Signatory States that became Signatory States after the end of the individual State hearings in the 2003 arbitration and before the Effective Date (i.e. Oregon and Rhode Island) were determined by the Independent Auditor in connection with the April 17, 2017 Annual Payment. As of the Effective Date, all such settlement credits so far determined have been applied or transferred pursuant to Settlement Agreement subsection IX.K.³

C. Percentage Reduction Credits. Certain SPMs elected to receive certain of their SPM projected settlement amounts over several years under an agreed percentage reduction credit protocol, see Settlement Agreement subsections III.A.4-9, III.C.2(b), III.D.3, as credits of 30% of the applicable settlement amount in the first available payment year and the remainder as percentage reductions over the three following years.⁴ These Signatory SPMs are:

² The Independent Auditor's calculations for the April 15, 2014 Annual Payment included a credit of \$807,360.17 for House of Prince with respect to the 2003 NPM Adjustment allocable to Indiana and Kentucky. House of Prince, Indiana, and Kentucky subsequently agreed to reduce this amount as part of the calculation of a projected settlement amount for these Signatory States. House of Prince transferred the value of the resulting transferrable settlement credit to Commonwealth Brands, Inc. (along with House of Prince's other transferrable settlement credits), and Commonwealth Brands, Inc. applied the net credit amount against its April 15, 2015 Annual Payment obligation.

³ Two SPMs, King Maker Marketing and Montie Paz, have disputed the Independent Auditor's determination not to permit these SPMs to apply a portion of the settlement credits they were not able to apply against payments in April 2013 against payments in April 2014 on the grounds that those SPMs could not use the full amount of their carry-forward credits until the SPMs released amounts deposited in the Disputed Payments Account in connection with NPM adjustment disputes with the Non-Signatory States. King Maker Marketing withheld \$58,125.73 with respect to this dispute from its payments for April 2016, as noted in its payment letter of March 31, 2016. The parties agree that the SPMs should be able to use the full amount of their settlement credits and will jointly instruct the Independent Auditor to permit use of such credits, including with respect to King Maker Marketing's withheld amount, in the April 2018 payment cycle.

⁴ Absent other agreement by the parties, the SPM Percentage Reduction for each such SPM for the applicable year has been determined as follows: (i) by December 1 of the year before the year in which the applicable SPM Percentage Reduction is to be applied, a percentage shall be derived so that such percentage, when multiplied by the Estimated MSA Payment for OPMS for the year in question as defined in Settlement Agreement subsection III(A)(8), produces a dollar amount which is equal to 23.333333% of the SPM's projected settlement amount as set forth in Chart F.1 above; (ii) the percentage determined in step (i) for each SPM shall be applied to the payment due from the OPMS pursuant to MSA Section IX(c)(1) on the payment due date of the applicable year; (iii) the amount derived in step (ii) shall be increased by interest accruing at the Prime Rate from April 15, 2013 (or the relevant date under the particular Signatory State joinder to the Term Sheet at issue) to the payment due date of the year in which

Commonwealth Brands, Inc. (with respect to the projected settlement amounts from the Signatory States that became Signatory States before the end of individual State hearings in the 2003 arbitration); ITG Brands, LLC (with respect to the projected settlement amounts from the Signatory States that became Signatory States before the end of individual State hearings in the 2003 arbitration); and Santa Fe Natural Tobacco Co., Inc. (with respect to all projected settlement amounts). The initial credits and percentage reduction credits for each of the SPMs have been determined by agreement between the SPMs that are Signatory Parties and Signatory States and have been applied as of the Effective Date, except: (i) the 2017 percentage reduction credits for each of these SPMs from Connecticut have been determined, but remain to be applied along with applicable interest at the Prime Rate from April 17, 2017 to April 16, 2018; (ii) the 2018 percentage reduction credits to Santa Fe Natural Tobacco Company from Indiana and Kentucky have not been determined and remain to be applied along with applicable interest at the Prime Rate from April 15, 2014 to April 16, 2018; and (iii) the 2018-2020 percentage reduction credits to Santa Fe Natural Tobacco Company from Oregon and Rhode Island have not been determined and remain to be applied along with applicable interest at the Prime Rate from April 17, 2017 to the date of payment.

D. Settlement Payments. (1) Certain SPMs—Liggett Group LLC (“Liggett”), Vector Tobacco Inc. (“Vector Tobacco”), and Farmers Tobacco of Cynthiana, Inc. (“Farmers”) (collectively, the “withholding SPMs”)—withheld funds for NPM Adjustments for various years from 2003 to 2012.⁵ These previously withheld amounts are set forth in Chart F.2, below:

Chart F.2: Previously Withheld Amounts

Liggett Group LLC			
Year	IX(c)(1)	IX(c)(2)	Total
2003	0.00	0.00	0.00
2004	5,317,552.55	0.00	5,317,552.55
2005	1,599,181.96	0.00	1,599,181.96
2006	3,736,311.54	0.00	3,736,311.54
2007	3,603,198.82	381,171.42	3,984,370.24
2008	5,139,819.75	543,725.86	5,683,545.61
2009	6,207,692.13	656,692.83	6,864,384.96
2010	15,295,246.32	1,618,037.48	16,913,283.80
2011	0.00	0.00	0

the relevant percentage reduction is applied, without any deduction otherwise reflected in Settlement Agreement subsection III(A)(9); and (iv) the amount derived in step (iii) shall be subtracted from the SPM's Section IX(c)(1) payment for the applicable year. (The dollar amount due to each SPM as a result of the application of the SPM Percentage Reduction shall not change notwithstanding any subsequent revision to or recalculation of the aggregate OPM payment amount by the Independent Auditor.)

⁵ Liggett and Vector Tobacco also placed funds in the Disputed Payments Account for certain years between 2003 and 2012 and released the Signatory States' allocable shares of such funds to the Signatory States in accordance with the Settlement Agreement.

Liggett Group LLC		
Year	IX(c)(1)	IX(c)(2)
2012	0.00	0.00
Total	40,899,003.07	3,199,627.59
		44,098,630.66

Vector Tobacco Inc.		
Year	IX(c)(1)	IX(c)(2)
2003	0.00	0.00
2004	0.00	0.00
2005	0.00	0.00
2006	469,499.67	0.00
2007	0.00	0.00
2008	397,747.88	42,076.54
2009	836,797.50	88,522.26
2010	714,410.59	75,575.32
2011	0.00	0.00
2012	0.00	0.00
Total	2,418,455.64	206,174.12
		2,624,629.76

Farmers Tobacco Company ⁶		
Year	IX(c)(1)	IX(c)(2)
2003	\$4,185,243.25	\$0.00
2004	\$3,588,743.91	\$0.00
2005	\$2,224,236.65	\$0.00
2006	\$2,192,300.22	\$0.00
2007	\$1,641,647.99	\$173,664.94
2008	\$2,576,071.35	\$272,514.74
2009	\$2,869,998.55	\$303,608.40
2010	\$1,517,017.03	\$182,338.64
		\$1,699,355.67

⁶ In April 2011, Farmers withheld from its IX(c)(1) and IX(c)(2) Annual Payments Potential Maximum NPM Adjustment amounts for 2003-2009, as attributable to all Settling States. In April 2013, Farmers withheld \$3,499,688.55 from its IX(c)(1) Annual Payment and \$420,646.87 from its IX(c)(2) Annual Payment, which represent the Potential Maximum NPM Adjustment amounts attributable to then-Non-Signatory States, including subsequent Signatory States Connecticut, South Carolina, Kentucky, Indiana, Rhode Island, and Oregon.

Farmers Tobacco Company ⁷			
Year	IX(c)(1)	IX(c)(2)	Total
2011	\$1,052,027.18	\$126,448.95	\$1,178,476.13
2012	\$930,644.34	\$111,859.28	\$1,042,503.62
Total	\$22,778,422.47	\$1,170,434.95	\$23,948,857.42

The withholding SPMs received no credits or percentage reductions for their projected settlement amounts for 2003-2012 other than the 2003 NPM Adjustment-related offsets/credits already received from Indiana and Kentucky in connection with the April 15, 2014 payment. Instead, the withholding SPMs received the value of such projected settlement amounts by retaining such amounts from the Signatory States' IX(c)(1) Allocable Share and IX(c)(2) Allocable Share of previously withheld amounts. To effectuate the settlement, the withholding SPMs netted such projected settlement amounts (plus any applicable credits for 2013-2015) against the Signatory States' IX(c)(1) Allocable Share and IX(c)(2) Allocable Share of previously withheld amounts, and deposited the excess of such previously withheld amounts, plus agreed-upon interest,⁷ into the Disputed Payments Account for release to the applicable Signatory State.

(2) (i) The withholding SPMs have made settlement payments into the Disputed Payments Account for the benefit of the Signatory States that became Signatory States prior to April 15, 2013 as set forth in Chart F.3:

Chart F.3: Amounts Placed in DPA for States That Became Signatory States Prior to April 15, 2013

	IX(c)(1) Amount Deposited Into DPA for Release	IX(c)(2) Amount Deposited Into DPA for Release	Total Amount Deposited Into DPA for Release
Liggett	2,586,565.66	168,977.05	2,755,542.71
Vector Tobacco	488,366.36	33,139.98	\$21,506.34
Farmers	3,263,843.06	37,368.49	3,301,211.56

(ii) The withholding SPMs have made settlement payments into the Disputed Payments Account for the benefit of Connecticut and South Carolina as set forth in Chart F.4:

Chart F.4: Amounts Placed in DPA for CT and SC

	IX(c)(1) Amount Deposited Into DPA for Release	IX(c)(2) Amount Deposited Into DPA for Release	Total Amount Deposited Into DPA for Release
Liggett	182,298.12	22,253.48	204,551.60
Vector Tobacco	34,419.51	4,364.38	38,783.89

⁷ For Liggett and Vector Tobacco, the parties agreed that cumulative interest would be calculated by multiplying the Signatory States' Allocable Share of the amounts withheld by 1.128090288, i.e., the same interest factor applied to the 2003-2009 NPM Adjustment amounts. For Farmer's, the parties agreed no interest factor would be applied either to the NPM Adjustment claims or to the Signatory States' Allocable Share of the amounts withheld.

	IX(c)(1) Amount Deposited Into DPA for Release	IX(c)(2) Amount Deposited Into DPA for Release	Total Amount Deposited Into DPA for Release
Farmers	230,032.25	4,921.26	234,953.51

(iii) The withholding SPMs have made settlement payments into the Disputed Payments Account for the benefit of Indiana and Kentucky as set forth in Chart F.5:

Chart F.5: Amounts Placed in DPA for IN and KY

	IX(c)(1) Amount Deposited Into DPA for Release	IX(c)(2) Amount Deposited Into DPA for Release	Total Deposited into DPA for Release
Liggett	319,595.06	0.00	319,595.06
Vector Tobacco	21,963.74	1,391.91	23,355.65
Farmers	649,673.22	20,267.98	669,941.19

(iv) Farmers made settlement payments into the Disputed Payments Account for the benefit of Oregon and Rhode Island as set forth in Chart F.6. The projected settlement amounts from Liggett and Vector Tobacco plus applicable credits for 2013-2015 received from Oregon and Rhode Island did not result in an additional net payment from Liggett and Vector Tobacco for the benefit of those states, so no deposit into the Disputed Payments Account was required.

Chart F.6: Amounts Placed in DPA for OR and RI

	IX(c)(1) Amount Deposited Into DPA for Release	IX(c)(2) Amount Deposited Into DPA for Release	Total Deposited into DPA for Release
Liggett			
Vector Tobacco			
Farmers	\$206,225.97		\$206,225.97

(3) The Signatory States agree that their respective IX(c)(1) and IX(c)(2) Allocation Percentages of the Potential Maximum NPM Adjustment amounts previously withheld by a withholding SPM pursuant to Master Settlement Agreement subsection XI(d)(6) are discharged (along with any interest accrued) by a satisfactory settlement payment from such withholding SPM under the Settlement Agreement and this Exhibit F. All amounts previously withheld with respect to the 2003-2012 NPM Adjustments are not and should not be considered an "underpayment" by the Independent Auditor and should not accrue interest pursuant to Master Settlement Agreement Section IX(h) (or any other rate). The Signatory States and Liggett, Vector Tobacco, and Farmers shall jointly direct the Independent Auditor if necessary to reflect in all appropriate calculation or summaries that the total amounts shown in the Independent Auditor's calculations and summaries as withheld or unpaid (along with any interest accrued on such amounts) should have been reduced by the Signatory States' Allocable Share and IX(c)(2) Allocable Share of such amounts.

E. Prior election to receive transferrable settlement credits does not alter an SPM's right to elect to receive its projected settlement amounts in another form consistent with the Settlement Agreement in connection with the projected settlement amounts from any Subsequent-Joining Signatory State.

EXHIBIT G
INDIANA JOINDER LETTER

Signatory State	Date of Sign-On
Indiana	June 26, 2014



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June 26, 2014

Via Electronic and U.S. Mail

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Re: Settlement of NPM Adjustment disputes
 Dear Counsel:

This will confirm our agreement that the State of Indiana and the listed Participating Manufacturers (the "PMs"¹) have agreed to settle NPM Adjustment disputes on the terms set forth in the November 14, 2012 Term Sheet for settlement of NPM Adjustment disputes ("Term Sheet") and

¹ The PMs are those listed in footnote 4 of the Stipulated Award, Tabacarium del Esce, S.A. (TABESBA), U.S. Filia-
 Cured Tobacco Growers Inc., and Wind River Tobacco Company LLC.

reflected in the March 12, 2013 Stipulated Partial Settlement and Award ("Stipulated Award"), except as follows.

- The provisions of Section I.A.2 of the Term Sheet and Paragraphs 1-2 of Appendix A to the Term Sheet are modified as follows. The OPMS will receive from Indiana a total amount equal to (a) 65% of Indiana's allocated and reallocated share of the 2003 NPM Adjustment, plus interest and earnings, as reflected in the Independent Auditor's Revised Final Calculations for the MSA, payment due on April 15, 2014 (Notice ID: 0414); and (b) 55% of Indiana's Allocable Share of the OPMS' full 2004-2012 NPM Adjustments, plus interest and earnings. The amount in clause (a) equals \$67,708,226.20. The amount in clause (b) equals \$86,231,085.24. The total of such amounts is \$153,939,311.44.
- It is recognized that \$83,333,201.48 of the amount under Paragraph 1 (net of reimbursement paid under the Agreement Regarding Arbitration) was conferred on the OPMS by means of an offset and/or releases from the Disputed Payments Account ("DPA") in connection with the April 15, 2014 MSA payment and subsequent releases from the DPA. Accordingly, the amount under Paragraph 1 will be conferred on the OPMS in the manner provided in Paragraph 3 of Appendix A to the Term Sheet with the following modifications: (i) within 14 days of this agreement, R.J. Reynolds Tobacco Co. will pay \$24,802,724.30 to Indiana; (ii) the OPMS will retain the remainder of the \$83,333,201.48; (iii) the OPMS will receive a credit against the MSA annual payment due to Indiana on April 15, 2015 in the amount of \$18,439,178.54 (plus interest at the Prime Rate calculated from April 15, 2014), with the credit to be allocated between Philip Morris USA and Lorillard in the manner they direct; and (iv) the OPMS will receive the percentage reductions as to Indiana under Paragraphs 3(A)(ii) and 3(B) of Appendix A to the Term Sheet in connection with the annual payments under Section IX(c)(1) of the MSA due in each of April 2015-2018 (with the interest on such reductions specified in Paragraph 3(A)(ii) of Appendix A to the Term Sheet calculated from April 15, 2014).
- Indiana will receive releases of its Allocable Share of the OPMS' NPM Adjustment amounts currently in the DPA in the manner provided in Paragraph 5 of Appendix A to the Term Sheet with the following modifications: (i) amounts attributable to the 2003 NPM Adjustment will not be included (as they have already been released to OPMS); (ii) amounts attributable to the 2010-2011 NPM Adjustments will be included; and (iii) Indiana may choose to have these DPA releases spread over 2014-2018. The total of Indiana's Allocable Share of the OPMS' NPM Adjustment amounts in the DPA attributable to the 2004-2011 NPM Adjustments is approximately \$99.6 million plus earnings. This amount shall be released to Indiana from the DPA on the following schedule (assuming the Independent Auditor has provided the confirmation specified in Paragraph 5 of Appendix A to the Term Sheet before the specified dates): \$38 million in 2015; \$19 million in 2016; \$19 million in 2017; and the remainder in 2018. Indiana's Allocable Share of amounts to be paid into the DPA attributable to NPM Adjustments for 2012 and thereafter will be governed by the provisions of Section III.5 of the Stipulated Award.
- The process for payments to the SPMs set forth in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award governs, except that the reference to the same (i.e., no greater) relative payment amounts refers to the payment amounts set forth in Paragraph 1 above and the reference to the same general timetable refers to the timetable set forth in Paragraph 2 above. The amounts for the SPMs paralleling the amounts for OPMS in the last sentence of Paragraph 1 above are included in the SPM Addendum hereto, along with provisions parallel to Paragraph 2 with respect to crediting amounts already conferred net of reimbursement paid and Paragraph 3 with respect to release of Indiana's share of DPA amounts.

5. Indiana's payment for the 2013 transition year under Section ILC of the Term Sheet is \$4,289,303.31 to the OPMs and \$276,802.54 to the listed SPMs. Because the 2014 MSA payment date to which these payments would have been applied as offsets under the Term Sheet has passed, they will instead be applied as offsets in connection with the MSA payment due April 15, 2015 (in addition to offsets arising from payments, if any, due from Indiana under Section IILB of the Term Sheet as to 2013 and under Section ILC of the Term Sheet as to 2014).

6. Section IIB of the Term Sheet will not apply to Indiana.

7. Indiana and the PMs believe that Indiana's settlement is to give rise to the same method of reduction in the 2004-12 NPM Adjustments that may be applied to Non-Signatory States as does the settlement of the Settling States that became Signatory States prior to the issuance of the 2003 Arbitration Panel's September 11, 2013 Final Awards (the "Initial Signatory States"). The following will apply with respect to any argument or ruling to the contrary.

(a) The PMs will oppose any argument to the contrary. Indiana will cooperate to the extent reasonably requested by the PMs in connection with their opposition; provided, however, that such cooperation will not include Indiana's disclosing to the PMs confidential or privileged information that Indiana received from another Settling State before the date of this agreement under a joint-defense agreement concerning an NPM Adjustment dispute.

(b) If the 2004 Arbitration Panel (or any other tribunal or court) nonetheless rules that Indiana's settlement gives rise to a different method of reduction in the 2004 NPM Adjustment that may be applied to Non-Signatory States than does the settlement of the Initial Signatory States, the following will apply.

(i) Indiana will pay to the OPMs an amount equal to the lesser of (A) 50% of the additional reduction in the 2004 NPM Adjustment (plus 50% of the additional reduction of interest and earnings) produced by application of such different method of reduction with respect to Indiana's settlement; or (B) \$35 million. That amount would be paid as an offset against the OPMs' annual MSA payment under Section IX(c) of the MSA in 10 equal annual installments beginning with the first such payment following application of the different method of reduction, with the 9 installments to include interest on the remaining amount at the Prime Rate calculated from the date of such first payment and to continue until fully paid. Parallel provisions for the listed SPMs are included in the SPM Addendum hereto. In the event that an offset due under this subparagraph could not be credited without exceeding Indiana's share of the relevant companies' payment under Section IX(c) of the MSA for the year in question, the offset will carry forward with interest at the Prime Rate. The final settlement agreement referenced in Paragraph 8 will include provisions specifying the operation and order of the offset.

(ii) If there is a ruling as to the 2004 NPM Adjustment described in the introductory sentence of this subparagraph (b), both that introductory sentence and the entirety of subparagraph (b)(i) would apply to the 2005 NPM Adjustment as well, with any amounts owed being in addition to those owed with respect to the 2004 NPM Adjustment. However, if the 2004 Arbitration Panel rules that Indiana's settlement gives rise to the same method of reduction in the 2004 NPM Adjustment that may be applied to Non-Signatory States as does the settlement of the Initial Signatory States and that ruling is not vacated or modified in such a way as results in a ruling described in the introductory sentence of this subparagraph (b), then the provisions of

subparagraph (b)(ii) shall not apply in any subsequent NPM Adjustment arbitration. In no event are the provisions of Paragraph 7 applicable to any other NPM Adjustment arbitration other than the 2004 NPM Adjustment and the 2005 NPM Adjustment.

8. The final settlement agreement as referenced in Section IV.F of the Term Sheet will reflect the provisions set forth above as to Indiana. The PMs will allow Indiana to participate in the completion of the drafting of the final settlement agreement along with the other Signatory States.

9. If a PM enters into a settlement with a State that was found non-diligent for 2003 that settles the 2003 NPM Adjustment as to that State (including, but not limited to, if the settlement also settles any or all of the 2004-2012 NPM Adjustments) and the settlement contains overall terms more relatively favorable to that State than the terms set forth above as to Indiana, then the overall terms of this agreement will be revised as to that PM so that Indiana will obtain with respect to that PM overall terms substantially equal (on an Allocable Share basis) to those obtained by that State in all respects, including but not limited to the financial terms of the agreement. For example, if a PM enters into a settlement with a State that was found non-diligent for 2003 that settles the 2003-2012 NPM Adjustments and provides for the PM to receive any less for those Adjustments than the total of (a) 65% of the non-diligent State's allocated and reallocated share of the 2003 NPM Adjustment, plus interest and earnings, as reflected in the Independent Auditor's Revised Final Calculations for the MSA payment due on April 15, 2014 (Notice ID: 0414); and (b) 55% of the non-diligent State's Allocable Share of the OPMs' full 2004-2012 NPM Adjustments, plus interest and earnings, this agreement shall be revised as to that PM so that Indiana will obtain the same percentages. Furthermore, if a PM settles with a State that was found to be non-diligent for 2003 on terms with respect to the subject matter of Paragraph 7 of this agreement that are more favorable to that State (on an Allocable Share basis) than the terms of Paragraph 7, this agreement shall be promptly revised as to that PM so that Indiana will also obtain the same terms (on an Allocable Share basis).

10. All capitalized terms not otherwise defined herein have the meaning given those terms in the MSA, the Term Sheet or the Stipulated Award.

Sincerely,



Gregory F. Zoeller
Attorney General

SPM ADDENDUM TO INDIANA LETTER

1. Pursuant to Paragraph 1 of the letter to which this SPM Addendum is attached, each SPM shall receive the following amounts under clause (a) and clause (b) of Paragraph 1 and in total from Indiana pursuant to the settlement:

SPM	Clause (a)	Clause (b)	Total
Commonwealth Brands, Inc.	2,350,013.59	3,037,909.32	5,387,922.92
Monte Paz	846.19	8,886.74	9,732.93
Daughters & Ryan, Inc.	1,521.30	3,219.79	4,741.10
Farmers Tobacco Co.	297,855.28	260,630.21	558,485.49
House of Prince A/S	352,034.69	103.42	352,138.11
Japan Tobacco International U.S.A., Inc.	69,237.44	86,885.06	156,122.50
King Maker Marketing, Inc.	101,003.79	86,310.65	187,314.44
Kretek International	9,523.76	12,930.58	22,454.34
Lane Limited	0.00	17,856.20	17,856.20
Liggett Group LLC	730,187.96	918,176.41	1,648,364.36
Lignum-2, Inc.	0.00	77,152.11	77,152.11
Peter Stokkebye Tobaksfabrik A/S	26,536.90	13,870.87	40,407.77
Premier Manufacturing, Inc.	0.00	80,730.17	80,730.17
P.T. Djarum	34,105.28	47,679.11	81,784.39
Reemtsma Cigarettenfabriken GmbH	0.00	3.48	3.48
Santa Fe Natural Tobacco Company, Inc.	141,298.81	504,119.24	645,418.05
Sherman 1400 Broadway N.Y.C., Inc.	10,943.73	13,444.22	24,387.95
TABESA	0.00	33,463.16	33,463.16
Top Tobacco, L.P.	103,086.04	152,220.17	255,306.21
U.S. Flue-Cured Tobacco Growers, Inc.	0.00	43,456.27	43,456.27
Vector Tobacco Inc.	0.00	41,010.07	41,010.07
Von Eicken Group	1,312.10	1,459.10	2,771.19
Wind River Tobacco Company, LLC	0.00	2,264.12	2,264.12
Total	4,229,506.87	5,438,780.47	9,668,287.34

2. (a) It is recognized that the following amounts under Paragraph 1 (net of reimbursement paid under the Agreement Regarding Arbitration) were conferred on the SPMs by means of offsets and/or releases from the Disputed Payments Account ("DPA") in connection with the April 15, 2014 MSA payment and subsequent releases from the DPA:

SPM	Amount Already Received by SPM
Commonwealth Brands, Inc.	2,892,324.42
Monte Paz	1,041.47
Daughters & Ryan, Inc.	1,872.37
Farmers Tobacco Co.	144,569.96 ²

² Represents interest amounts taken as an offset against April 2014 payment. See also Paragraph 2(b)(v).

House of Prince A/S	433,273.47 ³
Japan Tobacco International U.S.A., Inc.	85,215.32
King Maker Marketing, Inc.	124,312.36
Kretek International	11,721.55
Lane Limited	0.00
Liggett Group LLC	898,692.87
Lignum-2, Inc.	0.00
Peter Stokkebye Tobaksfabrik A/S	32,660.80
Premier Manufacturing, Inc.	0.00
P.T. Djarum	41,975.73
Reemtsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	173,906.23
Sherman 1400 Broadway N.Y.C., Inc.	13,469.21
TABESA	0.00
Top Tobacco, L.P.	126,875.12
U.S. Flue-Cured Tobacco Growers, Inc.	0.00
Vector Tobacco Inc.	0.00
Von Eicken Group	1,614.89
Wind River Tobacco Company, LLC	0.00
Total	4,983,525.76

(b) Accordingly, the remaining amounts under Paragraph 1 will be conferred on the SPMs in the manner provided in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award with the following modifications:

- (i) Each SPM will retain the amount already received in Paragraph 2(a), except that the credit of \$433,273.47 that remains for House of Prince to carry forward or transfer with respect to Indiana shall be reduced by \$81,135.35 to reflect House of Prince's total settlement amount of \$352,138.11;
- (ii) The following SPMs will receive a credit against the MSA annual payment due to Indiana on April 15, 2015 in the amount set out below (plus interest at the Prime Rate calculated from April 15, 2014), with the provisions in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award regarding carry forward and/or transfer of SPM credits governing as applicable:

SPM	Credit Amount
Commonwealth Brands, Inc.	2,490,598.50
Monte Paz	8,691.46
Daughters & Ryan, Inc.	2,868.72
Farmers Tobacco Co.	0.00
House of Prince A/S	0.00
Japan Tobacco International U.S.A., Inc.	70,907.19

³ House of Prince's 2003 NPM Adjustment credit was not used against a payment or transferred, so remains available for carry forward and/or transfer.

King Maker Marketing, Inc.	63,002.08
Kretak International	10,732.79
Lane Limited	17,856.20
Liggett Group LLC	0.00
Lignum-2, Inc.	77,152.11
Peter Stokkebye Tobaksfabrik A/S	7,746.97
Premier Manufacturing, Inc.	80,730.17
P.T. Djarum	39,808.66
Reemtsma Cigarettenfabriken GmbH	3.48
Santa Fe Natural Tobacco Company, Inc.	19,719.18
Sherman 1400 Broadway N.Y.C., Inc.	10,918.74
TABESA	33,463.16
Top Tobacco, L.P.	128,431.09
U.S. Flue-Cured Tobacco Growers, Inc.	43,456.27
Vector Tobacco Inc.	0.00
Von Eicken Group	1,156.30
Wind River Tobacco Company, LLC	2,264.12
Total	3,109,507.21

(iii) Santa Fe Natural Tobacco Company, Inc. will receive the percentage reductions as to Indiana under Paragraph 4(iii) of the SPM Addendum to the Term Sheet in connection with the annual payments under Section IX(c)(1) of the MSA, due in each of April 2015-2017 (with the interest on such reductions specified in Paragraph 3(A)(ii) of Appendix A to the Term Sheet calculated from April 15, 2014);

(iv) Indiana's Allocable Share of the amount that Liggett Group LLC ("Liggett") and Vector Tobacco Inc. (Vector Tobacco) withhold with respect to the NPM Adjustments in various years from 2004-2010 is larger than the remaining amount these companies are to receive under the settlement for the NPM Adjustment claims for 2003-2012 and the Transition Year credit for 2013 after the offset they received as described in Paragraph 2(a) above. Accordingly Liggett and Vector will receive no credit against their MSA payments from the settlement as it relates to the NPM Adjustment claims for 2003-2012 and the Transition Year credit for 2013 and instead will receive those remaining benefits of the settlement and address previously withheld amounts for the 2004-2010 adjustments as follows: No later than April 15, 2015, each of those companies will pay to Indiana the excess of (a) \$44,098,631 (for Liggett) or \$2,624,630 (for Vector Tobacco) multiplied by Indiana's Allocable Share over (b) the remaining amount to which that company is entitled under this settlement for the NPM Adjustments for 2003-12 (\$749,671.50 for Liggett and \$41,010.07 for Vector Tobacco) and the amount to which that company is entitled under this settlement for the Transition Year credit for 2013 (\$74,142.35 for Liggett and \$5,810.48 for Vector Tobacco); plus (c) 12.8090288% of \$27,185,288 (for Liggett) or \$1,834,639 (for Vector Tobacco) multiplied by Indiana's Allocable Share. That payment amount shall be \$167,498.44 for Liggett and \$12,870.23 for Vector Tobacco. Following these payments, the amount Liggett and Vector Tobacco have withheld with respect to NPM Adjustments shall be reduced by \$44,098,631 (for Liggett) and \$2,624,630 (for Vector Tobacco) multiplied by Indiana's Allocable Share, plus the amount of all accrued interest on those amounts, reflecting the settlement between Liggett and Vector Tobacco and Indiana with respect to Liggett and Vector Tobacco's claims for the NPM Adjustment.

(v) Farmers Tobacco Company of Cynthiana, Inc. ("Farmers") withhold money with respect to the NPM Adjustments from 2003 through 2009 from its April 15, 2011 MSA payment and also with respect to the NPM Adjustments from 2010 to 2012 from its April 15, 2013 MSA payment but only on the allocable shares of the Initial Non-Signatory States. Indiana's Allocable Share of the amount that Farmers withheld with respect to the NPM Adjustments is larger than the amount Farmers is to receive under the settlement for the NPM Adjustment claims for 2003-2012 as described in Paragraph 2(a) above and the Transition Year credit for 2013. Accordingly Farmers will receive no credit against its MSA payment from the settlement as it relates to the NPM Adjustment claims for 2003-2012 or the Transition Year credit for 2013 and instead will receive these benefits of the settlement and address previously withheld amounts as follows:⁴

(A) 2003 NPM Adjustment: Non-Signatory States' Allocable Share of 2003 NPM Adjustment of \$2,257,291.41 plus interest from April 15, 2004 to April 15, 2011 of \$1,040,385.27 (\$3,297,676.68) multiplied by Indiana's allocable share pursuant to the Final Awards of 13.8958103% (\$458,238.90) multiplied by 65% (\$297,835.28); less Indiana's allocable share (13.8958103%) of interest of \$1,040,385.27 (\$144,569.96); less Indiana's post-judgment portion of the 2003 NPM Adjustment amount withheld by Farmers of \$4,185,243.25 (\$313,668.93), subtotal of -160,383.61;

(B) 2004-2012 NPM Adjustment IX(c)(1): Indiana's Allocable Share of 2004-2012 NPM Adjustment of \$21,391,708.30 [IX(c)(1)] multiplied by Indiana's allocable share of 2.0398033% (\$436,348.77) multiplied by 55% (\$239,991.83); less Indiana's Allocable Share (2.0398033%) of 2004-2012 NPM Adjustment amount withheld by Farmers of \$21,391,708.30 [IX(c)(1)] (\$436,348.77), subtotal of -\$196,356.94;

(C) 2004-2012 NPM Adjustment IX(c)(2): Indiana's Allocable Share of 2004-2012 NPM Adjustment of \$1,416,057.32 [IX(c)(2)] multiplied by Indiana's allocable share of 2.6499166% (\$37,524.34) multiplied by 55% (\$20,638.39); less Indiana's Allocable Share (2.6499166%) of 2004-2012 NPM Adjustment amount withheld by Farmers of \$1,416,057.32 [IX(c)(2)] (\$37,524.34), subtotal of -\$16,885.95;

(D) plus the amount to which that company is entitled under this settlement for the Transition Year credit for 2013 (\$9,202.37), for a net amount due from Farmers of \$364,424.13.

No later than April 15, 2015, Farmers will pay this amount, \$364,424.13, to Indiana. Following this payment, the amount Farmers has withheld with respect to NPM Adjustments shall be reduced by \$313,668.93 (\$2,257,291.41, the Non-Signatory States' Allocable Share of 2003 NPM Adjustment, multiplied by Indiana's allocable share pursuant to the Final Awards of 13.8958103% for 2003, \$436,348.77 for 2004-2012 [IX(c)(1)], and \$37,524.34 for 2004-2012 [IX(c)(2)], plus the amount of all accrued interest on those amounts, reflecting the settlement between Farmers and Indiana with respect to Farmers' claims for the NPM Adjustment.

⁴The parties agree that Farmers' payment obligation to Indiana under the Agreement Regarding Arbitration is satisfied with the payment described herein.

(i) If the Independent Auditor makes determinations that materially increase or decrease the value of a credit, offset, or benefit reflected in Paragraph 2(e) above, the affected SPM and Indiana agree to discuss in good faith mechanisms to ensure that both parties receive the expected benefits under this settlement.

3. Indiana will receive releases of its Allocable Share of the SPMs' NPM Adjustment amounts currently in the DPA in the manner provided in Paragraph 3 of the SPM Addendum to the Term Sheet with the following modifications: (i) amounts attributable to the 2003 NPM Adjustment will not be included (as they have already been released to SPMs); (ii) amounts in the DPA attributable to the 2012-2013 NPM Adjustments will be included; and (iii) Indiana may choose to have these DPA releases spread over 2014-2018. This amount shall be released to Indiana from the DPA on the following schedule (assuming the Independent Auditor has provided the confirmation specified in Paragraph 5 of Appendix A to the Term Sheet before the specified dates): the full amount in 2015, Indiana's Allocable Share of amounts to be paid into the DPA attributable to NPM Adjustments for 2014 and thereafter will be governed by the provisions of Section III.5 of the Stipulated Award.

4. The Transition Year adjustment for 2013 for each SPM shall be as follows:

SPM	Transition Year Credit Amount
Commonwealth Brands, Inc.	99,068.43
Monte Paz	0.00
Daughters & Ryan, Inc.	0.00
Farmers Tobacco Co.	9,202.37
House of Prince A/S	0.00
Japan Tobacco International U.S.A., Inc.	6,592.96
King Maker Marketing, Inc.	1,651.97
Kretek International	74.50
Lane Limited	1,309.77 ³
Liggett Group LLC	74,142.35
Lignum-2, Inc.	7,891.18
Peter Stokkebye Tobaksfabrik A/S	192.74
Premier Manufacturing, Inc.	1,002.14
P.T. Djarum	0.00
Reemtsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	64,961.13
Sherman 1400 Broadway N.Y.C., Inc.	658.48
TABESA	1,105.00
Top Tobacco, L.P.	0.00
U.S. Flue-Cured Tobacco Growers, Inc.	3,040.54
Vector Tobacco Inc.	5,810.48
Von Eicken Group	12.02
Wind River Tobacco Company, LLC	86.52
Total	276,802.54

³ Lane is also entitled to \$2,055.62 in Transition Year Credit as included in the OPM Transition Year credit table in Paragraph 4 of the letter to which this SPM Addendum is attached.

5. If the condition regarding a different method of reduction with respect to Indiana's settlement set forth in Paragraph 7 of the letter to which this SPM Addendum is attached applies with respect to the OPMs, Indiana will also pay to each SPM an amount equal to the lesser of (A) 50% of the additional reduction in the 2004 NPM Adjustment (plus 50% of the additional reduction of interest and earnings) produced by application of such different method of reduction with respect to Indiana's settlement; or (B) the amount set forth below:

SPM	Potential Amount Owed to SPM
Commonwealth Brands, Inc.	1,315,703.43
Monte Paz	473.76
Daughters & Ryan, Inc.	851.73
Farmers Tobacco Co.	166,760.40
House of Prince A/S	197,093.86
Japan Tobacco International U.S.A., Inc.	38,764.01
King Maker Marketing, Inc.	56,549.05
Kretek International	5,155.50
Lane Limited	0.00
Liggett Group LLC	408,810.74
Lignum-2, Inc.	0.00
Peter Stokkebye Tobaksfabrik A/S	14,857.23
Premier Manufacturing, Inc.	0.00
P.T. Djarum	19,094.54
Reemtsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	79,109.05
Sherman 1400 Broadway N.Y.C., Inc.	6,127.07
TABESA	0.00
Top Tobacco, L.P.	57,714.84
U.S. Flue-Cured Tobacco Growers, Inc.	0.00
Vector Tobacco Inc.	0.00
Von Eicken Group	734.61
Wind River Tobacco Company, LLC	0.00
Total	2,367,799.83

That amount would be paid as an offset against each SPM's annual MSA payment under Section IX(c) of the MSA in 10 equal annual installments beginning with the first such payment following application of the different method of reduction, with the 9 installments to include interest on the remaining amount at the Prime Rate calculated from the date of such first payment and to continue until fully paid, except that any SPM that is entitled to \$300,000 or less shall be entitled to the full amount as an offset against each SPM's annual NPM payment in the next year. The provisions for carry forwards and transfer of SPM credits in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award shall apply.

EXHIBIT H

KENTUCKY JOINDER LETTER

Signatory State	Date of Sign-On
Kentucky	June 10, 2014



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL
June 10, 2014

JACK CONWAY
ATTORNEY GENERAL

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and Wind River Tobacco Co. LLC

Re: Settlement of NPM Adjustment disputes

Dear Counsel:

This will confirm our agreement that the Commonwealth of Kentucky and the listed Participating Manufacturers (the "PMs") have agreed to settle NPM Adjustment disputes on the terms set forth in the November 14, 2012 Term Sheet for settlement of NPM Adjustment

¹ The PMs are those listed in footnote 4 of the Stipulated Award, Tabacalera del Este, S.A. (TABESA), U.S. Flue-Cured Tobacco Growers Inc., and Wind River Tobacco Company LLC.



disputes ("Term Sheet") and reflected in the March 12, 2013 Stipulated Partial Settlement and Award ("Stipulated Award"), except as follows.

1. The provisions of Section I.A.2 of the Term Sheet and Paragraphs 1-2 of Appendix A to the Term Sheet are modified as follows. The OPMs will receive from Kentucky a total amount equal to (a) 65% of Kentucky's allocated and reallocated share of the 2003 NPM Adjustment, plus interest and earnings, as reflected in the Independent Auditor's Revised Final Calculations for the MSA payment due on April 15, 2014 (Notice ID: 0414); and (b) 55% of Kentucky's Allocable Share of the OPMs' full 2004-2012 NPM Adjustments, plus interest and earnings. The amount in clause (a) equals \$58,459,031.25. The amount in clause (b) equals \$70,254,976.94.
2. It is recognized that \$71,949,576.93 of the amount under Paragraph 1 (net of reimbursement paid under the Agreement Regarding Arbitration) was conferred on the OPMs by means of an offset and/or releases from the Disputed Payments Account ("DPA") in connection with the April 15, 2014 MSA payment and subsequent releases from the DPA. Accordingly, the amount under Paragraph 1 will be conferred on the OPMs in the manner provided in Paragraph 3 of Appendix A to the Term Sheet with the following modifications. In 2014, (i) within 14 days of this agreement, R.J. Reynolds Tobacco Co. will pay \$21,914,242.24 to Kentucky; (ii) the OPMs will retain the remainder of the \$71,949,576.93; and thus (iii) the amount conferred on the OPMs in 2014 will be \$50,035,334.69. In subsequent years, (i) the OPMs will receive a credit against the MSA annual payment due to Kentucky on April 15, 2015 in the amount of \$14,321,669.40 (plus interest at the Prime Rate calculated from April 15, 2014), with the credit to be allocated between Philip Morris USA and Lorillard in the manner they direct; and (ii) the OPMs will receive the percentage reductions as to Kentucky under Paragraphs 3(A)(ii) and 3(B) of Appendix A to the Term Sheet in connection with the annual payments under Section IX(c)(1) of the MSA due in each of April 2015-2018 (with the interest on such reductions specified in Paragraph 3(A)(ii) of Appendix A to the Term Sheet calculated from April 15, 2014).
3. Kentucky will receive releases of its Allocable Share of the OPMs' NPM Adjustment amounts currently in the DPA in the manner provided in Paragraph 5 of Appendix A to the Term Sheet with the following modifications: (i) amounts attributable to the 2003 NPM Adjustment will not be included (as they have already been released to OPMs); and (ii) amounts attributable to the 2010-2011 NPM Adjustments will be included. The total of Kentucky's Allocable Share of the OPMs' NPM Adjustment amounts in the DPA attributable to the 2004-2011 NPM Adjustments is approximately \$83 million, which shall be released to Kentucky from the DPA in 2014 (assuming the Independent Auditor provides the confirmation specified in Paragraph 5 of Appendix A to the Term Sheet during 2014). In 2014, therefore, Kentucky will receive approximately \$83 million and confer, pursuant to Paragraph 2 above, approximately \$50 million. Kentucky's Allocable Share of amounts to be paid into the DPA attributable to NPM Adjustments for 2012 and thereafter will be governed by the provisions of Section III.5 of the Stipulated Award.
4. The process for payments to the SPMs set forth in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award governs, except that the reference to the same (*i.e.*, no greater) relative

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payment amounts refers to the payment amounts set forth in Paragraph 1 above and the reference to the same general timetable refers to the timetable set forth in Paragraph 2 above. The amounts for the SPMs paralleling the amounts for OPMs in the last sentence of Paragraph 1 above are included in the SPM Addendum hereto, along with provisions parallel to Paragraph 2 with respect to crediting amounts already conferred net of reimbursement paid and Paragraph 3 with respect to releases of Kentucky's share of DPA amounts.

5. Kentucky's payment for the 2013 transition year under Section II.C of the Term Sheet is \$3,367,413.71 to the OPMs and \$219,631.53 to the listed SPMs. Because the 2014 MSA payment date to which these payments would have been applied as offsets under the Term Sheet has passed, they will instead be applied as offsets in connection with the MSA payment due April 15, 2015 (in addition to offsets arising from payments, if any, due from Kentucky under Section II.B of the Term Sheet as to 2013 and under Section II.C of the Term Sheet as to 2014).
6. Section I.B of the Term Sheet will not apply to Kentucky.
7. 2003 Non-Diligent States Differential Judgment Reduction. Kentucky and the PMs believe that Kentucky's settlement is to give rise to the same method of reduction in the 2004-12 NPM Adjustments that may be applied to Non-Signatory States as does the settlement of the Settling States that became Signatory States prior to the issuance of the 2003 Arbitration Panel's September 11, 2013 Final Awards (the "Initial Signatory States"). The following will apply with respect to any argument or ruling to the contrary.
 - (a) The PMs will oppose any argument to the contrary. Kentucky will cooperate to the extent reasonably requested by the PMs in connection with their opposition.
 - (b) If the 2004 Arbitration Panel (or any other tribunal or court) nonetheless rules that Kentucky's settlement gives rise to a different method of reduction in the 2004 NPM Adjustment that may be applied to Non-Signatory States than does the settlement of the Initial Signatory States, the following will apply.
 - (i) Kentucky will pay to the OPMs an amount equal to the lesser of (A) 50% of the additional reduction in the 2004 NPM Adjustment (plus 50% of the additional reduction of interest and earnings) produced by application of such different method of reduction with respect to Kentucky's settlement; or (B) \$31 million. That amount would be paid as an offset against the OPMs' annual MSA payment under Section IX(c) of the MSA in 10 equal annual installments beginning with the first such payment following application of the different method of reduction, with the 9 installments to include interest on the remaining amount at the Prime Rate calculated from the date of such first payment and to continue until fully paid. Parallel provisions for the listed SPMs are included in the SPM Addendum hereto. In the event that an offset due under this subparagraph could not be credited without exceeding Kentucky's share of the relevant companies' payment under Section IX(c) of the MSA for the year in

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question, the offset will carry forward with interest at the Prime Rate. The final settlement agreement referenced in Paragraph 8 will include provisions specifying the operation and order of the offset.

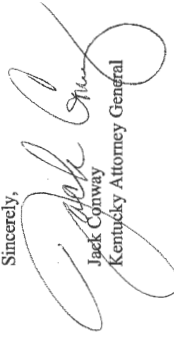
(ii) If there is a ruling as to the 2004 NPM Adjustment described in the introductory sentence of this subparagraph (b), both that introductory sentence and the entirety of subparagraph (b)(i) would apply to the 2005 NPM Adjustment as well, with any amounts owed being in addition to those owed with respect to the 2004 NPM Adjustment. However, if the 2004 Arbitration Panel rules that Kentucky's settlement gives rise to the same method of reduction in the 2004 NPM Adjustment that may be applied to Non-Signatory States as does the settlement of the Initial Signatory States and that ruling is not vacated or modified in such a way as results in a ruling described in the introductory sentence of this subparagraph (b), then the provisions of subparagraph (b)(ii) shall not apply in any subsequent NPM Adjustment arbitration. In no event are the provisions of Paragraph 7 applicable to any other NPM Adjustment arbitration other than the 2004 NPM Adjustment and the 2005 NPM Adjustment.

8. The final settlement agreement as referenced in Section IV.F of the Term Sheet will reflect the provisions set forth above as to Kentucky. The PMs will allow Kentucky to participate in the completion of the drafting of the final settlement agreement along with the other Signatory States.

9. If a PM enters into a settlement with a State that was found non-diligent for 2003 that settles the 2003 NPM Adjustment as to that State (including, but not limited to, if the settlement also settles any or all of the 2004-2012 NPM Adjustments) and the settlement contains overall terms more relatively favorable to that State than the terms set forth above as to Kentucky, then the overall terms of this agreement will be revised as to that PM so that Kentucky will obtain with respect to that PM overall terms substantially equal (on an Allocable Share basis) to those obtained by that State in all respects, including but not limited to the financial terms of the agreement. For example, if a PM enters into a settlement with a State that was found non-diligent for 2003 that settles the 2003-2012 NPM Adjustments and provides for the PM to receive any less for those Adjustments than the total of (a) 65% of the non-diligent State's allocated and reallocated share of the 2003 NPM Adjustment, plus interest and earnings, as reflected in the Independent Auditor's Revised Final Calculations for the MSA payment due on April 15, 2014 (Notice ID: 0414); and (b) 55% of the non-diligent State's Allocable Share of the OPMs' full 2004-2012 NPM Adjustments, plus interest and earnings, this agreement shall be revised as to that PM so that Kentucky will obtain the same percentages. Furthermore, if a PM settles with a State that was found to be non-diligent for 2003 on terms with respect to the subject matter of Paragraph 7 of this agreement that are more favorable to that State (on an Allocable Share basis) than the terms of Paragraph 7, this agreement shall be promptly revised as to that PM so that Kentucky will also obtain the same terms (on an Allocable Share basis).

10. All capitalized terms not otherwise defined herein have the meaning given those terms in the MSA, the Term Sheet or the Stipulated Award.

Sincerely,



Jack Conway
Kentucky Attorney General

SPM ADDENDUM TO KENTUCKY JOINDER AGREEMENT

1. Pursuant to Paragraph 1 of the letter to which this SPM Addendum is attached, and subject to confirmation by the Independent Auditor under the procedures set out in MSA § XI(d) that each of the below listed amounts are accurate and correct, each SPM shall receive the following amounts under clause (a) and clause (b) of Paragraph 1 and in total from Kentucky pursuant to the settlement:

SPM	Clause (a)	Clause (b)	Total
Commonwealth Brands, Inc.	2,028,993.01	2,478,485.30	4,507,478.31
Monte Paz	730.60	7,113.22	7,843.82
Daughters & Ryan, Inc.	1,313.49	2,627.93	3,941.42
Farmers Tobacco Co.	257,167.15	213,087.73	470,254.88
House of Prince A/S	303,945.45	88.94	304,034.38
Japan Tobacco International U.S.A., Inc.	59,779.35	69,734.36	129,513.71
King Maker Marketing, Inc.	87,206.30	70,406.78	157,613.08
Krettek International	8,222.78	10,699.49	18,922.26
Lane Limited	0.00	14,366.16	14,366.16
Liggett Group LLC	630,441.57	738,297.68	1,368,739.26
Lignum-2, Inc.	0.00	61,474.64	61,474.64
Peter Stokkebye Tobaksfabrik A/S	22,911.86	11,613.64	34,525.50
Premier Manufacturing, Inc.	0.00	64,320.57	64,320.57
P.T. Djarum	29,446.37	39,306.06	68,752.43
Reemtsma Cigarettenfabriken GmbH	0.00	3.01	3.01
Santa Fe Natural Tobacco Company, Inc.	121,996.87	405,155.35	527,152.22
Sherman 1400 Broadway N.Y.C., Inc.	9,448.78	10,936.88	20,385.65
TABESA	0.00	26,552.99	26,552.99
Top Tobacco, L.P.	89,004.10	125,374.25	214,378.35
U.S. Flue-Cured Tobacco Growers, Inc.	0.00	34,653.76	34,653.76
Vector Tobacco Inc.	0.00	33,023.69	33,023.69
Von Eicken Group	1,132.86	1,196.77	2,329.63
Wind River Tobacco Company, LLC	0.00	1,817.83	1,817.83
Total	3,651,740.53	4,420,337.01	8,072,077.55

2. (a) It is recognized that the following amounts under Paragraph 1 (net of reimbursement paid under the Agreement Regarding Arbitration) were conferred on the SPMs by means of offsets and/or releases from the Disputed Payments Account ("DPA") in connection with the April 15, 2014 MSA payment and subsequent releases from the DPA:

SPM	Amount Already Received by SPM
Commonwealth Brands, Inc.	2,497,222.17
Monte Paz	899.20

Daughters & Ryan, Inc.	1,616.60
Farmers Tobacco Co.	\$124,821.19 ²
House of Prince A/S	374,086.70 ³
Japan Tobacco International U.S.A., Inc.	73,574.59
King Maker Marketing, Inc.	107,330.83
Krettek International	10,120.34
Lane Limited	0.00
Liggett Group LLC	775,928.09
Lignum-2, Inc.	0.00
Peter Stokkebye Tobaksfabrik A/S	28,199.21
Premier Manufacturing, Inc.	0.00
P.T. Djarum	36,241.69
Reemtsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	150,149.99
Sherman 1400 Broadway N.Y.C., Inc.	11,629.26
TABESA	0.00
Top Tobacco, L.P.	109,543.51
U.S. Flue-Cured Tobacco Growers, Inc.	0.00
Vector Tobacco Inc.	0.00
Von Eicken Group	1,394.29
Wind River Tobacco Company, LLC	0.00
Total	4,302,757.67

(b) Accordingly, subject to confirmation by the Independent Auditor under the procedures set out in MSA § XI(d) that each of the below listed amounts are accurate and correct, the remaining amounts under Paragraph 1 will be conferred on the SPMs in the manner provided in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award with the following modifications:

- (i) Each SPM will retain the amount already received in Paragraph 2(a), except that the credit of \$374,086.70 that remains for House of Prince to carry forward or transfer with respect to Kentucky shall be reduced by \$70,052.32 to reflect House of Prince's total settlement amount of \$304,034.38;
- (ii) The following SPMs will receive a credit against the MSA annual payment due to Kentucky on April 15, 2015 in the amount set out below (plus interest at the Prime Rate calculated from April 15, 2014), with the provisions in Appendix A and the SPM

² Represents interest amounts taken as an offset against April 2014 payment. See also Paragraph 2(b)(v).

³ House of Prince's 2003 NPM Adjustment credit was not used against a payment or transferred, so remains available for carry forward and/or transfer.

Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award regarding carry forward and/or transfer of SPM credits governing as applicable:

SPM	Credit Amount
Commonwealth Brands, Inc.	2,010,256.14
Monte Paz	6,944.62
Daughters & Ryan, Inc.	2,324.82
Farmers Tobacco Co.	0.00
House of Prince A/S	0.00
Japan Tobacco International U.S.A., Inc.	55,939.12
King Maker Marketing, Inc.	50,282.25
Krettek International	8,801.92
Lane Limited	14,366.16
Liggett Group LLC	0.00
Lignum-2, Inc.	61,474.64
Peter Stokkebye Tobaksfabrik A/S	6,326.29
Premier Manufacturing, Inc.	64,320.57
P.T. Djarum	32,510.74
Reemtsma Cigarettenfabriken GmbH	3.01
Santa Fe Natural Tobacco Company, Inc.	7,995.67
Sherman 1400 Broadway N.Y.C., Inc.	8,756.39
TABESA	26,552.99
Top Tobacco, L.P.	104,834.84
U.S. Flue-Cured Tobacco Growers, Inc.	34,653.76
Vector Tobacco Inc.	0.00
Von Eicken Group	935.34
Wind River Tobacco Company, LLC	1,817.83
Total	2,499,097.10

(iii) Santa Fe Natural Tobacco Company, Inc. will receive the percentage reductions as to Kentucky under Paragraph 4(iii) of the SPM Addendum to the Term Sheet in connection with the annual payments under Section IX(c)(1) of the MSA due in each of April 2015-2017 (with the interest on such reductions specified in Paragraph 3(A)(ii) of Appendix A to the Term Sheet calculated from April 15, 2014);

(iv) Kentucky's Allocable Share of the amount that Liggett Group LLC ("Liggett") and Vector Tobacco Inc. (Vector Tobacco") withheld with respect to the NPM Adjustments in various years from 2004-2010 is larger than the remaining amount these companies are to receive under the settlement for the NPM Adjustment claims for 2003-2012 and the Transition Year credit for 2013 after the offset they received as described in Paragraph 2(a) above. Accordingly Liggett and Vector will receive no credit against their MSA

payments from the settlement as it relates to the NPM Adjustment claims for 2003-2012 and the Transition Year credit for 2013 and instead will receive those remaining benefits of the settlement and address previously withheld amounts for the 2004-2010 adjustments as follows: No later than April 15, 2015, each of those companies will pay to Kentucky the excess of (a) \$44,098,631 (for Liggett) or \$2,624,630 (for Vector Tobacco) multiplied by Kentucky's Allocable Share over (b) the remaining amount to which that company is entitled under this settlement for the NPM Adjustments for 2003-12 (\$592,811.17 for Liggett and \$33,023.69 for Vector Tobacco) and the amount to which that company is entitled under this settlement for the Transition Year credit for 2013 (\$58,831.89 for Liggett or \$1,834,639 (for Vector Tobacco) multiplied by Kentucky's Allocable Share. That payment amount shall be \$152,096.62 for Liggett and \$10,485.42 for Vector Tobacco. Following these payments, the amount Liggett and Vector Tobacco have withheld with respect to NPM Adjustments shall be reduced by \$44,098,631 (for Liggett) and \$2,624,630 (for Vector Tobacco) multiplied by Kentucky's Allocable Share, plus the amount of all accrued interest on those amounts, reflecting the settlement between Liggett and Vector Tobacco and Kentucky with respect to Liggett and Vector Tobacco's claims for the NPM Adjustment.

(v) Farmers Tobacco Company of Cynthiaiana, Inc. ("Farmers") withheld money with respect to the NPM Adjustments from 2003 through 2009 from its April 15, 2011 MSA payment and also with respect to the NPM Adjustments from 2010 to 2012 from its April 15, 2013 MSA payment but only on the allocable shares of the Initial Non-Signatory States. Kentucky's Allocable Share of the amount that Farmers withheld with respect to the NPM Adjustments is larger than the amount Farmers is to receive under the settlement for the NPM Adjustment claims for 2003-2012 as described in Paragraph 2(a) above and the Transition Year credit for 2013. Accordingly Farmers will receive no credit against its MSA payment from the settlement as it relates to the NPM Adjustment claims for 2003-2012 or the Transition Year credit for 2013 and instead will receive these benefits of the settlement and address previously withheld amounts as follows:⁴

(A) 2003 NPM Adjustment: Non-Signatory States' Allocable Share of 2003 NPM Adjustment of \$2,257,291.41 plus interest from April 15, 2004 to April 15, 2011 of \$1,040,385.27 (\$3,297,676. 68) multiplied by Kentucky's allocable share pursuant to the Final Awards of 11.9975934% (\$395,641.76) multiplied by 65% (\$257,167.15); less Kentucky's allocable share (11.9975934%) of interest of \$1,040,385.27 (\$124,821.17); less Kentucky's post-judgment portion of the 2003 NPM Adjustment amount withheld by Farmers of \$4,185,243.25 (\$270,820.59), subtotal of -\$138,474.62;

(B) 2004-2012 NPM Adjustment IX(c)(1): Kentucky's Allocable Share of 2004-2012 NPM Adjustment of \$21,391,708.30 IX(c)(1) multiplied by Kentucky's allocable share of 1.76115866% (\$376,741.91) multiplied

⁴ The parties agree that Farmers Tobacco's payment obligation to Kentucky under the Agreement Regarding Arbitration is satisfied with the payment described herein.

by 55% (\$207,208.05); less Kentucky's Allocable Share (1.7611586%) of 2004-2012 NPM Adjustment amount withheld by Farmers of \$21,391,708.30 [IX(c)(1)] (\$376,741.91), subtotal of -\$169,533.86;

(C) 2004-2012 NPM Adjustment [IX(c)(2)]: Kentucky's Allocable Share of 2004-2012 NPM Adjustment of \$1,416,057.32 [IX(c)(2)] multiplied by Kentucky's allocable share of 0.7549361% (\$10,690.33) multiplied by 55% (\$5,879.68); less Kentucky's Allocable Share (0.7549361%) of 2004-2012 NPM Adjustment amount withheld by Farmers of \$1,416,057.32 [IX(c)(2)] (\$10,690.33), subtotal of -\$4,810.65;

(D) plus the amount to which that company is entitled under this settlement for the Transition Year credit for 2013 (\$7,302.07), for a net amount due from Farmers of \$305,517.06.

No later than April 15, 2015, Farmers will pay this amount, \$305,517.06, to Kentucky. Following this payment, the amount Farmers has withheld with respect to NPM Adjustments shall be reduced by \$270,820.65 (\$2,257,291.41, the Non-Signatory States' Allocable Share of 2003 NPM Adjustment, multiplied by Kentucky's allocable share pursuant to the Final Awards of 11.9975934% for 2003, \$376,741.91 for 2004-2012 [IX(c)(1)], and \$10,690.33 for 2004-2012 [IX(c)(2)], plus the amount of all accrued interest on those amounts, reflecting the settlement between Farmers and Kentucky with respect to Farmers' claims for the NPM Adjustment.

(vi) If the Independent Auditor makes determinations that materially increase or decrease the value of a credit, offset, or benefit reflected in Paragraph 2(a) above, the affected SPM and Kentucky agree to discuss in good faith mechanisms to ensure that both parties receive the expected benefits under this settlement.

3. Kentucky will receive releases of its Allocable Share of the SPMs' NPM Adjustment amounts currently in the DPA in the manner provided in Paragraph 3 of the SPM Addendum to the Term Sheet with the following modifications: (i) amounts attributable to the 2003 NPM Adjustment will not be included (as they have already been released to SPMs); (ii) amounts in the DPA attributable to the 2012-2013 NPM Adjustments will be included; and (iii) Kentucky may choose to have these DPA releases spread over 2014-2018. Kentucky's Allocable Share of amounts to be paid into the DPA attributable to NPM Adjustments for 2014 and thereafter will be governed by the provisions of Section III.5 of the Stipulated Award.

4. The Transition Year adjustment for 2013 for each SPM shall be as follows:

SPM	Transition Year Credit Amount
Commonwealth Brands, Inc.	78,610.71
Monte Paz	0.00
Daughters & Ryan, Inc.	0.00
Farmers Tobacco Co.	7,302.07

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House of Prince A/S	0.00
Japan Tobacco International U.S.A., Inc.	5,231.51
King Maker Marketing, Inc.	1,310.83
Kretek International	59.12
Lane Limited	1,028.26
Liggett Group LLC	58,831.89
Liggett-2, Inc.	6,261.64
Peter Stokkebye Tobaksfabrik A/S	152.94
Premier Manufacturing, Inc.	795.20
P.T. Djaram	0.00
Reemtsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	51,546.60
Sherman 1400 Broadway N.Y.C., Inc.	522.50
TABESA	876.81
Top Tobacco, L.P.	0.00
U.S. Flue-Cured Tobacco Growers, Inc.	2,412.67
Vector Tobacco Inc.	4,610.61
Von Eicken Group	9.53
Wind River Tobacco Company, LLC	68.65
Total	219,631.53

5. If the condition regarding a different method of reduction with respect to Kentucky's settlement set forth in Paragraph 7 of the letter to which this SPM Addendum is attached applies with respect to the OPMs, Kentucky will also pay to each SPM an amount equal to the lesser of (A) 50% of the additional reduction in the 2004 NPM Adjustment (plus 50% of the additional reduction of interest and earnings) produced by application of such different method of reduction with respect to Kentucky's settlement; or (B) the amount set forth below:

SPM	Potential Amount Owed to SPM
Commonwealth Brands, Inc.	1,135,973.46
Monte Paz	409.04
Daughters & Ryan, Inc.	735.38
Farmers Tobacco Co.	143,980.31
House of Prince A/S	170,170.11
Japan Tobacco International U.S.A., Inc.	33,468.70
King Maker Marketing, Inc.	48,824.24
Kretek International	4,451.24
Lane Limited	0.00

⁵ Lane is also entitled to \$1,613.81 in Transition Year Credit as included in the OPM Transition Year credit total in Paragraph 4 of the letter to which this SPM Addendum is attached.

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Liggett Group LLC	352,965.68
Lignum-2, Inc.	0.00
Peter Stokkebye Tobaksfabrik A/S	12,827.68
Premier Manufacturing, Inc.	0.00
P.T. Djarum	16,486.16
Recentsma Cigarettenfabriken GmbH	0.00
Santa Fe Natural Tobacco Company, Inc.	68,302.46
Sherman 1400 Broadway N.Y.C., Inc.	5,290.09
TABESA	0.00
Top Tobacco, L.P.	49,830.78
U.S. Flue-Cured Tobacco Growers, Inc.	0.00
Vector Tobacco Inc.	0.00
Von Eicken Group	634.26
Wind River Tobacco Company, LLC	0.00
Total	2,044,349.58

That amount would be paid as an offset against each SPM's annual MSA payment under Section IX(c) of the MSA in 10 equal annual installments beginning with the first such payment following application of the different method of reduction, with the 9 installments to include interest on the remaining amount at the Prime Rate calculated from the date of such first payment and to continue until fully paid, except that any SPM that is entitled to \$300,000 or less shall be entitled to the full amount as an offset against each SPM's annual NPM payment in the next year. The provisions for carry forwards and transfer of SPM credits in Appendix A and the SPM Addendum (along with Exhibit A thereto) to the Term Sheet and the SPM Appendix to the Stipulated Award shall apply.

EXHIBIT I
OREGON JOINDER LETTER

Signatory State	Date of Sign-On
Oregon	April 5, 2017

ELLEN F. ROSENBLUM
ATTORNEY GENERAL



FREDERICK M. BOSS
DEPUTY ATTORNEY GENERAL

Jeffrey M. Wintner
Elizabeth B. McCallum
Elli Leibenstein
April 5, 2017
Page 2

DEPARTMENT OF JUSTICE

Justice Building
1162 Court Street NE
Salem, Oregon 97301-4096
Telephone: (503) 378-6002

April 05, 2017

Via Email and U.S. Mail

Jeffrey M. Wintner
Wachieli, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019

Elizabeth B. McCallum
BakerHostetler
1050 Connecticut Ave., NW
Suite 1100
Washington, DC 20036-5403

Elli Leibenstein
Greenberg Traurig, LLP
77 West Wacker Drive, Suite 3100
Chicago, IL 60601

Re: **In The 2004 NPM Adjustment Proceedings**
State of Oregon v. Philip Morris Inc., et al.
Multnomah County Circuit Court Case No. 9706-04457

Dear Jeff, Beth and Elli:

This will confirm that the State of Oregon and the listed Participating Manufacturers (the "PM(s)") have agreed to settle the NPM Adjustment disputes for MSA years 2004 through 2015 inclusive. The terms of the settlement are those set forth in the November 14, 2012 Term Sheet for settlement of NPM Adjustment disputes ("Term Sheet"), with the modifications as stated in Jeff Wintner's letter to Lisa Udland of March 20, 2017 (attached as Exhibit 1 to this letter).

As used in this letter, the listed PMs include the PMs listed in footnote 4 of the March 12, 2013 Stipulated Partial Settlement and Award, except for Farmer's Tobacco Co. of Cynthiana, Inc., and Wind River Tobacco Company, which the parties anticipate may join the settlement later, and also include Tabacalera Del Esta S/A (TABESA), and U.S. Flue Cured Tobacco Growers, Inc.

Except as set forth in Exhibit 1, the provisions of the Term Sheet will apply to Oregon. As a result of Oregon joining the Term Sheet, the listed PMs and Oregon will jointly instruct the Independent Auditor to release the amounts currently held in the Disputed Payments Account to Oregon on April 19, 2017, pursuant to the Term Sheet and Exhibit 1.

All capitalized terms not otherwise defined herein have the meaning given to those terms in the MSA, the Term Sheet or the Stipulated Award.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

attachment
8162723

Lisa M. Udland
March 20, 2017
Page 2

MARTIN LIPTON
PAUL VOZAKRONHO, JR.
ANDREW J. ROSEN
THEODORE N. NIFROS
DARIELA A. REFF
HARC VOLINSKY
JOHN F. SAVARESE
SCOTT F. CHARLES
ADAM G. EMMERICH III
NATHAN M. LEVINE
MICHAEL J. BOAL
DANIELA A. REFF
ADAM G. EMMERICH III
NATHAN M. LEVINE
MICHAEL J. BOAL
DANIELA A. REFF

DAVID A. KATZ
JEFFREY M. WINTNER
BRIAN M. SHIMMURA
ANDREW J. NUSSBAUM
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LEONARD M. ROSEN (1928-2014)

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ANTHONY WOLF

* ADMITTED IN THE DISTRICT OF COLUMBIA
OF COUNSEL
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LOUIS J. BARTASH
MARK A. ROBERTO
J. AUDITH LYONS
ALEXANDER M. SHANK
ALEXANDER M. SHANK
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EDWARD J. LEE
KYLE R. WILSON
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KYLE R. WILSON
ALISON ZIEGLER-PREISS
JENNIFER M. WILSON
JENNA E. LEVINE
HANI A. TELLOD

ADAM J. SHAPIRO
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EDWARD J. LEE
KYLE R. WILSON
KYLE R. WILSON
KYLE R. WILSON
ALISON ZIEGLER-PREISS
JENNIFER M. WILSON
JENNA E. LEVINE
HANI A. TELLOD


(2) Oregon would not pay any amount for 2003.

(3) For the 2013-2014 transition years, in lieu of the amounts set forth in Section II.C of the Term Sheet, the PMs would receive 46% of Oregon's Allocable Share (as defined in the MSA) of the 2013-2014 NPM Adjustments. The amount due to the OPMS under this paragraph would be paid as follows: 50% as a credit against the OPMS' MSA annual payment due on April 17, 2017; and the remainder through reductions in the OPMS' annual MSA payments due in April 2018-2021, plus interest on the amount of each reduction at the Prime Rate calculated from April 17, 2017, in the manner described in Paragraph 3 of Appendix A to the Term Sheet.

(4) For 2015, in lieu of the 2015 NPM Adjustment (and application of and potential amounts under Section II.C of the Term Sheet), the PMs would receive 25% of Oregon's Allocable Share (as defined in the MSA) of the 2015 NPM Adjustment (and application of and potential amounts under Section II.B of the Term Sheet). The amount due to a PM under this paragraph would be paid, at that PM's election, as a credit against that PM's MSA annual payment due on April 17, 2017 or MSA annual payment due on April 16, 2018.

(5) The OPMS confirm that, based on the Independent Auditor's February 3, 2017 summary of amounts in the Disputed Payments Account as of April 19, 2016, they understand that Oregon's share of principal amounts in the DPA on account of the OPMS' 2004-2013 NPM Adjustments is \$78,714,010.15; and that this principal amount (plus associated earnings), would be released to Oregon as provided in the Term Sheet, subject to the Independent Auditor (i) confirming the above amount and (ii) acting in conformity with the Term Sheet.

As used herein, "PMs" includes the Participating Manufacturers listed in footnote 4 of the March 12, 2013 Stipulated Partial Settlement and Award¹ (except for Farmer's Tobacco Co. of Cynthiana, Inc., which the parties anticipate may join the settlement later), as well as Tabacalera Del Esta S/A (TABESA), U.S. Flue Cured Tobacco Growers, Inc., and possibly Wind River Tobacco Company LLC, which also may join the settlement later. This summary itself is not a binding document; Oregon's joinder in the Term Sheet would be effected through a joinder letter reflecting the terms and conditions set forth above.

Sincerely,

Jeffrey M. Wintner

cc: Elli Leibenstein
Elizabeth McCallum

¹ Two PMs listed in footnote 4 have changed their names. Lignum-2, Inc. is now ITG Brands, LLC. Sherman 1400 Broadway N.Y.C., Inc. is now Sherman 1400 Broadway N.Y.C., LLC.

Via Electronic Mail

Lisa M. Udland
Chief Counsel
Civil Enforcement Division
Oregon Department of Justice
1162 Court St. NE
Salem, OR 97301-4096
Lisa.udland@doj.state.or.us

Re: Oregon potential joinder

Dear Lisa:

Per your request, this will summarize the terms that Oregon and the PMs have discussed on which Oregon would join the November 14, 2012 Term Sheet for settlement of NPM Adjustment disputes ("Term Sheet") before the April 17, 2017 MSA Payment Due Date. Oregon would join the Term Sheet on the conditions set forth below. Except as set forth below, the provisions of the Term Sheet would apply to Oregon.

(1) Oregon would be given the applicable settlement value percentage under Paragraph 2(A) of Appendix A to the Term Sheet (46%) and not the increased settlement value percentage that would otherwise apply under Paragraph 2(B) of that Appendix for Settling States that sign the Term Sheet after the initial sign-on date.

Ex. 1 - Boss Letter
Page 1 of 2

EXHIBIT J
RHODE ISLAND JOINDER LETTER

Signatory State	Date of Sign-On
Rhode Island	March 24, 2017



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL
 150 South Main Street • Providence, RI 02903
 (401) 274-4400 • TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

March 24, 2017

Via Electronic and U.S. Mail

Jeffrey M. Wintner Wachtell, Lipton, Rosen & Katz 51 West 52nd Street New York, NY 10019 jmwintner@wlrk.com	Elli Leibenstein Greenberg Traurig LLP 77 West Wacker Drive, Suite 3100 Chicago, IL 60601 leibensteine@gflaw.com
Alexander Shaknes Arnold & Porter, Kaye Scholer LLP 250 West 55th Street New York, NY 10019 alex.shaknes@apks.com	Elizabeth B. McCallum Baker Hostetler LLP 1050 Connecticut Avenue, N.W. Washington, DC 20036 emccallum@bakerlaw.com

Re: Term Sheet for Settlement of NPM Adjustment Disputes

Dear Counsel:

I am authorized by the State of Rhode Island to agree to Rhode Island's joinder in the November 14, 2012 Term Sheet for settlement of NPM Adjustment disputes ("Term Sheet") on the terms and conditions set forth in the letter from Jeffrey M. Winner dated September 14, 2016 (the "Letter") attached hereto. Rhode Island's joinder will be effective upon written approval of the foregoing on behalf the PMs listed in the Letter (other than Farmer's Tobacco Co. of Cynthiana, Inc., which may indicate its participation later).

Sincerely,

 Peter F. Kilmartin
 Attorney General

EXHIBIT K

OPTIONAL "DE MINIMIS" AGREEMENT

The PMs and the Signatory State agree that, if the number of FET-paid NPM Cigarettes sold in the State on which escrow was not deposited, but about which the arbitrators determine the State could reasonably have known, was *de minimis*, that fact will be relevant to the diligent enforcement determination as to the State with respect to the year in which the escrow on those Cigarettes was due.

EXHIBIT L

OKLAHOMA SIDE LETTER

Signatory State	Date of Sign-On
Oklahoma	April 12, 2013

JONES DAY

77 WEST WACKER • CHICAGO, ILLINOIS 60601-1692
TELEPHONE: +1.312.782.3939 • FACSIMILE: +1.312.782.8585

Direct Number: (312) 269-4368
ellebenstein@jonesday.com

JP015026
629000-605003

April 12, 2013

Tom Bates
First Assistant Attorney General
State of Oklahoma
313 NE 21st Street
Oklahoma City, OK 73105

Re: Side Letter Agreement between the Participating Manufacturers and the State of Oklahoma

Dear Mr. Bates:

As we discussed, the OPMs and Commonwealth Brands, Inc. (collectively, the "PMs") agree that for purposes of clause (ii) of footnote 6 of the Term Sheet, (1) the word "reservation" shall also include Indian Country as defined by federal law, and (2) the word "owned" shall mean owned by more than 50 percent. All other words and phrases in footnote 6 of the Term Sheet remain the same.

In addition, the PMs understand that Oklahoma currently collects tax and escrow on NPM sales on or through the tribal reservations by means of compacts. PMs also understand that Oklahoma has raised a concern about what happens if one or more of these compacts are rescinded by tribes in the future through no fault of Oklahoma. To address that concern, PMs agree that if (i) a compact under which tax and escrow are currently collected on NPM sales is rescinded through no fault of Oklahoma and despite Oklahoma's best efforts to avoid that result and (ii) tax is no longer collected on those NPM sales, then the fact that the compact was rescinded will be relevant to the diligent enforcement determination for a period of twelve (12) months following the rescission.

Very truly yours,

Elli Leibenstein
Elli Leibenstein

CIH-1886-26v1

ALBANY • ATLANTA • BEIJING • BOSTON • BRUSSELS • CHICAGO • CLEVELAND • COLUMBUS • DALLAS • DUBAI
DORSETT • FRANKFURT • HONG KONG • HOUSTON • IRVINE • JEDDAH • LOS ANGELES • MADRID
MEXICO CITY • MILAN • MOSCOW • MUNICH • NEW YORK • PARIS • PITTSBURGH • RYDALHO • SAN DIEGO
SAN FRANCISCO • SAO PAULO • SHANGHAI • SILICON VALLEY • SINGAPORE • SYDNEY • TAPEI • TOKYO • WASHINGTON

L-2

EXHIBIT M

APPROVAL OF THE PSS CREDIT AMENDMENT

Signatory State	Date of Approval
Alabama	October 30, 2008
Arizona	November 17, 2008
Arkansas	December 9, 2008
Connecticut	October 31, 2008
D.C.	November 20, 2008
Georgia	November 13, 2008
Indiana	November 24, 2008
Kansas	November 12, 2008
Kentucky	November 13, 2008
Michigan	November 13, 2008
Nebraska	November 13, 2008
Nevada	October 30, 2008
New Hampshire	October 30, 2008
North Carolina	October 31, 2008
Oklahoma	November 6, 2008
Oregon	November 12, 2008
Rhode Island	February 11, 2009
South Carolina	June 20, 2013
Tennessee	October 30, 2008
West Virginia	January 29, 2009
Wyoming	November 20, 2008
Puerto Rico	December 22, 2008

M-1

EXHIBIT N

DATA CLEARINGHOUSE FUND PROTOCOL

The Data Clearinghouse Fund ("Fund") is established by the Attorneys General of the 2016 Signatory States and those Settling States that are Subsequent-Joining Signatory States as of the Effective Date, in cooperation with NAAAG, pursuant to subsections IV.A.4 and IV.C.2 of the Settlement Agreement. The following shall be the primary and mandatory protocol for the administration of the Fund.

1. Upon the establishment of the Fund, the Signatory States shall jointly instruct the Independent Auditor to disburse any monies previously paid into the Disputed Payments Account pursuant to sections IV.A.4 and IV.C.2 of the Settlement Agreement, plus any applicable earnings, to the Fund.
2. The NAAAG Executive Committee shall direct the investment of the Fund consistent with Investment Policy guidelines established for that purpose in consultation with the Finance and Investment Committee and the NAAAG Director of Finance.
3. The NAAAG Executive Committee shall authorize disbursements from the account consistent with the Data Clearinghouse Agreement between Certain Settling States and NAAAG (the "NAAAG Data Clearinghouse Agreement"), as that Agreement may be executed and amended.
4. The NAAAG Executive Committee shall annually report to the Attorneys General of the Signatory States on disbursements made from the Fund.
5. No later than February 1st of each year, the NAAAG Executive Committee or its assigns may assess an additional amount that the Committee determines will assure the stability and liquidity of the Fund until the following year's Payment Due Date. This assessment shall be allocated among the Signatory States pro rata in proportion to their respective Allocable Shares. Absent other arrangement by a Signatory State, each year, prior to the Payment Due Date, the Signatory States will jointly instruct the Independent Auditor to withhold each Signatory States' allocated portion of that year's assessment, plus any associated transfer fees, from their respective apportioned Annual Payment amounts and to transfer the remainder of the assessment to the Fund.
6. If a Signatory State incurs state-specific expenses not otherwise authorized by the Settlement Agreement, the NAAAG Data Clearinghouse Agreement, or this Protocol, such Signatory State will be responsible for making appropriate arrangements for any additional payment obligations incurred (see subsections VI.J.3-4).
7. The Signatory States shall be responsible for all expenses associated with the establishment and operation of the Fund. The NAAAG Executive Committee is authorized by this Protocol to deduct such expenses from the Fund, including for those expenses incurred by the NAAAG Executive Committee or its assigns.

EXHIBIT O

SIGNATORY STATE REPORTING RULES IN EFFECT AS OF THE EFFECTIVE DATE

Signatory State	SET Deemed Paid
Alabama	STAMP APPLIED
Arizona	STAMP APPLIED
Arkansas	PACKAGE SOLD
California	PACKAGE SOLD
Connecticut	PACKAGE SOLD
D.C.	STAMP APPLIED
Georgia	STAMP APPLIED
Indiana	STAMP APPLIED
Kansas	STAMP APPLIED
Kentucky	STAMP APPLIED
Louisiana	PACKAGE SOLD
Michigan	PACKAGE SOLD
Nebraska	PACKAGE SOLD
Nevada	STAMP APPLIED
New Hampshire	STAMP APPLIED
New Jersey	PACKAGE SOLD
North Carolina	NO STAMP; PACKAGE RECEIVED OR PACKAGE SOLD
Oklahoma	PACKAGE SOLD
Oregon	PACKAGE SOLD
Rhode Island	PACKAGE SOLD
South Carolina	NO STAMP; PACKAGE RECEIVED OR PACKAGE SOLD
Tennessee	STAMP APPLIED

Signatory State	SET Deemed Paid
Virginia	STAMP APPLIED
West Virginia	PACKAGE SOLD
Wyoming	STAMP APPLIED
Puerto Rico	PACKAGE SOLD

EXHIBIT P
CONFIDENTIALITY AGREEMENT BETWEEN THE PMS
AND THE SIGNATORY STATES

**CONFIDENTIALITY AGREEMENT
AMONG THE SIGNATORY PARTIES TO
THE NPM ADJUSTMENT SETTLEMENT AGREEMENT**

This Confidentiality Agreement is entered into by the undersigned PMs and Signatory States that are signatories to the NPM Adjustment Settlement Agreement (the "Settlement Agreement"). The PMs and the Signatory States (each, a "Party," and collectively, the "Parties") enter into this agreement to protect from further disclosure any confidential information provided to the Parties or by the Parties to the Data Clearinghouse pursuant to the Settlement Agreement.

WHEREAS, the Signatory States and the PMs are parties to the Master Settlement Agreement (or the "MSA");

WHEREAS, the Signatory States and the PMs have entered into the Settlement Agreement to resolve certain disputes under the MSA;

WHEREAS, pursuant to the Settlement Agreement, the Parties will provide certain documents and data to each other and to a Data Clearinghouse selected by the Parties, as provided in Section VI of the Settlement Agreement;

WHEREAS, Section VI of the Settlement Agreement specifies the information that will be provided by the Parties to the Data Clearinghouse and to each other, the conditions under which such information will be provided, the representatives of the Parties that may receive the information, and the permissible uses (and limitations on use) of the information by the Parties;

WHEREAS, the Parties recognize the highly confidential nature of the information they are to disclose pursuant to Section VI of the Settlement Agreement and seek to protect it from further disclosure by entering into this Confidentiality Agreement;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The terms and conditions of this Confidentiality Agreement shall be binding upon the Parties, and it shall govern the use and dissemination of all information, documents, or materials that are subject to this Agreement.
2. The provisions of Section VI of the Settlement Agreement governing the disclosure and use of information are incorporated by reference and form an integral part of this Confidentiality Agreement.
3. The term "Confidential Information" means information, documents, data or other materials disclosed by a PM or a Signatory State pursuant to subsections VI.E-G of the Settlement Agreement that the disclosing party reasonably and in good faith believes contain information that, if disclosed, would cause substantial harm to the competitive position of any person or business entity; contain trade secrets or other confidential and non-public research, product development, commercial or financial information; contain non-public personal information; contain other information for which a good faith claim of the need for protection

from disclosure can be made under applicable law; and/or contain information the disclosure of which is restricted by constitution, statute, rule, policy, or common law.

4. The terms information, documents, data or other materials shall include writings, drawings, graphs, charts, photographs, electronically created data, and other compilations of data from which information can be obtained or translated.
5. A Party disclosing Confidential Information to the Data Clearinghouse or to another Party or Parties shall designate such information "Confidential."
6. Confidential Information may be disclosed only to the Data Clearinghouse and to those representatives of the Parties specifically identified in, and in compliance with, Section VI of the Settlement Agreement.
7. The designated counsel for the PMs and the Signatory States shall require each individual to whom Confidential Information is provided to acknowledge that she/he has read this Confidentiality Agreement and subsection VI.K of the Settlement Agreement, and agreed to be bound by their terms. Acknowledgments shall be in writing in the form attached hereto (the "Confidentiality Acknowledgment") and shall remain in the custody of the respective Party.
8. If any Party wishes to disclose any Confidential Information to a person not specifically designated in subsection VI.K of the Settlement Agreement, such Party must request in writing from the designating Party permission to so disclose. Such permission may be given or withheld in the sole discretion of the designating Party. If such designating Party does not permit the proposed disclosure, no such disclosure shall be made. If such designating Party permits the proposed disclosure, the person to whom Confidential Information is shown must agree to be bound by the terms of this Confidentiality Agreement by executing the Confidentiality Acknowledgment.
9. Any person to whom Confidential Information is provided shall use the Confidential Information only for those purposes specifically provided under section VI of the Settlement Agreement.
10. Nothing in this Confidentiality Agreement shall preclude a designating Party from using or disclosing in any way and in its sole discretion its own Confidential Information so designated by such Party. If a designating Party publicly discloses any Confidential Information it so designated, that same information will no longer be subject to this Confidentiality Agreement.
11. The Parties shall maintain Confidential Information such that physical and electronic access to it is restricted to those individuals identified in paragraph 6 above. Whenever electronic Confidential Information is copied, all copies shall be marked "Confidential."
12. Any summary, compilation, notes, copy, electronic image, or database, or any other document containing Confidential Information, shall be marked by the person preparing

the document with the Confidential designation, and the document shall be subject to the terms of this Agreement to the same extent as the information on which such document is based, from which it is derived or which it contains.

13. In the event of a public records request, the Signatory State shall notify the designating Party within five (5) business days and shall cooperate with the designating Party in taking reasonable steps to protect Confidential Information from public disclosure consistent with applicable law.
14. If Confidential Information is subject to a subpoena in an arbitration, judicial, legislative, or administrative proceeding, the subpoenaed Party shall serve and/or file a timely response objecting to production of Confidential Information consistent with this Agreement and applicable law. Within five (5) business days of receiving the subpoena, the subpoenaed Party shall notify the designating Party in writing of the pendency of the subpoena, unless the subpoena may not be disclosed under applicable law. If the subpoena may not be disclosed under applicable law, the subpoenaed Party shall file a timely motion in the proceeding to allow the subpoenaed Party to give notice of the subpoena to the designating Party. The subpoenaed Party shall cooperate with the designating Party in reasonable steps that the designating Party may take to protect Confidential Information from production pursuant to the subpoena consistent with applicable law. If the designating Party seeks an order blocking production of Confidential Information, the subpoenaed Party shall not voluntarily produce such information pending final resolution of the designating Party's request.
15. If there is a claimed violation of this Confidentiality Agreement, the Party that claims the violation may apply to the relevant MSA Court to enforce the terms of this Confidentiality Agreement.
16. This Confidentiality Agreement shall not preclude the Parties from applying to the appropriate court or courts for further protective orders.
17. This Confidentiality Agreement shall not be construed as an agreement by any Party to disclose or provide any document or information other than as required by Section VI of the Settlement Agreement, or as a waiver by any Party of its right to object to the disclosure of any document or information other than as required by Section VI of the Settlement Agreement, or as a waiver of any claim of privilege with regard to the disclosure of any such document or information.
18. The Parties will jointly ensure that the Data Clearinghouse also enters into a confidentiality agreement with the Parties that is fully consistent with the provisions of Section VI of the Settlement Agreement and this Confidentiality Agreement.
19. The obligations imposed by this Confidentiality Agreement shall survive any determination by the Data Clearinghouse pursuant to Section VI of the Settlement Agreement and shall remain in effect unless otherwise expressly agreed to in writing by the Parties.

20. Any dispute with respect to a Signatory State regarding the terms of this Agreement shall be construed in accordance with the laws of such Signatory State, including but not limited to those governing the disclosure of public records in response to duly submitted requests and the laws of such Signatory State regarding the retention of records.

21. All capitalized terms not defined herein shall have the meanings ascribed to them in the Settlement Agreement.

**2016 AND 2017 NPM ADJUSTMENTS
SETTLEMENT AGREEMENT**

I. RECITALS

WHEREAS, the Settling States and the Participating Manufacturers are parties to the Master Settlement Agreement (“MSA”);

WHEREAS, the MSA provides that certain of the Participating Manufacturers’ annual payments for the benefit of the Settling States may be subject to the Non-Participating Manufacturer Adjustment (“NPM Adjustment”);

WHEREAS, the Signatory Parties are among the signatories to the NPM Adjustment Settlement Agreement, which provides for the settlement of disputes as among the Signatory Parties regarding the 2003-2015 NPM Adjustments and certain provisions as among them regarding the NPM Adjustments and other adjustments for subsequent years;

WHEREAS, the Signatory Parties have disputes concerning the 2016 and 2017 NPM Adjustments;

NOW, THEREFORE, in consideration for the payments and credits provided for in this Settlement Agreement, and such other consideration as described in this Settlement Agreement, the sufficiency of which is hereby acknowledged, the Signatory Parties, acting by and through their authorized representatives, memorialize and agree as follows:

II. DEFINITIONS

A. All capitalized terms not otherwise defined in this Settlement Agreement shall be defined as in the MSA.

B. “NPM Adjustment Settlement Agreement” means the agreement titled NPM Adjustment Settlement Agreement, which was entered into by the Signatory Parties regarding

the settlement of disputes between them concerning the 2003-2015 NPM Adjustments, and which has an Effective Date of October 10, 2017.

C. The following terms have the meaning set forth in Section II of the NPM Adjustment Settlement Agreement: “[Year] NPM Adjustment,” “NPM Adjustment for [Year],” “Allocable Share,” “IX(c)(2) Allocable Share,” “NPM,” “OPM,” “Potential Maximum NPM Adjustment,” “SET,” and “SPM.”

D. “Non-Signatory State” means a Settling State that is not a signatory to this Settlement Agreement.

E. “PM” means a Participating Manufacturer that is a signatory to this Settlement Agreement.

F. “Signatory Parties” means, collectively, all Signatory States and all PMs.

G. “Signatory State” means any Settling State that is a signatory to this Settlement Agreement.

H. “Subsection V.B Adjustment” means the downward dollar adjustment to the PMs’ payments pursuant to MSA Section IX(c)(1) that is described in subsection V.B of the NPM Adjustment Settlement Agreement.

III. ADJUSTMENTS FOR 2015-2017

A. Adjustment for the 2015 Sales Year. The PMs’ payments pursuant to MSA Section IX(c)(1) made for the benefit of each Signatory State shall not be subject to a Subsection V.B Adjustment for the 2015 sales year.

B. Adjustments for the 2016 Sales Year.

1. In lieu of the 2016 NPM Adjustment as applicable to the Signatory States, the PMs will receive the following adjustments applied to their payments pursuant to MSA

Section IX(c)(1) due on April 16, 2019:

a. The OPMs will receive an aggregate adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L. of the NPM Adjustment Settlement Agreement, equal to the sum of (i) 25% of the OPMs' Potential Maximum 2016 NPM Adjustment applicable to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States, and (ii) 25% of the OPMs' Potential Maximum 2016 NPM Adjustment applicable to MSA Section IX(c)(2) multiplied by the aggregate IX(c)(2) Allocable Share of all Signatory States. Such aggregate OPM amount shall be allocated among the OPMs as they direct, and shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares and IX(c)(2) Allocable Shares, as applicable.

b. Each SPM will receive an adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L. of the NPM Adjustment Settlement Agreement, equal to the sum of (i) 25% of that SPM's Potential Maximum 2016 NPM Adjustment applicable to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States, and (ii) 25% of that SPM's Potential Maximum 2016 NPM Adjustment applicable to MSA Section IX(c)(2) multiplied by the aggregate IX(c)(2) Allocable Share of all Signatory States. Each SPM's adjustment shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares and IX(c)(2) Allocable Shares, as applicable.

c. The amounts of the adjustments pursuant to this subsection III.B.1 shall be determined based on the Market Share Loss for 2016 and the Potential Maximum NPM Adjustment for 2016 as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the April 16, 2018 Payment Due Date. The Signatory Parties agree that the amounts of such adjustments shall not change after such Payment Due Date

notwithstanding any subsequent revision or recalculation by the Independent Auditor of the amounts described in the preceding sentence.

d. The Signatory States and the PMs may provide the Independent Auditor with joint instructions specifying the dollar amounts to be used for the adjustments under this subsection III.B.1.

e. Each PM shall receive its amount under this subsection III.B.1 by repaying (without interest) all amounts previously released to that PM attributable to the 2016 NPM Adjustment and then receiving its amount under this subsection III.B.1 in full (without interest); provided, however, that each PM's receipt of its amount under this subsection III.B.1 is conditioned on its prior release from the DPA to the Signatory States of all amounts, if any, that PM both deposited into the DPA and has retained in the DPA attributable to the Signatory States' Allocable Share or IX(c)(2) Allocable Share of the 2016 NPM Adjustment (and the earnings on those amounts).

2. The PMs' payments pursuant to MSA Section IX(c)(1) made for the benefit of each Signatory State shall not be subject to a Subsection V.B Adjustment for the 2016 sales year.

C. Adjustments for the 2017 Sales Year.

1. In lieu of the 2017 NPM Adjustment as applicable to the Signatory States, the PMs will receive the following adjustments applied to their payments pursuant to MSA Section IX(c)(1) due on April 16, 2020:

a. The OPMs will receive an aggregate adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L. of the NPM Adjustment Settlement Agreement, equal to 25% of the OPMs' Potential Maximum 2017 NPM Adjustment applicable

to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States. Such aggregate OPM amount shall be allocated among the OPMs as they direct, and shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares.

b. Each SPM will receive an adjustment applicable to MSA Section IX(c)(1) payments, subject to subsection IX.L. of the NPM Adjustment Settlement Agreement, equal to 25% of that SPM's Potential Maximum 2017 NPM Adjustment applicable to MSA Section IX(c)(1) multiplied by the aggregate Allocable Share of all Signatory States. Each SPM's adjustment shall be allocated solely to and among the Signatory States, in proportion to their Allocable Shares.

c. The amounts of the adjustments pursuant to this subsection III.C.1 shall be determined based on the Market Share Loss for 2017 and the Potential Maximum NPM Adjustment for 2017 as determined by the Independent Auditor in the latest Final Calculation or Revised Final Calculation preceding the April 15, 2019 Payment Due Date. The Signatory Parties agree that the amounts of such adjustments shall not change after such Payment Due Date notwithstanding any subsequent revision or recalculation by the Independent Auditor of the amounts described in the preceding sentence.

d. The Signatory States and the PMs may provide the Independent Auditor with joint instructions specifying the dollar amounts to be used for the adjustments under this subsection III.C.1.

e. Each PM shall receive its amount under this subsection III.C.1 by repaying (without interest) all amounts previously released to that PM attributable to the 2017 NPM Adjustment and then receiving its amount under this subsection III.C.1 in full (without interest); provided, however, that each PM's receipt of its amount under this subsection III.C.1 is

conditioned on its prior release from the DPA to the Signatory States of all amounts, if any, that PM both deposited into the DPA and has retained in the DPA attributable to the Signatory States' Allocable Share of the 2017 NPM Adjustment (and the earnings on those amounts).

2. The PMs' payments pursuant to MSA Section IX(c)(1) made for the benefit of each Signatory State shall not be subject to a Subsection V.B Adjustment for the 2017 sales year.

IV. RELEASES

Effective upon payment of all sums due from a Signatory State under subsection III.B.1 of this Agreement, all PMs also absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to the 2016 NPM Adjustment and the Subsection V.B Adjustments for the 2015 and 2016 sales years. Effective upon payment of all sums due from a Signatory State under subsection III.C.1 of this Agreement, all PMs also absolutely and unconditionally release and discharge that Signatory State from any further Claims directly or indirectly based on, arising out of or in any way related to the 2017 NPM Adjustment and the Subsection V.B Adjustment for the 2017 sales year. Subject to the preceding two sentences, the releases and all other provisions in subsections VIII.A-VIII.E of the NPM Adjustment Settlement Agreement as they relate to the 2015 NPM Adjustment are incorporated by reference and shall apply as part of this Agreement with respect to the 2016-2017 NPM Adjustments. The provisions in subsection VIII.F of the NPM Adjustment Settlement Agreement (and the April 18, 2018 email from Elii Leibenstein to Mike Parrish, and the April 26, 2018 email from Elizabeth McCallum to Mike Parrish, concerning that subsection), which all relate to the arbitration and effect of disputes between the PMs and Non-Signatory States concerning the 2004-2015 NPM Adjustments, are incorporated by reference and shall apply as part of this Settlement Agreement

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

R. J. REYNOLDS TOBACCO COMPANY, in its own capacity and as successor in interest to
Brown & Williamson Tobacco Corporation and as Successor in interest to Lorillard Tobacco
Company



By: J. Jeffrey Rubin
EVP Legal & External Affairs and RAI General Counsel

Date: 9/11/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH BRANDS, INC.



By: Rob Wilkey
General Counsel and Secretary

Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMPANIA INDUSTRIAL DE TABACOS MONTE PAZ, S.A.

By: Elizabeth B. McCall
Elizabeth B. McCall
Outside Counsel

Date: 10-16-18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


DAUGHTERS & RYAN, INC.

By: Elizabeth B. McCall
Elizabeth B. McCall
Outside Counsel

Date: 10-16-18

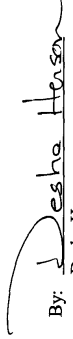
2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

ETS L LACROIX FILS S.A. (BELGIUM)

By:  _____
Rob Wilkey
Authorized Signatory
Date: June 14, 2018 _____


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

FARMER'S TOBACCO CO. OF CYNTHIANA, INC.

By:  _____
Desha Henson
President
Date: 6/14/2018 _____


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


IMPERIAL TOBACCO LIMITED (UK)

By:  _____
Rob Wilkey
Authorized Signatory
Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

HOUSE OF PRINCE A/S

By:  _____
Peter Helbo
Board Member
Date: 16 July 2018

By:  _____
James Yamamaka
Chief Executive Officer
Date: 17/7/2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO MULLINGAR (IRELAND)


By: 

Rob Wilkey
Authorized Signatory

Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

IMPERIAL TOBACCO POLSKA S.A. (POLAND)

By: 

Rob Wilkey
Authorized Signatory

Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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IMPERIAL TOBACCO PRODUCTION UKRAINE

By: 
Rob Wilkey
Authorized Signatory

Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


IMPERIAL TOBACCO SIGARA VE TUTUNCULUK SANAYI VE TICARET S.A.
(TURKEY)

By: 
Rob Wilkey
Authorized Signatory

Date: June 14, 2018


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

ITG BRANDS, LLC (FORMERLY LIGNUM-2, LLC)

By: 
Rob Wilkey
General Counsel and Secretary
Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

JAPAN TOBACCO INTERNATIONAL U.S.A., INC.

By: _____
Jerry Loflin
President
Date: _____
By: 
Michael Mete
Chief Financial Officer
Date: 10/12/2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

JAPAN TOBACCO INTERNATIONAL U.S.A., INC.

By: 
Jerry Loftin
President

Date: 10/12/18

By: _____
Michael Mete
Chief Financial Officer

Date: _____

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

KING MAKER MARKETING, INC.

By: 
Edward W. Kaschuta
Vice President

Date: 06.07.18

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

PREMIER MANUFACTURING, INC.

By: Edward W. Kacsuta
Edward W. Kacsuta
Vice President

Date: 06.07.18

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE

U.S. FLUE-CURED TOBACCO GROWERS, INC.

By: Edward W. Kacsuta
Edward W. Kacsuta
Treasurer

Date: 06.07.18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

KRETEK INTERNATIONAL, INC.

By: 
Henry C. Roemer
Counsel

Date: October 15, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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LIGGETT GROUP LLC

By: 
John Long
Vice President and General Counsel

Date: 6-14-2019


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

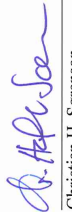
000 TABAKSFABRIK REEMTMA WOLGA (RUSSIA)

By: 
Rob Wilkey
Authorized Signatory
Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

PETER STOKKEBYE TOBAKSFABRIK A/S

By: 
Mette Valentin
Member of the Board of Directors
Date: June 15, 2018

By: 
Christian H. Sorenson
Member of the Board of Directors
Date: JUNE 15, 2018

NPM ADJUSTMENT SETTLEMENT AGREEMENT
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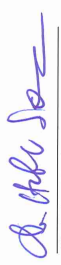
PREMIER MANUFACTURING, INC.

By: 
Edward W. Kacšuta
Vice President


Date: 06.07.18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

SCANDINAVIAN TOBACCO GROUP LANE LTD (FORMERLY LANE LIMITED)

By: 
Christian H. Sørensen
Member of the Board of Directors

Date: JUNE 15, 2018

By: 
Niels Frederiksen
Member of the Board of Directors

Date: JUNE 15, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

P.T. DIARUM



By: Henry C. Roemer
Counsel

Date: October 15, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

REEMTSMA CIGARETTENFABRIKEN GMBH (REEMTSMA)



By: Rob Wilkey
Authorized Signatory

Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

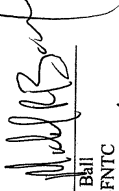
VAN NELLE TABAK NEDERLAND B.V. (NETHERLANDS)

By:  _____
Rob Wilkey
Authorized Signatory

Date: June 14, 2018 _____

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


SANTA FE NATURAL TOBACCO COMPANY, INC.

By:  _____
Michael R. Blai
President SFNTC

Date: 9-17-16 _____


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


SHERMAN'S 1400 BROADWAY N.Y.C., LLC

By: 
Brendon Scott
Vice President and Chief Financial Officer
Date: June 15, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


SCANDINAVIAN TOBACCO GROUP LANE LTD (FORMERLY LANE LIMITED)

By: 
Christian H. Sorenson
Member of the Board of Directors
Date: JUNE 15, 2018

By: 
Niels Frederiksen
Member of the Board of Directors
Date: JUNE 15, 2018

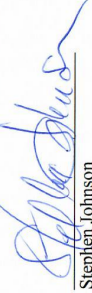
2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

SOCIETE NATIONAL D'EXPLOITATION INDUSTRIELLE DES TABACS ET
ALLUMETTES (SEITA)

By: 
Rob Wilkey
Authorized Signatory
Date: June 14, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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TABACALERA DEL ESTE S/A (TABESA)

By: 
Stephen Johnson
Director and Secretary
Date: June 14, 2018


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

TOP TOBACCO, L.P.

By:  _____
Seth Gold
General Counsel
Date: October 27, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

VAN NELLE TABAK NEDERLAND B.V. (NETHERLANDS)

By:  _____
Rob Wilkey
Authorized Signatory
Date: June 14, 2018

NPM ADJUSTMENT SETTLEMENT AGREEMENT
SIGNATURE PAGE


U.S. FLUE-CURED TOBACCO GROWERS, INC.

By: 
Edward W. Kacsuta
Treasurer

Date: 06.07.18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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VECTOR TOBACCO INC.

By: 
Nick Krison
Vice President-Finance and Chief Financial Officer

Date: 6/14/2018


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

VON EICKEN GROUP

By: 
Henry C. Kocmer
Counsel
Date: October 15, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

WIND RIVER TOBACCO COMPANY INC.

By: 
~~_____~~
Brian Pascher
Client Financial Officer
Date: 6/15/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF ALABAMA



By: Steve Marshall
Attorney General

Date: 8/7/18

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STATE OF ARIZONA




By: Mark Brnovich
Attorney General

Date: 2/1/18

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STATE OF ARKANSAS

By:  _____
Leslie Rutledge
Attorney General

Date: July 5, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE


STATE OF CALIFORNIA

By:  _____
Xavier Becerra
Attorney General

Date: 11/27/2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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STATE OF CONNECTICUT

By:  _____
George W. Jensen
Attorney General

Date: 6/22/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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DISTRICT OF COLUMBIA

By:  _____
Karl A. Racine
Attorney General

Date: 6/28/18


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STATE OF GEORGIA

By:  Christopher M. Carr
Attorney General
Date: 7/23/2018


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STATE OF INDIANA

By:  Curtis T. Hill, Jr.
Attorney General
Date: 7/10/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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STATE OF KANSAS

By: 
Derek Schmidt
Attorney General
Date: 7/18/2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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COMMONWEALTH OF KENTUCKY

By: 
Andy Beshear
Attorney General
Date: 6-14-2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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STATE OF MICHIGAN
By: 
Bill Schuette
Attorney General
Date: 7/6/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF LOUISIANA
By: 
Jeff Landry
Attorney General
Date: 7/17/18
By: 
Wilbur L. Saffes, III
Chief Deputy Attorney General

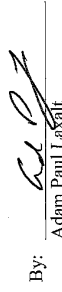
2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEBRASKA

By: 
Doug Peterson
Attorney General
Date: July 9, 2018


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SIGNATURE PAGE

STATE OF NEVADA

By: 
Adam Paul Lusk
Attorney General
Date: 7/17/18

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SIGNATURE PAGE

STATE OF NEW JERSEY

By: 
Gurbir S. Grewal,
Attorney General
Date: July 10, 2016

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF NEW HAMPSHIRE

By: 
Gordon J. MacDonald
Attorney General
Date: 7/6/16

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STATE OF NORTH CAROLINA

By: 
Josh Stein
Attorney General

Date: 7/16/18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF OKLAHOMA

By: 
Mike Hunter
Attorney General

Date: 7/19/18


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF OREGON

By: 
Ellen F. Rosenblum
Attorney General

Date: July 16, 2018


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH OF PUERTO RICO
By: 
Wanda Vázquez García
Attorney General

Date: July 3, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF RHODE ISLAND

By: 
Peter F. Kilmartin
Attorney General

Date: 30 July, 2018

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

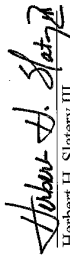
STATE OF SOUTH CAROLINA

By: 
Alan Wilson
Attorney General

Date: July 11, 2018

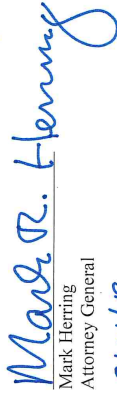
2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
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STATE OF TENNESSEE

By: 
Herbert H. Slatery III
Attorney General and Reporter
Date: 7/9/2018


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

COMMONWEALTH OF VIRGINIA

By: 
Mark R. Herring
Attorney General
Date: 8/14/18


2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF WEST VIRGINIA

By: 
Patrick Morrissey
Attorney General
Date: 6-28-18

2016 AND 2017 NPM ADJUSTMENTS SETTLEMENT AGREEMENT
SIGNATURE PAGE

STATE OF WYOMING

By: 
Peter K. Michael
Attorney General
Date: June 22, 2018

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APPENDIX D

**THE CALIFORNIA CONSENT DECREE, THE MOU, THE ARIMOU AND THE CALIFORNIA
ESCROW AGREEMENT**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

PEOPLE OF THE STATE OF CALIFORNIA)
ex rel. DANIEL E. LUNGREN, ATTORNEY)
GENERAL OF THE STATE OF CALIFORNIA;)
S. KIMBERLY BELSHE, DIRECTOR OF)
HEALTH SERVICES OF THE STATE OF)
CALIFORNIA,)
Plaintiffs,)
v.)
PHILIP MORRIS, INC.; R.J. REYNOLDS)
TOBACCO COMPANY; BROWN & WILLIAMSON)
TOBACCO CORPORATION; B.A.T INDUSTRIES,)
P.L.C.; BRITISH AMERICAN TOBACCO)
COMPANY; LORILLARD TOBACCO COMPANY,)
INC.; AMERICAN TOBACCO COMPANY, INC.;)
UNITED STATES TOBACCO COMPANY; HILL &)
KNOWLTON, INC.; THE COUNCIL FOR TOBACCO)
RESEARCH-U.S.A., INC.; TOBACCO INSTITUTE,)
INC.; SMOKELESS TOBACCO COUNCIL, INC.)
and DOES 1-200, inclusive,)
Defendants.)

Case No. J.C.C.P. 4041
(Sacramento Superior
Court Case No.
97AS03031)

CONSENT DECREE
and
FINAL JUDGMENT

WHEREAS, Plaintiffs, the People of the State of California and
S. Kimberly Belshe, Director of Health Services of the State of
California commenced this action on June 12, 1997, by and through
their attorney, Attorney General Daniel E. Lungren, pursuant to his
common law powers and the provisions of state law;

WHEREAS, Plaintiffs filed their First Amended Complaint on
August 29, 1997;

WHEREAS, the State of California asserted various claims for
monetary, equitable and injunctive relief on behalf of the State of
California against certain tobacco product manufacturers and other
defendants;

WHEREAS, Defendants have contested the claims in the State's
Complaint and First Amended Complaint and denied the State's
allegations;

WHEREAS, the parties desire to resolve this action in a manner
which appropriately addresses the State's public health concerns,
while conserving the parties' resources, as well as those of the
Court, which would otherwise be expended in litigating a matter of
this magnitude;

WHEREAS, the Court has made no determination of any violation
of law, this Consent Decree and Final Judgment being entered prior
to the taking of any testimony and without trial or final
adjudication of any issue of fact or law;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, AS
FOLLOWS:

I. JURISDICTION AND VENUE

This Court has jurisdiction over the subject matter of
this action and over each of the Participating Manufacturers.
Venue is proper in San Diego County.

II. DEFINITIONS

The definitions set forth in the Master Settlement

1 Agreement (hereafter referred to as "Agreement" or "MSA;" a copy of
2 which is attached hereto as Exhibit A) are incorporated herein by
3 reference and words defined therein are signified herein by being
4 capitalized.

5
6 **III. APPLICABILITY**

7 A. This Consent Decree and Final Judgment applies only
8 to the Participating Manufacturers in their corporate capacity
9 acting through their respective successors and assigns,
10 directors, officers, employees, agents, subsidiaries,
11 divisions, or other internal organizational units of any kind
12 or any other entities acting in concert or participation with
13 them. The remedies, penalties and sanctions that may be
14 imposed or assessed in connection with a violation of this
15 Consent Decree and Final Judgment (or any order issued in
16 connection herewith) shall only apply to the Participating
17 Manufacturers, and shall not be imposed or assessed against
18 any employee, officer or director of any Participating
19 Manufacturer, or against any other person or entity as a
20 consequence of such violation, and there shall be no
21 jurisdiction under this Consent Decree and Final Judgment to
22 do so.

23 B. This Consent Decree and Final Judgment is not
24 intended to and does not vest standing in any third party with
25 respect to the terms hereof. No portion of this Consent Decree
26 and Final Judgment shall provide any rights to, or be
27 enforceable by, any person or entity other than the State of
28 California or a Released Party. The State of California may

1 not assign or otherwise convey any right to enforce any
2 provision of this Consent Decree and Final Judgment.

3
4 **IV. VOLUNTARY ACT OF THE PARTIES**

5 The parties hereto expressly acknowledge and agree that
6 this Consent Decree and Final Judgment is voluntarily entered into
7 as the result of arm's-length negotiation, and all parties hereto
8 were represented by counsel in deciding to enter into this Consent
9 Decree and Final Judgment.

10
11 **V. INJUNCTIVE AND OTHER EQUITABLE RELIEF**

12 Each Participating Manufacturer is permanently enjoined
13 from:

14 A. Taking any action, directly or indirectly, to target
15 Youth within the State of California in the advertising,
16 promotion or marketing of Tobacco Products, or taking any
17 action the primary purpose of which is to initiate, maintain
18 or increase the incidence of Youth smoking within the State of
19 California.

20 B. After 180 days after the MSA Execution Date, using
21 or causing to be used within the State of California any
22 Cartoon in the advertising, promoting, packaging or labeling
23 of Tobacco Products.

24 C. After 30 days after the MSA Execution Date, making
25 or causing to be made any payment or other consideration to
26 any other person or entity to use, display, make reference to
27 or use as a prop within the State of California any Tobacco
28 Product, Tobacco Product package, advertisement for a Tobacco

1 Product, or any other item bearing a Brand Name in any Media;
2 provided, however, that the foregoing prohibition shall not
3 apply to (1) Media where the audience or viewers are within an
4 Adult-Only Facility (provided such Media are not visible to
5 persons outside such Adult-Only Facility); (2) Media not
6 intended for distribution or display to the public; (3)
7 instructional Media concerning non-conventional cigarettes
8 viewed only by or provided only to smokers who are Adults; and
9 (4) actions taken by any Participating Manufacturer in
10 connection with a Brand Name Sponsorship permitted pursuant to
11 subsections III(c)(2)(A) and III(c)(2)(B)(i) of the Agreement,
12 and use of a Brand Name to identify a Brand Name Sponsorship
13 permitted by subsection III(c)(2)(B)(ii).

14 D. Beginning July 1, 1999, marketing, distributing,
15 offering, selling, licensing or causing to be marketed,
16 distributed, offered, sold, or licensed (including, without
17 limitation, by catalogue or direct mail), within the State of
18 California, any apparel or other merchandise (other than
19 Tobacco Products, items the sole function of which is to
20 advertise Tobacco Products, or written or electronic
21 publications) which bears a Brand Name. Provided, however,
22 that nothing in this section shall (1) require any
23 Participating Manufacturer to breach or terminate any
24 licensing agreement or other contract in existence as of June
25 20, 1997 (this exception shall not apply beyond the current
26 term of any existing contract, without regard to any renewal
27 or option term that may be exercised by such Participating
28 Manufacturer); (2) prohibit the distribution to any

1 Participating Manufacturer's employee who is not Underage of
2 any item described above that is intended for the personal use
3 of such an employee; (3) require any Participating
4 Manufacturer to retrieve, collect or otherwise recover any
5 item that prior to the MSA Execution Date was marketed,
6 distributed, offered, sold, licensed or caused to be marketed,
7 distributed, offered, sold or licensed by such Participating
8 Manufacturer; (4) apply to coupons or other items used by
9 Adults solely in connection with the purchase of Tobacco
10 Products; (5) apply to apparel or other merchandise used
11 within an Adult-Only Facility that is not distributed (by sale
12 or otherwise) to any member of the general public; or (6)
13 apply to apparel or other merchandise (a) marketed,
14 distributed, offered, sold, or licensed at the site of a Brand
15 Name Sponsorship permitted pursuant to subsection III(c)(2)(A)
16 or III(c)(2)(B)(i) of the Agreement by the person to which the
17 relevant Participating Manufacturer has provided payment in
18 exchange for the use of the relevant Brand Name in the Brand
19 Name Sponsorship or a third-party that does not receive
20 payment from the relevant Participating Manufacturer (or any
21 Affiliate of such Participating Manufacturer) in connection
22 with the marketing, distribution, offer, sale or license of
23 such apparel or other merchandise, or (b) used at the site of
24 a Brand Name Sponsorship permitted pursuant to subsections
25 III(c)(2)(A) or III(c)(2)(B)(i) of the Agreement (during such
26 event) that are not distributed (by sale or otherwise) to any
27 member of the general public.

28 / /

1 E. After the MSA Execution Date, distributing or
2 causing to be distributed within the State of California any
3 free samples of Tobacco Products except in an Adult-Only
4 Facility. For purposes of this Consent Decree and Final
5 Judgment, a "free sample" does not include a Tobacco Product
6 that is provided to an Adult in connection with (1) the
7 purchase, exchange or redemption for proof of purchase of any
8 Tobacco Products (including, but not limited to, a free offer
9 in connection with the purchase of Tobacco Products, such as
10 a "two-for-one" offer), or (2) the conducting of consumer
11 testing or evaluation of Tobacco Products with persons who
12 certify that they are Adults.

13 F. Using or causing to be used as a brand name of any
14 Tobacco Product pursuant to any agreement requiring the
15 payment of money or other valuable consideration, any
16 nationally recognized or nationally established brand name or
17 trade name of any non-tobacco item or service or any
18 nationally recognized or nationally established sports team,
19 entertainment group or individual celebrity. Provided,
20 however, that the preceding sentence shall not apply to any
21 Tobacco Product brand name in existence as of July 1, 1998. For
22 the purposes of this provision, the term "other valuable
23 consideration" shall not include an agreement between two
24 entities who enter into such agreement for the sole purpose
25 of avoiding infringement claims.

26 G. After 60 days after the MSA Execution Date and
27 through and including December 31, 2001, manufacturing or
28 causing to be manufactured for sale within the State of

1 California any pack or other container of Cigarettes
2 containing fewer than 20 Cigarettes (or, in the case of
3 roll-your-own tobacco, any package of roll-your-own tobacco
4 containing less than 0.60 ounces of tobacco); and, after 150
5 days after the MSA Execution Date and through and including
6 December 31, 2001, selling or distributing within the State of
7 California any pack or other container of Cigarettes
8 containing fewer than 20 Cigarettes (or, in the case of
9 roll-your-own tobacco, any package of roll-your-own tobacco
10 containing less than 0.60 ounces of tobacco).

11 H. Entering into any contract, combination or
12 conspiracy with any other Tobacco Product Manufacturer that
13 has the purpose or effect of: (1) limiting competition in the
14 production or distribution of information about health hazards
15 or other consequences of the use of their products; (2)
16 limiting or suppressing research into smoking and health; or
17 (3) limiting or suppressing research into the marketing or
18 development of new products. Provided, however, that nothing
19 in the preceding sentence shall be deemed to (1) require any
20 Participating Manufacturer to produce, distribute or otherwise
21 disclose any information that is subject to any privilege or
22 protection; (2) preclude any Participating Manufacturer from
23 entering into any joint defense or joint legal interest
24 agreement or arrangement (whether or not in writing), or from
25 asserting any privilege pursuant thereto; or (3) impose any
26 affirmative obligation on any Participating Manufacturer to
27 conduct any research.

28 / / /

1 I. Making any material misrepresentation of fact
2 regarding the health consequences of using any Tobacco
3 Product, including any tobacco additives, filters, paper or
4 other ingredients. Provided, however, that nothing in the
5 preceding sentence shall limit the exercise of any First
6 Amendment right or the assertion of any defense or position in
7 any judicial, legislative or regulatory forum.

8
9 **VI. MISCELLANEOUS PROVISIONS**

10 A. Jurisdiction of this case is retained by the Court
11 for the purposes of implementing and enforcing the Agreement
12 and this Consent Decree and Final Judgment and enabling the
13 continuing proceedings contemplated herein. Whenever
14 possible, the State of California and the Participating
15 Manufacturers shall seek to resolve any issue that may exist
16 as to compliance with this Consent Decree and Final Judgment
17 by discussion among the appropriate designees named pursuant
18 to subsection XVIII(m) of the Agreement. The State of
19 California and/or any Participating Manufacturer may apply to
20 the Court at any time for further orders and directions as may
21 be necessary or appropriate for the implementation and
22 enforcement of this Consent Decree and Final Judgment.
23 Provided, however, that with regard to subsections V(A) and
24 V(I) of this Consent Decree and Final Judgment, the Attorney
25 General shall issue a cease and desist demand to the
26 Participating Manufacturer that the Attorney General believes
27 is in violation of either of such sections at least ten
28 Business Days before the Attorney General applies to the Court

1 for an order to enforce such subsections, unless the Attorney
2 General reasonably determines that either a compelling
3 time-sensitive public health and safety concern requires more
4 immediate action or the Court has previously issued an
5 Enforcement Order to the Participating Manufacturer in
6 question for the same or a substantially similar action or
7 activity. For any claimed violation of this Consent Decree
8 and Final Judgment, in determining whether to seek an order
9 for monetary, civil contempt or criminal sanctions for any
10 claimed violation, the Attorney General shall give good-faith
11 consideration to whether: (1) the Participating Manufacturer
12 that is claimed to have committed the violation has taken
13 appropriate and reasonable steps to cause the claimed
14 violation to be cured, unless that party has been guilty of a
15 pattern of violations of like nature; and (2) a legitimate,
16 good-faith dispute exists as to the meaning of the terms in
17 question of this Consent Decree and Final Judgment. The Court
18 in any case in its discretion may determine not to enter an
19 order for monetary, civil contempt or criminal sanctions.
20 B. This Consent Decree and Final Judgment is not
21 intended to be, and shall not in any event be construed as, or
22 deemed to be, an admission or concession or evidence of (1)
23 any liability or any wrongdoing whatsoever on the part of any
24 Released Party or that any Released Party has engaged in any
25 of the activities barred by this Consent Decree and Final
26 Judgment; or (2) personal jurisdiction over any person or
27 entity other than the Participating Manufacturers. Each
28 Participating Manufacturer specifically disclaims and denies

1 any liability or wrongdoing whatsoever with respect to the
2 claims and allegations asserted against it in this action, and
3 has stipulated to the entry of this Consent Decree and Final
4 Judgment solely to avoid the further expense, inconvenience,
5 burden and risk of litigation.

6 C. Except as expressly provided otherwise in the
7 Agreement, this Consent Decree and Final Judgment shall not be
8 modified (by this Court, by any other court or by any other
9 means) unless the party seeking modification demonstrates, by
10 clear and convincing evidence, that it will suffer irreparable
11 harm from new and unforeseen conditions. Provided, however,
12 that the provisions of sections III, V, VI and VII of this
13 Consent Decree and Final Judgment shall in no event be subject
14 to modification without the consent of the State of California
15 and all affected Participating Manufacturers. In the event
16 that any of the sections of this Consent Decree and Final
17 Judgment enumerated in the preceding sentence are modified by
18 this Court, by any other court or by any other means without
19 the consent of the State of California and all affected
20 Participating Manufacturers, then this Consent Decree and
21 Final Judgment shall be void and of no further effect.
22 Changes in the economic conditions of the parties shall not be
23 grounds for modification. It is intended that the
24 Participating Manufacturers will comply with this Consent
25 Decree and Final Judgment as originally entered, even if the
26 Participating Manufacturers' obligations hereunder are greater
27 than those imposed under current or future law (unless
28 compliance with this Consent Decree and Final Judgment would

1 violate such law). A change in law that results, directly or
2 indirectly, in more favorable or beneficial treatment of any
3 one or more of the Participating Manufacturers shall not
4 support modification of this Consent Decree and Final
5 Judgment.

6 D. In any proceeding which results in a finding that a
7 Participating Manufacturer violated this Consent Decree and
8 Final Judgment, the Participating Manufacturer or
9 Participating Manufacturers found to be in violation shall pay
10 the State's costs and attorneys' fees incurred by the State of
11 California in such proceeding.

12 E. The remedies in this Consent Decree and Final
13 Judgment are cumulative and in addition to any other remedies
14 the State of California may have at law or equity, including
15 but not limited to its rights under the Agreement. Nothing
16 herein shall be construed to prevent the State from bringing
17 an action with respect to conduct not released pursuant to the
18 Agreement, even though that conduct may also violate this
19 Consent Decree and Final Judgment. Nothing in this Consent
20 Decree and Final Judgment is intended to create any right for
21 California to obtain any Cigarette product formula that it
22 would not otherwise have under applicable law.

23 F. No party shall be considered the drafter of this
24 Consent Decree and Final Judgment for the purpose of any
25 statute, case law or rule of interpretation or construction
26 that would or might cause any provision to be construed
27 against the drafter. Nothing in this Consent Decree and Final
28 Judgment shall be construed as approval by the State of

1 California of the Participating Manufacturers' business
2 organizations, operations, acts or practices, and the
3 Participating Manufacturers shall make no representation to
4 the contrary.

5 G. The settlement negotiations resulting in this
6 Consent Decree and Final Judgment have been undertaken in good
7 faith and for settlement purposes only, and no evidence of
8 negotiations or discussions underlying this Consent Decree and
9 Final Judgment shall be offered or received in evidence in any
10 action or proceeding for any purpose. Neither this Consent
11 Decree and Final Judgment nor any public discussions, public
12 statements or public comments with respect to this Consent
13 Decree and Final Judgment by the State of California or any
14 Participating Manufacturer or its agents shall be offered or
15 received in evidence in any action or proceeding for any
16 purpose other than in an action or proceeding arising under or
17 relating to this Consent Decree and Final Judgment.

18 H. All obligations of the Participating Manufacturers
19 pursuant to this Consent Decree and Final Judgment (including,
20 but not limited to, all payment obligations) are, and shall
21 remain, several and not joint.

22 I. The provisions of this Consent Decree and Final
23 Judgment are applicable only to actions taken (or omitted to
24 be taken) within the States. Provided, however, that the
25 preceding sentence shall not be construed as extending the
26 territorial scope of any provision of this Consent Decree and
27 Final Judgment whose scope is otherwise limited by the terms
28 thereof.

1 J. Nothing in subsection V(A) or V(I) of this Consent
2 Decree shall create a right to challenge the continuation,
3 after the MSA Execution Date, of any advertising content,
4 claim or slogan (other than use of a Cartoon) that was not
5 unlawful prior to the MSA Execution Date.

6 K. If the Agreement terminates in this State for any
7 reason, then this Consent Decree and Final Judgment shall be
8 void and of no further effect.

9 VII. FINAL DISPOSITION

10 A. The Agreement, the settlement set forth therein, and
11 the establishment of the Escrow provided for therein are
12 hereby approved in all respects, and all claims are hereby
13 dismissed with prejudice as provided therein. The Memorandum
14 of Understanding ("MOU"; a copy of which is attached hereto as
15 Exhibit B and incorporated herein by this reference as though
16 set forth in full) which was entered into on or about August
17 5, 1998, by counsel for the various plaintiffs in the cases
18 coordinated in J.C.C.P. 4041, and which provides for the
19 establishment of an escrow account from which California
20 Cities and Counties may, pursuant to the MOU, receive payment,
21 is approved in all respects.

22 B. The Court finds that the persons signing the
23 Agreement have full and complete authority to enter into the
24 binding and fully effective settlement of this action as set
25 forth in the Agreement. The Court also finds that the persons
26 signing the Stipulation for Entry of Consent Decree and Final
27 Judgment have full and complete authority to enter into said

1 Stipulation. The Court further finds that entering into this
2 settlement is in the best interests of the State of
3 California.

4 C. The First Amended Complaint on file herein against
5 Does 2-200, is ordered dismissed.

6 D. The Court Clerk is ordered to enter this Consent
7 Decree and Final Judgment forthwith.

8
9 Dated: December 9, 1998

10
11 **Ronald S. Prager**

12 RONALD S. PRAGER
13 JUDGE OF THE SUPERIOR COURT

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 TOBACCO CASES.)
16 Including Actions:)
17 Cordova vs. Liggett Group, Inc.) San Diego Superior Court
18) No. 651824)
19 Ellis vs. R.J. Reynolds Tobacco Co.) San Diego Superior Court
20) No. 706458)
21 County of Los Angeles vs. R.J.) San Diego Superior Court
22 Reynolds Tobacco Co.) No. 707651)
23 The People vs. Philip Morris, Inc.) San Francisco Superior
24) Court No. 980864)
25 The People ex rel. Lungren vs.) Sacramento Superior Court
26 Philip Morris, Inc.) No. 97AS 03031)
27)
28)

MEMORANDUM OF UNDERSTANDING

1 This Memorandum of Understanding ("MOU") is entered into by
2 and among counsel representing plaintiffs The People of the State
3 of California, the City and County of San Francisco, the City of
4 Los Angeles and the City of San Jose, and the Counties of Alameda,
5 Contra Costa, Marin, Riverside, Sacramento, San Bernardino, San
6 Diego, San Mateo, Santa Barbara, Santa Clara, San Luis Obispo,
7 Shasta, Monterey, Santa Cruz and Ventura; the American Cancer
8 Society, California Division; the American Heart Association, the
9 California Affiliates; the California Medical Association; the
10 California District of the American Academy of Pediatrics; Julia L.
11 Cordova; the County of Los Angeles and Zev Yaroslavsky; and James
12 Ellis and Gray Davis, in their coordinated action against the
13 tobacco industry.

14 WHEREAS the following actions were brought:

15 1. Cordova v. Liggett Group, Inc., San Diego Super. Ct. No.
16 651824 (filed May 12, 1992).

17 Plaintiff: Julia L. Cordova, a private individual suing
18 on behalf of the general public. Cordova. Second Amended
19 Complaint, ¶6.

20 Plaintiffs' Counsel: Milberg Weiss Bershad Hynes &
21 Lerach LLP, in association with three other law firms. Id. at 1.
22 Defendants: Philip Morris, Reynolds, Brown & Williamson,
23 Lorillard, TI, CTR, United States Tobacco Company, Hill & Knowlton,
24 Inc., Liggett Group, Inc. Id.

25 Factual Allegations: Defendants engaged in a decades-
26 long conspiracy to deceive the public about the health risks of
27 smoking and the "addictive" nature of nicotine, and suppressed the
28 development of "safer" cigarettes. Id. ¶¶20-74.

Causes of Action: The complaint consists of two causes
of action for violations of California's Unfair Competition Act
codified at Bus. & Prof. Code §§17200 et seq. ("UCA"). Id. ¶¶73-
85.

Relief Requested: Disgorgement of "hundreds of millions
of dollars" in "ill-gotten gains"; prohibitory and mandatory
injunctive relief. Id. ¶¶79, 80(c)-(d), 83, 85(c)-(d); id. at 47.

Judge: The Honorable Robert E. May.

State of Pleadings: Settled.

Trial Date: February 5, 1999. Order Setting Trial; at
2 (San Diego Super. Ct. Aug. 8, 1997).

2. Ellis v. R.J. Reynolds Tobacco Co., San Diego Super. Ct.
11 No. 705458 (filed July 24, 1996; refiled after voluntary dismissal,
14 on Dec. 17, 1996).

Plaintiffs: James Ellis and Gray Davis, suing as private
16 individuals on behalf of the general public. Ellis. Third Amended
17 Complaint, ¶4.

Plaintiffs' Counsel: Robinson, Calcagnie & Robinson in
18 association with a number of other firms. Id. at 1.

20 Defendants: Philip Morris, Reynolds, Brown & Williamson,
21 Lorillard, TI, CTR, B.A.T. Industries p.l.c., British American
22 Tobacco Company, Ltd., Batus Holdings, Inc., Batus, Inc., Liggett
23 & Myers. Id.

Factual Allegations: Defendants engaged in a decades-
25 long conspiracy to deceive the public about the health risks of
26 smoking and the "addictive" nature of nicotine. Id. ¶¶1, 23-60,
27 suppressed the development of "safer" cigarettes (id. ¶¶154-79),

1 wrongfully manipulated nicotine levels in cigarettes (id. ¶11), and
2 intentionally marketed their products to minors (id. ¶¶209-44).

3 Causes of Action: The complaint consists of two causes
4 of action for violations of the UCA. Id. ¶¶253-64.

5 Relief Requested: Disgorgement of "hundreds of million:
6 of dollars" in "ill-gotten gains" (id. ¶¶256-57, 263-64)
7 prohibitory injunctive relief (id. at 81-82); and mandatory
8 injunctive relief requiring (1) disclosure of all research relating
9 to smoking, health, and addiction, (2) funding of smoking-cessation
10 programs, and (3) disclosure of nicotine yields of all products
11 (id. at 82).

12 Judges: The Honorable Robert E. May.

13 State of Pleadings: Settled.

14 Trial Date: February 5, 1999. Order Setting Trial, at
15 2 (San Diego Super. Ct. Aug. 8, 1997).

16 3. County of Los Angeles v. R.J. Reynolds Tobacco Co., Sar
17 Diego Super. Ct. No. 707651 (filed Aug. 5, 1996).

18 Plaintiffs: Los Angeles County Supervisor Zev
19 Yaroslavsky, on behalf of the general public, and the County of Los
20 Angeles. County of Los Angeles, Fifth Amended Complaint, ¶3.

21 Plaintiffs' Counsel: Robinson, Calcagnie & Robinson, in
22 association with a number of other firms. Id. at 1.

23 Defendants: Philip Morris, Reynolds, Brown & Williamson,
24 Lorillard, TI, CTR, B.A.T. Industries p.l.c., British American
25 Tobacco Company, Ltd., Liggett & Myers, Inc. Id.

26 Factual Allegations: Defendants engaged in a decades-
27 long conspiracy to deceive the public about the health risks of
28 smoking and the "addictive" nature of nicotine (id. ¶¶1, 23-59).

1 suppressed the development of "safer" cigarettes (id. ¶¶153-74),
2 wrongfully manipulated nicotine levels in cigarettes (id. ¶¶196-
3 206), and intentionally marketed their products to minor (id.
4 ¶¶208-43).

5 Causes of Action: The complaint consists of two causes
6 of action for violations of the UCA (id. ¶¶257-63), one cause of
7 action for violations of the False Advertising Law codified at Bus
8 & Prof. Code §§17500 et seq. ("FAL") (id. ¶¶264-68), and claims for
9 negligence, strict liability, fraud, and breach of warranty (id.
10 ¶¶269-302).

11 Relief Requested: The UCA and FAL causes of action seek
12 disgorgement of "hundreds of millions of dollars" in "ill-gotten
13 gains" (id. ¶¶255-56, 263, 268), prohibitory injunctive relief (id.
14 at 94), and mandatory injunctive relief requiring (1) disclosure of
15 all research relating to smoking, health and addiction, (2) funding
16 of smoking-cessation programs, (3) disclosure of nicotine yields of
17 all products, and (4) cessation of advertising campaigns allegedly
18 targeting minors (id. at 94-95). The causes of action for negli-
19 gence, strict liability, breach of warranty, and fraud seek money
20 damages in the amount of the County's health-care expenditures for
21 alleged smoking-related illnesses. Id. at 96.

22 Judge: The Honorable Robert E. May.

23 State of Pleadings: Settled as to UCA and FAL.

24 Trial Date: February 5, 1999 (as to the UCA and FAL
25 claims) The causes of action seeking to recoup health-care
26 expenditures are scheduled to be tried at some date after February
27 5, 1999

4. People v. Philip Morris, Inc., San Francisco Super. Ct. No. 980864 (filed Sept. 5, 1996).

Plaintiffs: The City and County of San Francisco, seventeen other cities and counties on behalf of the People of the State of California and four medical organizations. People, Second Amended Complaint, ¶¶6-10.

Plaintiffs' Counsel: Louise Renne, the City Attorney for the City and County of San Francisco, Lieff, Cabraser, Heimann & Bernstein, LLP and Milberg Weiss Bershad Hynes & Lerach LLP.

Defendants: Philip Morris, Reynolds, Brown & Williamson, Lorillard, TI, CTR. People, Second Amended Complaint, at 1.

Factual Allegations: Defendants engaged in a decades-long conspiracy to deceive the public about the health risks of smoking and the "addictive" nature of nicotine (id. ¶¶1-3, 130-71), suppressed the development of "safer" cigarettes (id. ¶¶2, 72-93), wrongfully manipulated nicotine levels in cigarettes (id. ¶¶1, 98-101), and intentionally marketed their products to minors (id. ¶¶1, 104-37).

Causes of Action: The complaint consists of three causes of action for violations of the UCA and one cause of action for violation of the FAL. Id. ¶¶141-64.

Relief Requested: Disgorgement of "all profits" acquired by means of the alleged conduct (id. at 46); civil penalties (id.); prohibitory injunctive relief (id. at 45); and mandatory injunctive relief requiring (1) disclosure of all research relating to smoking, health, and addiction; (2) funding of smoking-cessation programs; (3) disclosure of nicotine yields of all products; (4) cessation of advertising campaigns allegedly targeting minors;

and (5) the funding of a "corrective public education campaign" (id. at 46).

Judge: The Honorable Paul H. Alvarado.

State of Pleadings: Settled

Trial Date: March 1, 1999. Minute Order ¶1 (San Francisco Super. Ct. Apr. 28, 1997).

5. People ex rel. Lungren v. Philip Morris, Inc. (the "AG case"), Sacramento Super. Ct. No. 97 AS 03031 (filed June 12, 1997)

Plaintiffs: The People of the State of California ex rel. Daniel E. Lungren, Attorney General of the State of California and S. Kimberly Belshe, Director of Health Services of the State of California. AG, First Amended Complaint, ¶¶1-2.

Plaintiffs' Counsel: The Attorney General of the State of California. Id. at 1.

Defendants: Philip Morris, Reynolds, Brown & Williamson, Lorillard, CTR, TI, B.A.T. Industries p.l.c., United States Tobacco Company, Smokeless Tobacco Council, Inc., British American Tobacco Company, Hill & Knowlton, Inc. Id.

Factual Allegations: Defendants engaged in a decades-long conspiracy to deceive the public about the health risks of smoking and the "addictive" nature of nicotine (id. ¶¶26-48), suppressed the development of "safer" cigarettes (id. ¶¶36-43), wrongfully manipulated nicotine levels in cigarettes (id. ¶¶47, 59, 60, 69), intentionally marketed their products to minors (id. ¶¶49-54), and knowingly making false claims or statements to avoid fines and penalties for violations of statutes. (Id. ¶¶26-54)

1 Causes of Action: The complaint consists of one cause of
2 action for violations of the UCA (id. ¶¶82-82), one cause of action
3 for recovery of Medi-Cal costs (id. ¶¶56-69), and one cause of
4 action for violation of the Cartwright Act (id. ¶¶70-74) and one
5 cause of action for violations of the False Claims Act. (Id. ¶¶75-
6 80).

7 Relief Requested: Prohibitory injunctive relief (id. at
8 23-24); civil fines and penalties under the UCA and the California
9 False Claims Act (Cal. Gov't Code §§12650-12655) (id. at 24); and
10 damages equivalent to the State's Medi-Cal expenditures for alleged
11 smoking-related illnesses for the last three years (id. at 23).

12 Judge: The Honorable John R. Lewis (for law and motion
13 matters)

14 State of Pleadings: As to UCA and predicate antitrust
15 claims settled.

16 Trial Date: The court has not set a trial date.
17 However, the court has ordered that the case be disposed of by
18 August 31, 2000.

19 WHEREAS, provided trial of the cases is not materially
20 delayed, the parties agree that the cases should be coordinated and
21 consolidated for a single trial of all of the UCA and FAL claims
22 because coordination and consolidation will promote the ends of
23 justice.

24 WHEREAS, the undersigned parties acknowledge the coordination
25 of civil actions sharing a common question of fact or law is
26 appropriate where "one judge hearing all of the actions for all
27 purposes will promote the ends of justice." Cal. Civ. Proc.
28 Code §404.1. The determination of whether coordination will

1 "promote the ends of justice," involves the consideration of the
2 following factors set forth in Code of Civil Procedure §404.1.
3 these factors are: (1) "whether the common question of fact or law
4 is predominating and significant to the litigation;" (2) "the
5 convenience of parties, witnesses, and counsel"; (3) "the relative
6 development of the actions and the work product of counsel";
7 (4) "the efficient utilization of judicial facilities and
8 manpower"; (5) "the calendar of the courts"; (6) "the disadvantages
9 of duplicative and inconsistent rulings, orders, or judgments"; and
10 (7) "the likelihood of settlement of the action without further
11 litigation should coordination be denied." The parties agree that
12 these five actions satisfy the above conditions.

13 WHEREAS, these cases present significant and predominating
14 common questions of fact and law. All five of the cases seek to
15 determine whether aspects of the tobacco industry defendants'
16 research, manufacturing, and marketing practices over the last
17 forty years constitute unfair competition, an illegal combination
18 in violation of antitrust laws and whether the people of California
19 are entitled to relief. In all of the cases, the courts will
20 confront similar factual questions including:

21 Whether the Tobacco Industry misrepresented or concealed
22 facts known to them about the health risks of smoking

23 Whether the Tobacco Industry misrepresented or concealed
24 information about the "addictive" nature of nicotine

25 Whether California consumers were deceived or likely to
26 be deceived by misstatements or the concealment of facts
27 about health and smoking by the Tobacco Industry

28 Whether the Tobacco Industry "manipulated" nicotine
content or delivery of nicotine in their products

Whether the Tobacco Industry acted in concert to suppress development of a "safer" cigarette, and the effects of any such coordinated action

Whether the Tobacco Industry violated state antitrust laws

Whether the marketing practices of the cigarette companies deliberately or unfairly targeted or induced minors to smoke

WHEREAS the initial trial of the UCA and FAL claims involve many significant identical legal questions including:

Whether the Tobacco Industry's conduct amounts to an "unfair" business practice within the meaning of the UCA

Whether the Tobacco Industry's conduct amounts to an "unlawful" business practice within the meaning of the UCA

Whether the Tobacco Industry's conduct amounts to a "fraudulent" business practice within the meaning of the UCA

Whether the Tobacco Industry's conduct amounts to an illegal combination in violation of the Carwright Act and the UCA

Whether the Tobacco Industry's conduct amounts to false or deceptive advertising within the meaning of the FAL.

Whether any applicable statute of limitations has barred any claims wherein an ongoing conspiracy has been charged

WHEREAS, the convenience of parties, witnesses, and counsel will be served by coordination between the parties and discovery can be freely exchanged with the additional manpower focused on discrete areas to ensure proper preparation of the coordinated actions for trial.

WHEREAS by centralizing the actions in a single court, a coordinated action will preserve judicial resources.

WHEREAS, coordination by the parties helps in the overall-preparation for trial and may improve the chances for resolving these cases prior to trial, or otherwise obtaining significant

monetary and public health relief. Further, the actions were ordered coordinated. See Order Re: Coordination No. JCCP4041.

NOW, THEREFORE, it is agreed as follows:

1. EXECUTIVE COMMITTEE: An Executive Committee will be formed to review, consider and make all significant and/or material decisions in the litigation. The Executive Committee will consist of a representative from the Attorney General's office, Milberg Weiss Bershad Hynes & Lerach LLP, Lief, Cabraser, Heimann & Bernstein LLP, Robinson, Calcagnie & Robinson, the City Attorney's office for the City and County of San Francisco and Los Angeles County Counsel. Each member of the Executive Committee shall play a significant role in the trial of this matter. The Attorney General is hereby designated by the Executive Committee as liaison counsel pursuant to California Rules of Court, Rule 1541.

2. FUNDING OF EXPENSES: The undersigned parties agree to share Funding of Expenses with each of the following entities responsible for one quarter of the expenses: The Attorney General's office, Milberg Weiss Bershad Hynes & Lerach LLP, Lief, Cabraser, Heimann & Bernstein, LLP, and Robinson, Calcagnie & Robinson. To that end, an initial fund of \$500,000 shall be established with each of the above entities placing \$125,000 into the fund. The fund shall be established in the city in which the action is coordinated.

3. SHARING OF INFORMATION: The undersigned parties shall provide full and complete access to each other of all material in the respective possession or control with respect to the coordinated claims.

4. PROTECTION OF CONFIDENTIAL INFORMATION: The undersigned parties recognize that there is a mutuality of interest in the

1 common representation of their respective claims and that it is in
2 the parties interest to share information. The parties agree to
3 continue to pursue their common interests and to avoid any
4 suggestion of waiver of privileged communications. Accordingly, it
5 is the parties' intention and understanding, and they hereby agree,
6 that communications of information and joint interviews among the
7 parties in connection with the UCA, antitrust and FAL claims are
8 confidential and are protected from disclosure to any third party
9 by the attorney-client privilege and the work-product doctrine.
10 The parties agree that all information, documents or materials,
11 including, but not limited to, all client and witness statements,
12 interviews conducted separately or jointly by the parties,
13 memoranda of law, debriefing memoranda, factual summaries,
14 transcript digests, and other such materials and information which
15 would otherwise be protected from disclosure to third parties
16 (hereinafter referred to as "Confidential Material"), and which are
17 exchanged among any of the parties pursuant to this agreement,
18 shall remain confidential and protected from disclosure to any
19 third party by the attorney-client privilege and the work-product
20 doctrine.

21 Further, because the exchange of Confidential Material is
22 essential to the effective representation of the parties, the
23 parties believe that the Confidential Material is protected by the
24 attorney-client privilege and the attorney work-product doctrine.
25 The exchange of Confidential Material pursuant to this Agreement is
26 not intended to waive any attorney-client privilege or work-product
27 protection otherwise available. Moreover, any inadvertent or
28 purposeful disclosure of Confidential Material exchanged pursuant

to this Agreement which is made by a party to this Agreement shall
not constitute a waiver of any privilege or protection of any other
party to the Agreement. The Agreement applies equally to
Confidential Material that has been exchanged or provided among the
parties to date under an oral understanding consistent with the
terms of this Agreement.

5. ALLOCATION BETWEEN LEGAL CLAIMS: In the event of recovery
either by judgment after trial or by settlement, including a
resolution of claims through federal legislation, it is the
reasoned opinion of all parties to this agreement based on the
current status and viability of all claims currently pending
against the tobacco defendants when balanced against the claims
that are currently on appeal, that 100% of the recovery shall be
allocated to the UCA, antitrust and FAL claims.

6. ALLOCATION OF ANY RECOVERY:

a. The recovery, as allocated to the UCA, Antitrust and
FAL claims, shall be exclusively divided between the state, cities
and counties as follows:

i. 50% of the total recovery to the State of
California.

ii. 50% of the total recovery to the cities and
counties of California. Direct recovery to cities shall be
restricted to cities whose city attorneys could have maintained an
independent action under Business and Professions Code section
17204 to wit: Los Angeles, San Diego, San Francisco and San Jose
(hereinafter the "eligible cities"). The recovery to the cities
and counties shall be distributed as follows: ten percent (10%),
distributed equally to the eligible cities (2.5% each) on a yearly

3 basis; the remaining ninety percent (90%) distributed yearly to the
4 58 counties within the State of California, on a per capita basis,
5 calculated using the most current official United States Census
6 numbers. In the event of a settlement of the State of California's
7 claims, the sharing of the recovery by eligible cities and the
8 counties will be conditioned upon a release by each city and county
9 of all tobacco related claims consistent with the extent of the
10 state's release and a dismissal with prejudice of any city or
11 county's pending action. The monies payable under this agreement
12 to settle the claims of the state, cities and/or counties shall be
13 payable directly or through a qualified settlement fund pursuant to
14 Section 468B of the Internal Revenue Code of 1986, and Treas. Reg.
15 Section 1.468B or any similar tax exempt equivalent set up
16 specifically for the purpose of making payments to each of these
17 entities based on the formula agreed upon herein. Further, any
18 monies the state, cities or counties receive under the provisions
19 of this MOU are independent of any federal, state or other monies
20 the participating state, city or county would otherwise receive and
21 shall not be considered a recovery or reimbursement of any federal
22 monies. In the event a city or county chooses not to participate
23 in a settlement, and opts instead to pursue its respective
24 litigation, that entity agrees not to share in the recovery
25 pursuant to the distribution set forth in this MOU. In such case,
26 that portion of the total recovery that would otherwise have been
27 allocated to that entity shall be allocated 50% to the state, and
28 50% to the remaining cities and counties, in accordance with the
allocation formula set forth above. Should any city or county
choose not to participate in a settlement and elect instead to

3 pursue its respective litigation against the settling defendant,
4 any final judgment, from which no appeal may be taken, obtained by
5 the city or county in such litigation may be credited against the
6 amounts to be paid by the settling defendants to the state and the
7 participating cities and counties under the terms of such
8 settlement and this MOU.

9 iii. In the event the federal government asserts a
10 claim over any monies obtained through a settlement, judgment or
11 other recovery against the tobacco product manufacturers or
12 otherwise acts to reduce the amount it provides the State of
13 California under 42 U.S.C. §1396b(d) (2) (B) on account of any monies
14 received pursuant to a recovery against the tobacco product
15 manufacturers, such reduction shall be borne proportionally by the
16 state and the cities and counties that will receive a distribution
17 as proposed under this MOU. This event may be triggered at any
18 time, and the parties agree that no restriction shall be imposed on
19 the timing, frequency or amount of such adjustments as between the
20 state and the cities and counties, and that such adjustments shall
21 apply retroactively or prospectively as the need arises by virtue
22 of federal action, but that any such adjustment shall be confirmed
23 by the court where the consent decree is entered.

24 iv. The distribution of funds pursuant to this MOU
25 is not subject to alteration by legislative, judicial or executive
26 action at any level. If such action occurs and alters the
27 distribution of these funds pursuant to this MOU, and survives all
28 legal challenges to it, the distribution of these funds shall be
modified to offset such action and shall be borne proportionally
by the state and the cities and counties.

7 ATTORNEYS FEES:

8 a. Government Attorneys fees and Costs -- It is
9 contemplated that a settlement of the State of California's claims
10 may provide for the reimbursement of the Office of the Attorney
11 General and other appropriate agencies of the state, cities or
12 counties, including city attorneys, county counsel offices and the
13 Department of Health Services for the reasonable costs and expenses
14 incurred in connection with the litigation or resolution of pending
15 tobacco related claims, excluding: (i) costs and expenses relating
16 to lobbying activities, and (ii) fees and costs of outside counsel.
17 Such reimbursement shall be calculated based upon hourly rates
18 equal to the local market rate for private attorneys, paralegals,
19 clerks, executives, analysts or other staff of equivalent
20 experience and seniority. The attorney general, its appropriate
21 agencies and participating political subdivisions shall provide
22 appropriate documentation of all costs, expenses and attorneys'
23 fees for which payment is sought, and shall be subject to audit.
24 This reimbursement shall be paid separately and apart from any
25 other amounts due pursuant to any settlement by the state.
26 Further, to the extent a settlement does not provide for
27 reimbursement (or provides for less than full reimbursement) to the
28 above agencies, such reimbursement shall come off the top before
29 any distribution of monies contemplated in §§6.a.i and ii.
30 Finally, a one time payment of one million dollars (\$1,000,000)
31 shall be distributed to the "The False Claims Act Fund" (Government
32 Code Section 12652 (j)) before any distribution of monies
33 contemplated in §§6.a.i. and ii.

b. Private Outside Counsel --

1 i. The Attorney General of the State of California
2 has not employed private outside counsel to assist in the
3 Prosecution of The People ex rel. Lumsden vs. Philip Morris, Inc.,
4 Sacramento Superior Court No. 97AS03031.
5
6 ii. The following public entity or benefit cases
7 have arrangements with private outside counsel to assist them in
8 prosecuting their respective claims: Cordova v. Liggett Group,
9 Inc., SDSC No. 651824 ("Cordova"); Ellis v. R.J. Reynolds Tobacco
10 Co., SDSC No. 706458 ("Ellis"); County of Los Angeles v. R.J.
11 Reynolds Tobacco Co., SDSC No. 707651 ("Los Angeles"); The People
12 v. Philip Morris, Inc., SFSC No. 980564 ("San Francisco"). Private
13 counsel representing these plaintiffs are sensitive to the issue of
14 private counsel representing public parties in tobacco litigation
15 and their appropriate compensation. While this agreement in no way
16 abrogates, changes or attempts to modify any fee agreement private
17 counsel may have, all private counsel in the above listed actions
18 agree to the following procedures in seeking to obtain fees or
19 enforce any fee agreements with their respective clients: In
20 addition to using best efforts to recover fees from defendants, in
21 the event of a settlement of the State of California's claims, and
22 to the extent a city or county agrees to release its claims in
23 return for its share in the recovery pursuant to this MOU, private
24 outside counsel agree to seek fees, costs and expenses in
25 accordance with any mechanism set up pursuant to such settlement.
26 Private counsel seeking reimbursement shall provide appropriate
27 documentation of their costs and expenses, and shall be subject to
28 audit. Payments received pursuant to this mechanism shall be paid

DATED : August 5, 1998

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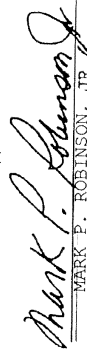
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1 separately and apart from any other amounts due pursuant to any
2 settlement by the state and shall in no way go to reduce the
3 state's recovery. Private counsel agree that any fees, expenses or
4 costs recovered by private counsel in consideration for services to
5 or representation of their public entity clients pursuant to such
6 mechanism shall be deducted from any fees, costs or expense
7 payable under fee agreements with their respective clients. All
8 private counsel acknowledge that their fee service contracts are
9 subject to Rule 4-200 of the Rules of Professional Conduct of the
10 State Bar of California which bars members of the Bar from charging
11 or collecting an unconscionable fee. The Attorney General asserts
12 that any fee dispute between private counsel and their respective
13 clients should be submitted to the trial judge in the manner of a
14 Code of Civil Procedure 51021.5 proceeding. Private counsel agree
15 that any fee dispute shall be submitted to the trial judge.
16 Private counsel, however, do not agree that such submission be
17 limited in the manner of a Code of Civil Procedure 51021.5
18 proceeding.
19 8. SETTLEMENT: Should any party enter into settlement
20 discussions with defendants or their counsel, that party shall, to
21 the extent possible and in a timely manner, inform the other
22 parties of the scope and nature of the settlement discussions. In
23 no event shall any party attempt to settle claims which that party
24 has no legal authority to settle.
25
26
27
28

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AGREEMENT
REGARDING INTERPRETATION
OF
MEMORANDUM OF UNDERSTANDING

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AGREEMENT REGARDING INTERPRETATION
OF
MEMORANDUM OF UNDERSTANDING

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**AGREEMENT REGARDING INTERPRETATION
OF
MEMORANDUM OF UNDERSTANDING**

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WHEREAS, the parties hereto, the State of California and the Cities and Counties which become signatories to this Agreement Regarding Interpretation of the Memorandum of Understanding ("this Agreement"), agree that the terms as used herein shall have the meaning ascribed to them in Section 1 hereof; and

WHEREAS, the State and a number of California Cities and Counties, on August 5, 1998, entered into an agreement entitled "Memorandum of Understanding" (the "MOU") which is attached hereto as Appendix A; and

WHEREAS, on December 9, 1998, the Honorable Ronald Prager, Judge of the San Diego County Superior Court, as the Coordination Trial Judge in *In re Tobacco Cases I, J, C.P. 4041*, signed and entered a Consent Decree and Final Judgment as between the State of California and the Participating Manufacturers, which Final Judgment is attached hereto in its entirety as Appendix B and incorporates within it as Exhibit A thereto the settlement agreement entitled "Master Settlement Agreement" (the "MSA") which the Settling States, including the State of California, and the Participating Manufacturers entered into on November 23, 1998, and incorporates within it as Exhibit B the MOU; and

WHEREAS, pursuant to the MSA, the State is entitled to funds distributed through the National Escrow Agreement which was entered into on December 23, 1998, between the Settling States, including the State of California, and the Participating Manufacturers and the Escrow Agent, which is attached hereto as Appendix C; and

WHEREAS, pursuant to the National Escrow Agreement, Citibank, N.A., was appointed by the Settling States, including the State of California, and the Participating Manufacturers to serve as the Escrow Agent under the terms and conditions set forth therein; and

WHEREAS, pursuant to the National Escrow Agreement, the Escrow Agent shall allocate the national tobacco settlement monies among accounts including State-Specific Accounts with respect to each Settling State, including the State of California, in which State-Specific Finality occurs, in accordance with written instructions from the National Independent Auditor; and

WHEREAS, pursuant to the MSA, upon the occurrence of State-Specific Finality in California, the California portion of the monies deposited by the Participating Manufacturers in the Subsection IX(b) Account (First), the Subsection IX(b) Account (Subsequent), the Subsection IX(c)(1) Account, and the Subsection IX(c)(2) Account (as such accounts are defined in the National Escrow Agreement) shall be transferred to a State-Specific Account designated by the MSA as the account for the State of California ("California Account"); and

WHEREAS, pursuant to the MSA, after Final Approval, the Independent Auditor shall instruct the Escrow Agent to disburse the funds held in the California Account to (or as directed by) the State; and

WHEREAS, pursuant to the MSA, to the extent that a payment is made to the California Account after the occurrence of all applicable conditions for the disbursement of such payment to the State, the Independent Auditor shall instruct the Escrow Agent to disburse such payment promptly following its deposit; and

WHEREAS, pursuant to the MOU, certain Cities and all Counties in California, upon meeting the conditions set forth in the MOU, are entitled to 50% of all funds transferred to the California Account, designated as the State-Specific account for the State of California distributed by virtue of the MSA; and

WHEREAS, the parties hereto recognize that issues may arise as to the proper interpretation of the MOU and such parties desire to: (i) set forth their understanding of the interpretation to be given to the terms the MOU; and (ii) establish a procedure for the expeditious resolution of any future disputes that may arise as between any of them as to the proper interpretation of the MOU and/or this Agreement; and

WHEREAS, the parties hereto have agreed that if judicial interpretation of the MOU or this Agreement becomes necessary, it is important that a single court within the State of California adjudicate all disputes between the parties as to the meaning and proper interpretation of the MOU and/or this Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in the MOU and this Agreement, the parties hereto agree as follows:

SECTION 1. DEFINITIONS.

- A. All terms herein have the same meaning as, and are defined the same as they are defined in the MSA unless specifically modified in Section 1.B hereof. All definitions contained in the MSA entered on November 23, 1998, are incorporated by reference herein in this Agreement.
- B. As used in this Agreement, the following terms have the following meanings:
- (1) The term "Agreement" or "this Agreement" means this Agreement Regarding Interpretation Of Memorandum Of Understanding.
 - (2) The term "book value" means the net amount at which a portfolio is shown in the accounting records.

(3) The term "California Account" means the State-Specific Account with respect to California which is established after California State-Specific Finality has occurred as referenced by Section 3(b) of the National Escrow Agreement.

(4) The term "City/County Steering Committee" means the City and County of San Francisco, the City of Los Angeles, the City of San Jose, the County of Santa Clara, the County of Santa Barbara and the County of Los Angeles.

(5) The term "City Designee," "County Designee," "City and County Designees" and/or "City Designees/County Designees" means, individually or collectively, the person(s) designated by each individual Eligible City and Eligible County to receive any notifications or statements and/or to provide any transfer or disbursement instructions.

(6) The term "City" or "Cities" means, individually or collectively, the City of Los Angeles, the City of San Diego, the City of San Francisco and the City of San Jose.

(7) The term "County" or "Counties" means, individually or collectively, the 58 counties of California.

(8) The term "City/County Dispute Resolution Court" means the J.C.P. 4041 Court.

(9) The term "Eligible City," "Eligible County," "Eligible Cities and/or Eligible Counties" and/or "Eligible Cities/Eligible Counties" means, individually or collectively, those Cities and Counties who because they have satisfied all requirements under the MOU and this Agreement are entitled to receive a portion of tobacco settlement monies which are transferred to the California Account as provided by the MSA, the MOU and this Agreement. To achieve the status of Eligible City or Eligible County, each City or County must:

- (a) Execute one original "Model Release," attached hereto as Appendix "D" (or such other form of release that the City/County Dispute Resolution Court determines satisfies the release requirements of Section 6.a.ii of the MOU), and provide the executed original Release to the State; and
- (b) Execute one original of this Agreement and provide the executed original to the State; and
- (c) Execute one original "Authorization and Designation of City/County Designees," attached hereto as Appendix "E," and provide the executed original to the State; and
- (d) Execute one original "Transfer Instructions" in the form attached hereto as Appendix "F," and provide the executed original to the State; and

- (e) Execute one original Form W-9, attached hereto as Appendix "G," and provide the executed original to the State.

The address to which the above identified executed original documents are to be sent by each City and/or County seeking to become an Eligible City and/or Eligible County is set forth in Appendix "H."

- (10) The term "J.C.C.P. 4041 Court" means the San Diego County Superior Court that presided over *In Re Tobacco Cases I*, Judicial Council Coordination Proceeding No. 4041.

- (11) The term "Memorandum of Understanding" or "MOU" means the agreement entered between the State and certain Represented Cities and Counties on August 5, 1998, which is attached hereto as Appendix A.

- (12) The term "MOU Proportional Allocable Share" means that portion of the Tobacco Settlement Proceeds to be transferred to the California Account as provided for by the MSA and then received by the State and Cities and Counties, in the percentages set forth in Section 6 of the MOU.

- (13) The term "mark-to-market" means the value of a portfolio at current market prices.

- (14) The term "Official United States Decennial Census" means the census taken every ten years by the federal government, but such census does not become the "Official United States Decennial Census" for the purposes of the MOU and this Agreement until such time as it is presented to the Governor of the State of California. If the United States Decennial Census is presented to the Governor of the State of California within the 30 days immediately prior to the date the State is to give notice pursuant to Section 3.K of this Agreement, it shall not be treated as the "Official United States Decennial Census" until after the transfer which is the subject of such notification has been made.

- (15) The term "Represented City," "Represented County" and/or "Represented Cities and Counties" means individually or collectively, the City and County of San Francisco, the Cities of Los Angeles, San Diego and San Jose, and the Counties of Alameda, Contra Costa, Marin, Monterey, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta and Ventura that executed contingency fee contracts with private outside counsel to prosecute tobacco-related claims, and the County of Los Angeles who executed a separate contingency fee contract with private outside counsel to prosecute tobacco-related claims.

- (16) The term "Responsible Entity" means the entity, whether the State or a City or County, that obtains a judgment or settlement which causes a claim-over as described in Section XII(a)(4) of the MSA.

- (17) The term "State" means the State of California.

- (18) The term "States" means those States and Commonwealths of the United States that signed the MSA.

- (19) The term "Sub-Account(s)" means a sub-account or sub-accounts created in the California Account.

- (20) The term "Tobacco Settlement Proceeds" or "Tobacco Settlement Monies" means the monies transferred to the California Account as provided by the MSA.

- (21) The term "transfer" means the transfer of money among and to different Sub-Accounts of the California Account. It does not mean payment or disbursement as used in the National Escrow Agreement.

**SECTION 2.
AGREEMENT AS TO THE PROPER COURT
FOR INTERPRETATION OF THE MOU AND THIS AGREEMENT.**

The parties hereto irrevocably and unconditionally submit to the continuing exclusive jurisdiction of the J.C.C.P. 4041 Court for purposes of any action or proceeding seeking to enforce any provision of, or based on any right arising out of, the MOU or this Agreement, and agree that they shall not commence any such action or proceeding except in the J.C.C.P. 4041 Court. The parties hereto agree that any dispute between or among the State, any Eligible City and/or any Eligible County shall be submitted by motion (or, if appropriate, by Ex Parte Application) to the J.C.C.P. 4041 Court, including any dispute regarding (i) the accuracy of any calculation pertinent to the allocation formula as described in Section 3.J of this Agreement, and/or (ii) the calculation or assessment of a Claim Over Offset Amount as described in Section 4.C of this Agreement. The parties hereto agree that any such decision by the J.C.C.P. 4041 Court shall be appealable, but that absent an appropriate Order any such appeal shall not delay any disbursement of any disputed amounts in accordance with the J.C.C.P. 4041 Court's decision. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such application, motion action or proceeding in the J.C.C.P. 4041 Court, and further, irrevocably waive and agree not to plead or claim in the J.C.C.P. 4041 Court that any such suit, action or proceeding has been brought in an inconvenient forum.

**SECTION 3.
 UNDERSTANDINGS REGARDING THE MSA AND THE MOU
 AS THEY RELATE TO THE RELEASE OF FUNDS
 PURSUANT TO THE MSA AND THE MOU
 PRIOR TO SATISFACTION OF ALL TERMS AND CONDITIONS
 OF SECTION 3.C OF THE NATIONAL ESCROW AGREEMENT.**

- A. Before such time as all events and conditions set forth in Section 3.C of the National Escrow Agreement have been satisfied and the funds are released to the States, all funds received by the Escrow Agent pursuant to the terms of the National Escrow Agreement shall constitute the "Escrow" and shall be held and disbursed in accordance with the terms of the National Escrow Agreement and this Agreement. In the event of a conflict, until such time as all events and conditions set forth in Section 3.C of the National Escrow Agreement have been satisfied and the Escrow Agent is notified to release the escrow funds to the States, the terms of the National Escrow Agreement shall govern over terms in the MOU or this Agreement. The State shall instruct the national Escrow Agent that such funds and any earnings thereon shall be held by the Escrow Agent separate and apart from all other funds and accounts of the Escrow Agent, the State, the Cities and Counties and the Participating Manufacturers.
- B. The Escrow Agent shall allocate the Escrow among the accounts referenced in the National Escrow Agreement (each one an "Account" and collectively the "Accounts") including the California Account in accordance with written instructions from the Independent Auditor.
- C. Pursuant to Section 20 of the National Escrow Agreement, and in accordance with the MOU and this Agreement, the State shall instruct the Escrow Agent to allocate the money flowing into the California Account as follows:
- (1) It is understood by the parties to this agreement that prior to the entry of an Order by the J.C.C.P. 4041 Court approving this Agreement, there will be two disbursements of Tobacco Settlement Proceeds pursuant to the MSA; the December 14, 1999, disbursement and the January 10, 2000, disbursement. It is therefore understood by the parties to this Agreement that:
- (a) With respect to the December 14, 1999 disbursement, in accordance with the terms of the MOU, \$1,000,000.00 was credited and transferred to the False Claims Act Fund. The remaining funds (after transfer of \$1,000,000.00 to the False Claims Act Account) were credited 50% to the State and 50% to the Cities and Counties. The 50% of the funds credited to the State were transferred to the State General Fund at or about the time of the December 14, 1999 disbursement. At the time of disbursement, the 50% of the funds credited to the Cities and Counties were transferred to the "Tobacco Settlement Fund Account" maintained by the California Department of Justice, to be held on an interim basis for the exclusive benefit of the Cities and Counties until such time as the Court approves

this Agreement, and the City/County Account described in section 4.B.(2)(ii) of this Agreement is created.

- (b) With respect to the January 10, 2000, disbursement, in accordance with the terms of the MOU, 50% of the funds will be credited to the State and 50% to the Cities and Counties. The 50% of the funds credited to the State will be transferred to the State General Fund at the time of the disbursement. At the time of disbursement, the 50% of the funds credited to the Cities and Counties will be transferred to the "Tobacco Settlement Fund Account" maintained by the California Department of Justice, to be held on an interim basis for the exclusive benefit of the Cities and Counties until such time as the Court approves this Agreement, and the City/County Account described in section 4.B.(2)(ii) of this Agreement is created. Any future disbursements that become available before the execution of this Agreement and a conforming escrow agreement between the State and the Escrow Agent shall be treated in the same manner.
- (c) Upon approval of this Agreement by the J.C.C.P. 4041 Court and the execution of a conforming escrow agreement between the State and the Escrow Agent, all funds in the "Tobacco Settlement Fund Account" (including any interest generated thereon) shall be transferred to the City/County Account to be disbursed to the Eligible Cities and Eligible Counties in accordance with section 3.J of this Agreement. However, each Eligible City and/or Eligible County may elect to have the State transfer its MOU Proportional Allocable Share (including any interest generated thereon) directly to such Eligible City and/or Eligible County without requiring such funds to be first transferred to the Escrow Agent.
- (2) Upon approval by the J.C.C.P. 4041 Court of this Agreement and the execution of a conforming escrow agreement between the State and the Escrow Agent, all additional money that enters the California Account shall be allocated as follows:
- (a) 50% of each dollar, or portion thereof, shall be credited to the State; and
- (b) 50% of each dollar, or portion thereof, shall be credited to the Cities and Counties to be distributed in the manner set forth in Section 3.J hereof, unless the Escrow Agent receives different instructions from the State in the manner set forth by this Agreement.
- D. All amounts credited to an Account shall be retained in such Account until disbursed therefrom in accordance with the provisions of the National Escrow Agreement pursuant to (i) written instructions from the Independent Auditor, or (ii) written instructions from all of the following: all of the Original Participating Manufacturers, all of the Subsequent Participating Manufacturers that contributed to such amounts in such Account, and all of the Settling States (collectively, the "Escrow Parties"). The Escrow Agent shall be entitled to rely upon the Independent Auditor's identification of the Settling States and the Subsequent Participating Manufacturers that contributed any amounts in an Account.

In the event of a conflict, instructions pursuant to subclause (ii) shall govern over instructions pursuant to subclause (i).

E. All amounts credited to a Sub-Account shall be retained in such Sub-Account until and unless transferred pursuant to written instructions received by the Escrow Agent from the State. However, the State shall not provide any instructions for a transfer which consists of a disbursement in violation of this Agreement or of the National Escrow Agreement.

F. It is understood by the parties to this Agreement that the MSA requires that on the First Business Day after each date identified to the Escrow Agent by the Independent Auditor in writing as a date upon which any payment is due under the MSA, the Escrow Agent shall deliver to each other Notice Party as defined in the MSA, and to those the State has designated in writing, a written statement showing the amount of such payment (or indicating that no payment was made, if such is the case), the source of such payment, the Account or Accounts to which such payment has been credited, and the payment instructions received by the Escrow Agent from the Independent Auditor with respect to such payment. As soon as practical after receipt of such information from the Escrow Agent, but in no event more than 24 hours after receipt or the next business day, which ever is later, of such information, the State shall give notice to each City Designee and County Designee of which the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the information the State has received from the Escrow Agent.

G. It is understood by the parties to this Agreement that the MSA requires that on the first Business Day after each transfer, the Escrow Agent shall deliver to the State a written statement showing the amount of such transfer, the source of the transfer, and the Sub-Account or Sub-Accounts to which such transfer has been credited. As soon as practical after receipt of such information from the Escrow Agent, but in no event more than 24 hours after receipt of such information or the next business day after receipt of such information, which ever is later, the State shall give notice to each City Designee and County Designee of whom the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the information it has received from the Escrow Agent.

H. It is understood by the parties to this Agreement that the MSA requires that the Escrow Agent shall comply with all payment instructions received from the Independent Auditor, unless before 11:00 a.m. (E.S.T.) on the scheduled date of payment the Escrow Agent receives written instruction to the contrary from the State in the manner set forth in this Agreement, in which event the Escrow Agent shall comply with such instructions. It is understood by the parties to this Agreement that instructions received after 11:00 a.m. (E.S.T.) will be treated as if received on the following Business Day.

I. It is understood by the parties to this Agreement that the MSA requires that the Escrow Agent shall comply with all transfer instructions received from the State unless before 11:00 a.m. (E.S.T.) on the day the transfer is to occur the Escrow Agent receives different written instruction from the State in which event it shall comply with such instructions. The State shall not provide any instructions to the Escrow Agent that contradict the terms of the MOU or the terms of this Agreement. It is understood by the parties to this Agreement that instructions received after 11:00 a.m. (E.S.T.) will be treated as if received on the following Business Day.

J. The State shall instruct the Escrow Agent that all funds in the California Account shall be disbursed in the manner set forth in Section 3.C of this Agreement. Thus, as set forth in the MOU, 10% of the funds to be credited to the Cities and Counties (i.e., 10% of the 50% of the Tobacco Settlement Proceeds) shall be allocated 2.5% each among the Eligible Cities, and 90% of the funds to be credited to the Cities and Counties (i.e., 90% of the 50% of the Tobacco Settlement Proceeds) shall be allocated among the Counties, on a per capita basis, calculated by using population data set forth for California Counties as reported in the most current Official United States Decennial Census. Assuming that each City and County which can become an Eligible City or Eligible County, in fact is an Eligible City or Eligible County, and unless otherwise modified by the State in accordance with Sections 4.B or 4.C of this Agreement, the transfer instructions given by the State to the Escrow Agent shall be in the form of the Model Escrow Instructions set forth as Appendix I which sets forth the model MOU Proportional Allocable Shares based on the official 1990 United States Decennial Census. The State shall make any necessary adjustments to the distribution percentages as they relate to this clause and the MOU promptly upon the issuance of each future Official United States Decennial Census. All parties to this Agreement realize that with each new Official United States Census the MOU Proportional Allocable Share to be received by each Eligible County will most likely change.

K. The State shall provide to the Escrow Agent, as far in advance of the next actual disbursement date as possible, the transfer instructions for the next transfer of funds from the California Account and shall provide at the same time to each Eligible City Designee and Eligible County Designee of whom the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the transfer instructions the State is providing to the Escrow Agent along with proof of service to the Eligible Cities and Eligible Counties of such transfer instructions.

**SECTION 4.
 UNDERSTANDINGS REGARDING THE MSA AND THE MOU
 AS THEY RELATE TO RELEASE OF FUNDS PURSUANT TO THE MSA
 AND THE MOU AFTER SATISFACTION OF ALL TERMS AND CONDITIONS OF
 SECTION 3.C OF THE NATIONAL ESCROW AGREEMENT.**

- A.** After such time as all events and conditions set forth in Section 3.C of the National Escrow Agreement have been satisfied and the escrow funds are released to the California Account, the State shall instruct the Escrow Agent that all funds received by the Escrow Agent pursuant to the terms of the National Escrow Agreement shall be held and disbursed in accordance with the terms of the MOU and this Agreement. The State shall further instruct the Escrow Agent that such funds and any earnings thereon shall be held by the Escrow Agent separate and apart from all other funds and accounts of the Escrow Agent, other States, the Cities and Counties and the Participating Manufacturers.
- B.** Unless the Escrow Agent receives notification pursuant to Section 4.C of this Agreement:
- (1) The funds credited to the State pursuant to Section 3.C.(2)(a) above, shall be disbursed to the State in accordance with transfer instructions to be provided by the State.
 - (2) The funds credited to the Cities and Counties pursuant to Section 3.C.(2)(b) above, shall be disbursed to the Eligible Cities and Eligible Counties in accordance with transfer instructions to be provided by the State, which shall be subject to the MOU and this Agreement as follows:

- (i) If the Escrow Agent has received written notification from the State that a City or County has obtained the status of Eligible City and/or Eligible County, prior to the distribution from the California Account:
 - (aa) The State shall instruct the Escrow Agent to disburse each Eligible City's and/or Eligible County's MOU Proportional Allocable Share pursuant to instructions received by the State from the City Designees/County Designees as to which account such funds shall be directed. The instructions the State provides will direct the Escrow Agent to disburse each Eligible City's and/or Eligible County's Share to a single account specified by that Eligible City and/or Eligible County. This account information will be given in the form of executed Transfer Instructions attached hereto as Appendix F, jointly executed by two of three such Eligible City's and/or Eligible County's respective City Designees/County Designees. Upon receipt of the executed Transfer Instructions from the Eligible City and/or Eligible County the State shall forward such information to the Escrow Agent within twenty four (24) hours of receipt or the next business day, which ever is later.

- (bb) The instructions described in Section 4.B.(2)(i)(aa) above, may be modified from time to time by written amendment, which shall be given in a format specified by the State and shall be executed by two of the three City Designees/County Designees. Upon receipt of the change of the specified account information, and subject to verification by the State, the State shall forward such modified instructions to the Escrow Agent within seventy two (72) hours of receipt or within three business days, which ever is later.
- (cc) The City Designees/County Designees may be substituted in either of the following ways: (i) By written amendment, which shall be given in a format specified by the State, and shall provide for additions and deletions of City Designees/County Designees. Substitution by this manner will only be given effect if it is signed by two of the three preexisting City Designees/County Designees; or (ii) By the City Council/County Board of Supervisors substituting the authorization provided for by Appendix E. Substitution by this manner must be done by a resolution of the City Council/County Board of Supervisors and must be done in the format as provided in Appendix E. In the event of a conflict between (i) and (ii) of this subparagraph, the State will follow the Designations as provided for by the City Council/County Board of Supervisors.
- (ii) If the Escrow Agent has not received written notification from the State that a City or County has obtained the status of Eligible City and/or Eligible County prior to the first distribution from the California Account:
 - (aa) The State shall instruct the Escrow Agent to establish a single, interest bearing account into which the Escrow Agent transfers the MOU Proportional Allocable Share of each City and/or County for whom the Escrow Agent has not received written notification from the State that such City and/or County has obtained the status of Eligible City and/or Eligible County and shall instruct the Escrow Agent to provide to the State an accounting of the funds placed in such account, indicating the total amount placed therein and the amount placed therein which is being held for the benefit of each specific City and/or County. Within seventy-two (72) hours of receipt, or within three business days, which ever is later, of the accounting information, from the Escrow Agent, the State shall provide a copy of such information to the City/County Steering Committee. The Escrow Agent may charge each such City and/or County whose MOU Proportional Allocable Share is placed in such account, such City's and/or County's proportional share of the Escrow Agent's normal charges for establishing and maintaining such account (based on the percentage that such City's and/or County's MOU Proportional Allocable Share represents of the total amount in such account) through the date the Escrow Agent is notified by the State that such City and/or County has obtained the status of Eligible City or Eligible County and the Escrow

Agent may deduct such charges from the amount such City and/or County is due when the Escrow Agent is notified by the State that such City and/or County has obtained the status of Eligible City or Eligible County.

(bb) Any dispute between the State, the City/County Steering Committee, and/or any City and/or County as to whether a City and/or County has obtained the status as an Eligible City and/or Eligible County shall be submitted to, and shall continue to be under, the jurisdiction of the J.C.C.P. 4041. The State shall instruct the Escrow Agent to deposit the MOU Proportional Allocable Share of any such City and/or County to which such dispute pertains into the City/County Account established pursuant to section 4.B.(2)(i)(aa) of this Agreement. Any City and/or County that is adjudged by the J.C.C.P. 4041 Court to be an Eligible City and/or Eligible County pursuant to this subparagraph shall immediately notify the State of such ruling by providing the State with a copy of the order or judgment of the J.C.C.P. 4041 Court. The State within twenty four (24) hours, or the next business day, which ever is later, of receipt of such order or judgment of eligibility shall forward such eligibility information to the Escrow Agent. Any City and/or County that is adjudged by the J.C.C.P. 4041 Court not to be an Eligible City and/or Eligible County pursuant to this subparagraph shall have a 90 day grace period to cure any deficiency that has prevented it from becoming an Eligible City and/or Eligible County.

(cc) The State shall provide the Escrow Agent with additional instructions as follows: If prior to the later of June 30, 2001, or the expiration of any grace period specified in paragraph 4.B.(2)(i)(bb) above, the Escrow Agent receives written notification from the State that such City and/or County has attained the status of Eligible City and/or Eligible County, the Escrow Agent shall promptly disburse to such newly Eligible City and/or Eligible County all funds representing such newly Eligible City's and/or Eligible County's MOU Proportional Allocable Share which had previously been placed in the separate City/County account established in accordance with Section 4.B.(2)(i)(aa) (including any interest generated therefrom), after deducting the appropriate Escrow Agent's charges as allowed by such Section.

(dd) The State shall further instruct the Escrow Agent that upon receipt of notification from the State that such City and/or County has attained the status of Eligible City and/or Eligible County, all MOU Proportional Allocable Shares for such City and/or County which are to be disbursed after the date of notification that such City/County has obtained the status of Eligible City or Eligible County shall be disbursed to such Eligible City and/or Eligible County in accordance with Section 4.B.(2)(i).

(iii) If the Escrow Agent has not received written notification from the State that a City or County has obtained the status of Eligible City and/or Eligible County, by the later of June 30, 2001, or the expiration of any grace period specified in subparagraph (dd) below:

(aa) The State shall instruct the Escrow Agent that all funds previously placed in the City/County account pursuant to Section 4.B.(2)(i)(aa) (including any interest generated therefrom), shall be deducted from such account and shall be transferred to the California Account, from which it is to be distributed to the State and the Eligible Cities and Eligible Counties in the manner set forth in Section 3.C.(2).

(bb) It is understood by the parties to this Agreement that until such time as the Escrow Agent receives notice from the State that such City and/or County has attained the status of Eligible City and/or Eligible County, all MOU Proportional Allocable Shares of any such City and/or County that are to be disbursed prior to the date of notification that such City/County has obtained the status of Eligible City or Eligible County shall continue to be disbursed to the State and to the Eligible Cities and Eligible Counties in accordance with Section 3.C.(2).

(cc) The State shall instruct the Escrow Agent that upon receipt of notification from the State that such City and/or County has attained the status of Eligible City and/or Eligible County, all MOU Proportional Allocable Shares for such City and/or County that are to be disbursed after the date of notification that such City/County has obtained the status of Eligible City and/or Eligible County, shall be disbursed to such Eligible City and/or Eligible County in accordance with Section 3.C.(2). Provided, however, that the parties to this Agreement, recognize that the State shall further instruct the Escrow Agent that if prior to attaining the status of Eligible City and/or Eligible County, a City and/or County obtains a settlement or judgment that causes a reduction of payments into the escrow account pursuant to Section XII(e)(4)(B) of the MSA and the amount of that reduction in payments exceeds the amount of escrow payments that the City and/or County in question has foregone pursuant to subparagraphs (aa) and (bb) directly above, then an amount equal to the reduction in escrow payments pursuant to section 6.a.i of the MOU minus the amounts foregone by the City and/or County pursuant to subparagraphs (aa) and (bb) directly above shall be deducted from the future escrow payments owing which would otherwise be paid to the City and/or County in question and such amount(s) shall be transferred to the State and to the other Eligible Cities and/or Eligible Counties, in the same manner as the Claim Over Offset described in section 4.C below.

- (dd) Any dispute between the State, the City/County Steering Committee, and/or any City and/or County as to whether a City and/or a County has obtained the status of an Eligible City and/or Eligible County shall be submitted to, and shall continue to be under, the jurisdiction of the J.C.C.P. 4041 Court. If any such dispute is submitted to the J.C.C.P. 4041 Court, the State shall instruct the Escrow Agent to deposit the MOU Proportional Allocable Share of any such City and/or County to which such dispute pertains into the City/County Account established pursuant to section 4.B.(2)(ii)(aa) of this Agreement. The State shall not submit any additional instructions regarding the disbursement of such funds while a dispute as to eligibility is pending before the J.C.C.P. 4041 Court. Any City and/or County that is adjudged by the J.C.C.P. 4041 Court to be an Eligible City and/or Eligible County pursuant to this subparagraph (dd) shall immediately notify the State of such ruling by providing the State with a copy of the order or judgment of the J.C.C.P. 4041 Court. The State within twenty four (24) hours of receipt or the next business day, which ever is later, of such order or judgment of eligibility shall forward such eligibility information to the Escrow Agent and instruct the Escrow Agent to disburse all funds allocated to such newly Eligible City or newly Eligible County. Any City and/or County that is adjudged by the J.C.C.P. 4041 Court not to be an Eligible City and/or Eligible County pursuant to this subparagraph (dd) shall have a 90 day grace period to cure any deficiency that has prevented it from becoming an Eligible City and/or Eligible County.
- (iv) The State shall instruct the Escrow Agent that it is not to disburse funds to any City or County that has not attained the status of Eligible City or Eligible County.
- (v) Upon obtaining the status of Eligible City or Eligible County, each Eligible City and each Eligible County shall, if it has not already done so, notify the State of the names and addresses of their City Designees and County designees.
- (vi) The State shall provide to the Escrow Agent, as far in advance of the next actual disbursement date as possible, the transfer instructions for the next transfer of funds from the California Account and shall provide at the same time to each Eligible City Designee and Eligible County Designee of whom the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the transfer instructions the State is providing to the Escrow Agent.

C. In the event that Section XII(a)(4)(A) of the MSA does not relieve an Original Participating Manufacturer of all liability and Section XII(a)(4)(B) of the MSA is invoked resulting in an Original Participating Manufacturer receiving a continuing dollar-for-dollar offset for any amounts paid by such Original Participating Manufacturer (or by any person or entity that is a Released Party by virtue of its relation to any Original Participating Manufacturer) on any liability against such Original Participating Manufacturer's share, determined as described in step E of Section IX(j)(7)(E) of the MSA, owing to the State (and because of the MOU, to the Cities and Counties), up to the full amount of such Original Participating Manufacturer's share of such Allocated Payment each year, until all such amounts paid on such liability have been offset ("Claim Over Offset Amount"), it is the intent of the State and the Cities and Counties that the California Account be operated so as to be reflective of the rights and duties of the State and the Eligible Cities and Eligible Counties under the MOU, and that, in accordance with the MOU, all benefits and burdens that affect the California Account, or affect how the money in the account may be spent, will be borne equally by the State on one hand, and the Eligible Cities and Eligible Counties on the other. (The State shall inform the Escrow Agent of such intent of the parties to this Agreement.) If the actions described above in this paragraph occur:

- (1) The State shall notify the Escrow Agent, the City/County Steering Committee, and the Responsible Entity that Section XII(a)(4)(B) of the MSA has been invoked, and provide the Escrow Agent, the City/County Steering Committee, and the Responsible Entity with written instructions stating the Claim Over Offset Amount and the identity of the Responsible Entity and instruct the Escrow Agent as follows:
- (a) That the amounts otherwise allocable to the Responsible Entity shall thereafter be reduced dollar-for-dollar until the full Claim Over Offset Amount has been deducted from the MOU Proportional Allocable Share owed to the Responsible Entity. These adjustments to the allocation set forth under this Agreement are done with the understanding of the State and the Cities and Counties that the Responsible Entity will have its MOU Proportional Allocable Share likewise reduced dollar-for-dollar until the full Claim Over Offset Amount of the Original Participating Manufacturer's share owing to the State, and because of the MOU to the Cities and Counties (other than the Responsible Entity), which has been offset by the Original Participating Manufacturer, has been deducted from the MOU Proportional Allocable Share owing to the Responsible Entity and the amount deducted from the MOU Proportional Allocable Share owing to the Responsible Entity has been distributed, pursuant to the terms of the MOU, to the State and the other Eligible Cities and Eligible Counties which did not bring the original action against the non-Released Party or non-Released Retailer.
- (b) That the Responsible Entity shall be responsible for the interest on the Claim Over Offset Amount at the annual rate equal to the available daily rate of return earned by the California Pooled Money Investment Account from the actual date of disbursement of the reduced share to the State and to the Eligible Cities and Eligible Counties. The amount deducted from the Responsible Entity's MOU

Proportional Allocable Share shall be distributed 50% to the State and 50% to the Eligible Cities and Eligible Counties (other than the Responsible Entity). Interest owed is determined from the date the funds are released to the date of actual disbursement to the State/Eligible Cities/Eligible Counties.

(2) If a member of the City/County Steering Committee or the entity the State has identified as the Responsible Entity does not take action as described in section 4.C.(3) below to contest the amount the State has identified as the appropriate Claim Over Offset Amount and/or to contest the State's identification of the correct Responsible Entity, the following shall occur:

(a) If the Claim Over Offset Amount is less than the MOU Proportional Allocable Share of the Responsible Entity, the State shall instruct the Escrow Agent that the Claim Over Offset Amount shall be deducted and credited as follows:

(i) If the Responsible Entity is the State, in the manner set forth in the mathematical example attached hereto as Appendix J, to wit:

(aa) An amount equal to one-half of the offset shall be deducted from the State's 50% share and shall be credited to the Cities'/Counties' 50% share.

(bb) Any amounts credited to the Cities'/Counties' share pursuant to this subparagraph shall be allocated among and disbursed to the Eligible Cities and Eligible Counties as provided in Section 3.J of this Agreement and the State, in notifying the Escrow Agent of distribution amounts to be made to the State and to each Eligible City and Eligible County, shall modify the instructions it gives to the Escrow Agent to accurately reflect such deductions and credits.

(ii) If the Responsible Entity is a City or County, in the manner set forth in the mathematical example attached hereto as Appendix K, to wit:

(aa) An amount equal to one-half of the offset shall be deducted from the Responsible Entity's MOU Proportional Allocable Share and shall be credited to the State share.

(bb) After making the deduction described in paragraph (aa), the remaining one-half of the offset shall be deducted from the Responsible Entity's MOU Proportional Allocable Share, and shall be reallocated to each Eligible City and Eligible County (including

the Responsible Entity) pursuant to its MOU Proportional Allocable Share in the manner provided in Section 3.J of this Agreement. The State, in notifying the Escrow Agent of distribution amounts to be made to the State and to each Eligible City and Eligible County, shall modify the instructions it gives to the Escrow Agent to accurately reflect such deductions and credits.

(b) If the Claim Over Offset Amount is equal to or greater than the MOU Proportional Allocable Share of the Responsible Entity, the State shall instruct the Escrow Agent that such Claim Over Offset Amount shall be deducted and credited as follows:

(i) If the Responsible Entity is the State, in the manner set forth in the mathematical example attached hereto as Appendix L, to wit:

(aa) The entire MOU Proportional Allocable Share of the State shall be credited to the Cities'/Counties' share until the Claim Over Offset Amount has been repaid in full, including interest as described in Section 4.C.(1)(b) of this Agreement.

(bb) Once any remaining Claim Over Offset Amount, including any interest as described in Section 4.C.(1)(b), is less than the Responsible Entity's MOU Proportional Allocable Share during any payment period, Section 4.C.(2)(a) shall govern distribution and allocation.

(cc) Any amounts credited to the Cities'/Counties' share pursuant to this Section 4.C.(2)(b) shall be disbursed among the Cities and Counties as provided in Section 3.J of this Agreement.

(dd) The State in notifying the Escrow Agent of distribution amounts to be made to the State and to each Eligible City and Eligible County, other than the Responsible Entity, shall modify the instructions it gives to the Escrow Agent to accurately reflect such deductions and credits as set forth in this Section 4.C.(2)(b).

(ii) If the Responsible Entity is a City or County, in the manner set forth in the mathematical example attached hereto as Appendix M, to wit:

(aa) The entire MOU Proportional Allocable Share of the Responsible Entity shall be credited 50% to the State share and 50% to the Cities'/Counties' share until the Claim Over Offset Amount has been repaid in full, including interest as described in Section 4.C.(1)(b) of this Agreement. The Responsible Entity's MOU Proportional Allocable Share of any amounts redistributed to the Cities'/Counties' share under this paragraph (aa) shall be

credited 50% to the State and 50% pro rata to the remaining Cities and Counties (excluding the Responsible Entity) based on their MOU Proportional Allocable Shares.

(bb) At such time as any remaining Claim Over Offset Amount, including any interest as described in Section 4.C.(1)(b), is less than the Responsible Entity's MOU Proportional Allocable Share during any payment period then Section 4.C.(2)(a) shall govern distribution and allocation.

(cc) The State in notifying the Escrow Agent of distribution amounts to be made to the State and to each Eligible City and Eligible County, other than the Responsible Entity, shall modify the instructions it gives to the Escrow Agent to accurately reflect such deductions and credits as set forth in this Section 4.C.(2)(b).

(3) If any member of the City/County Steering Committee or the entity the State has identified as the Responsible Entity do not agree that the State has identified the appropriate Claim Over Offset Amount or the correct Responsible Entity, the State, any member of the City/County Steering Committee, or the identified Responsible Entity may petition the J.C.C.P. 4041 Court for a ruling and if any such party does, the State shall instruct the Escrow Agent to establish a Disputed Claims Account to hold such disputed amounts pending subsequent notification by the State which directs the manner of disposition to be made of the disputed amount. If, in response to a petition in which the State is not a named party, the J.C.C.P. 4041 Court issues an order or judgment that directs the manner of disposition to be made of the disputed amount, the Responsible Entity or the City/County Steering Committee member that has filed the petition shall, upon entry of such order or judgment by the J.C.C.P. 4041 Court, immediately notify the State of such ruling by providing the State with a copy of the order or judgment. The State, within twenty four (24) hours of receipt or the next business day, which ever is later, of such order or judgment, shall instruct the Escrow Agent as to the manner of disposition to be made of the disputed amount. Any such decision of the J.C.C.P. 4041 Court is appealable; however, no such appeal shall delay distribution of the disputed amounts absent a court order to the contrary from the appropriate California court.

(4) The parties to this Agreement agree that the Escrow Agent shall be entitled to rely upon the State's identification of the Responsible Entity and the Claim Over Offset Amount in allocating and distributing funds.

D. In the event of a conflict between the mathematical examples contained in Appendices J through M and the words contained in Sections 4.C.(1) through 4.C.(3) of this Agreement, the procedures set forth in the mathematical examples contained in Appendices J through M shall govern over words contained in Sections 4.C.(1) through 4.C.(3) of this Agreement.

E. In the event the Escrow Agent is required to establish a Disputed Claims Account pursuant to instructions given by the State pursuant to any provision of this Agreement, the State shall instruct the Escrow Agent that such account shall be established in the name of the Responsible Entity (i.e., "Disputed Claims Account of -----") and that the Escrow Agent may charge each such Responsible Entity its normal charges for establishing and maintaining each such Disputed Claims Account. Provided, however, that the State shall further instruct the Escrow Agent that: (i) if the J.C.C.P. 4041 Court finds, in response to a petition filed by the Responsible Entity or a member of the City/County Steering Committee, that the State has correctly identified the appropriate Claim Over Offset Amount and that the State has identified the correct Responsible Entity, those members of the City/County Steering Committee that filed the petition shall be responsible for payment of the Escrow Agent's charges for establishing and maintaining the specific Disputed Claims Account in question; or (ii) if the J.C.C.P. 4041 Court finds, in response to a petition filed by the Responsible Entity or a member of the City/County Steering Committee, that the State has correctly identified the appropriate Claim Over Offset Amount and that the State has identified the correct Responsible Entity, those members of the City/County Steering Committee that filed the petition shall be responsible for payment of the Escrow Agent's charges for establishing and maintaining the specific Disputed Claims Account in question, and if the Responsible Entity filed the petition, the Responsible Entity shall be responsible for payment of the Escrow Agent's charges for establishing and maintaining the specific Disputed Claims Account in question. The Escrow Agent may, upon notice received from the State as to who is liable for the Escrow Agent's charges, deduct its charges from the amount due the State, the Responsible Entity, or those members of the City/County Steering Committee that filed the petition at the next distribution.

F. In the event of a conflict between Section 3.J and Section 4.C of this Agreement, the provisions of Section 4.C shall govern over the provisions of Section 3.J.

G. On the first Business Day after disbursing any funds from the California Account, the Escrow Agent shall deliver to the State a written statement showing the amount disbursed to the State and the amount disbursed to each Eligible City/Eligible County and the date of such transfer. As soon as practical after receipt of such information from the Escrow Agent, but in no event more than 24 hours after receipt of such information, or the next business day after receipt of such information, which ever is later, the State shall give notice to each City Designee and County Designee of which the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the information the State has received from the Escrow Agent.

H. Any dispute(s) between the State and/or any California City and/or California County regarding this Agreement or the MOU, including any dispute as to the appropriate Claim Over Offset Amount, or the identity of the correct Responsible Entity, shall be submitted to, and shall continue to be under, the jurisdiction of the J.C.C.P. 4041 Court, as set forth in Section 2 of this Agreement.

**SECTION 5.
ATTORNEYS' FEES.**

As provided under the MOU, Private Outside Counsel for the Represented Cities and Counties will make their best efforts to obtain their fees and costs from the Original Participating Manufacturers as provided for in the MSA. Any attorneys' fees and costs obtained shall be credited against the amounts owed to Private Outside Counsel under their contingency fee agreements. To the extent, if any, that an arbitration award is insufficient to satisfy the outstanding contingency fee contracts, and to the extent, if any, private counsel seek to enforce such contracts, all Cities and Counties receiving "MOU Proportional Allocable Share" will share the risk that attorneys' fees and costs may be due and owing to Private Outside Counsel who prosecuted the tobacco actions on behalf of the Represented Cities and Represented Counties. By executing this Agreement, each City and County covenants and agrees that: (1) to the extent that any of the Represented Cities and Counties pay attorneys' fees to their Private Outside Counsel, in any year, to compensate Private Outside Counsel for work done in the Represented Cities' and Counties' suits against the Participating Manufacturers, the "MOU Proportional Allocable Share" to be paid to the Eligible Cities and Eligible Counties in that year (or as soon thereafter as possible) will be decreased by an offset equal to the "Proportional Share Percentage" of the sum of fees and costs paid by any Represented City or Represented County; (2) The amount of the offset shall be added to the settlement proceeds to be paid to the Represented City or County that made the private counsel fee payment, provided however, that no Represented City or County shall be subject to an offset for attorneys' fees or costs paid by any other Represented City or County to Private Outside Counsel. For the purpose of this paragraph, "Proportional Share Percentage" shall mean the allocation percentage of the total amount payable to California local governments (as determined by the allocation formula set forth in paragraph 3.J of Section 6 of the MOU calculated as of the year of the fee payment in question), multiplied by the amount of the fee payment made by the Represented City or County in question; (3) A separate offset will be calculated for and paid to each Represented City and County that makes a fee payment to private counsel in any given year; and (4) In the event that any Represented City or Represented County makes any payment under such contingency fee contracts, such Represented City and/or Represented County shall notify the State of the amount of such attorney fee payment. The State shall thereafter instruct the Escrow Agent to make all appropriate offsets and credits pursuant to this section.

**SECTION 6.
FAILURE OF ESCROW AGENT TO RECEIVE INSTRUCTIONS.**

The parties to this Agreement agree that in the event that the Escrow Agent fails to receive any written instructions contemplated by this Agreement, the Escrow Agent shall be fully protected in refraining from taking any action required under any Section of this Agreement.

**SECTION 7.
INVESTMENT OF CALIFORNIA ACCOUNT FUNDS BY
THE ESCROW AGENT.**

- A.** Notwithstanding the more permissive investments permitted in the National Escrow Agreement, the State shall instruct the Escrow Agent to invest and reinvest all amounts in the California Account in only the following:
- (1) Direct obligations of, or obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by, the United States of America or any agency thereof, maturing no more than one year after the date of acquisition thereof;
 - (2) Repurchase agreements fully collateralized by securities described in clause (1) above and with a counter party whose long-term debt securities are rated "AA" or higher by Standard & Poor's and "Aa" or higher by Moody's;
 - (3) Interest-bearing time or demand deposits with, or certificates of deposit maturing within 30 days of the acquisition thereof and issued by, any bank or trust company organized under the laws of the United States of America or of any of the 50 States thereof and having combined capital, surplus and undistributed profits in excess of \$500,000,000 whose long-term unsecured debt is rated "AA" or higher by Standard & Poor's and "Aa" or higher by Moody's;
 - (4) Commercial paper rated (on the date of acquisition thereof) at least A-1 and P-1 or equivalent by Standard & Poor's and Moody's, respectively, maturing not more than 180 days from the date of creation thereof; and
 - (5) Other investments specified by written instructions from all of the Original Participating Manufacturers, Settling States having Allocable Shares aggregating at least 66 2/3%, and the State.
- B.** Each reference herein to a rating from Standard & Poor's or Moody's shall be construed as an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating debt, and if one (but not both) of Standard & Poor's and Moody's is not then in the business of rating debt, the rating from the corporation still in such business shall suffice for purposes of this Section 7.
- C.** The State shall further instruct the Escrow Agent that to the extent practicable, monies credited to the California Account shall be invested in such a manner so as to be available for use at the times specified in writing by the Independent Auditor as the times when monies are expected to be disbursed by the Escrow Agent and charged to such California Account. Obligations purchased as an investment of monies credited to the California Account shall be deemed at all times to be a part of such California Account and the income or interest earned, profits realized, or losses suffered with respect to such

investments (including, without limitation, any penalty for any liquidation of an investment required to fund a disbursement to be charged equally between the State and the Eligible Cities and Eligible Counties), shall be credited or charged to the California Account and shall be for the benefit of, or be borne by, each governmental entity entitled to payment from such California Account.

D. In choosing among the investment options for the California Account described in subclauses (1) through (5) of this Section 7.A, the Escrow Agent shall comply with any instructions received from time to time from (i) the State and/or (ii) the State Investment Manager designated by the State pursuant to Section 10 of the Investment Management Agreement attached to the National Escrow Agreement. In the event of a conflict, instructions given pursuant to clause (i) of the preceding sentence shall govern over instructions given pursuant to clause (ii) of the preceding sentence. In the event of conflict, the Escrow Agent may seek confirmation from the designated State representative using established industry practices such as confirmation by phone or by facsimile or other electronic transmission. In the absence of such instructions or in the event of unresolved conflicting instructions, the Escrow Agent shall invest in accordance with subclause (1) of this Section 7.A.

E. The parties to this Agreement agree that the Escrow Agent shall have the right to liquidate any investments held hereunder in order to provide the funds necessary to make required payments from the California Account under this Agreement. The State shall instruct the Escrow Agent that to the extent practicable the Escrow Agent shall equally distribute the liquidation between the State and the Eligible Cities/Eligible Counties. The Escrow Agent hereunder shall not have any liability for any loss sustained as a result of any investment made pursuant to instructions received hereunder or as a result of any liquidation of any investment prior to its maturity in order to make a payment required under this Agreement.

F. The parties to this Agreement agree that the first Business Day after a liquidation has taken place, the Escrow Agent shall provide notice to the State of the amounts of the liquidation, the source of the liquidated securities, the current mark-to-market worth of the California Account, and the book value of the California Account. As soon as practical after receipt of such information from the Escrow Agent, but in no event more than 24 hours after receipt of such information, or the next business day after receipt of such information, which ever is later, the State shall give notice to each City Designee and County Designee of whom the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the information the State has received from the Escrow Agent.

SECTION 8. SUBSTITUTE FORM W-9; QUALIFIED SETTLEMENT FUND.

Pursuant to the National Escrow Agreement, the State and each Eligible City and each Eligible County shall provide, if it has not already done so, the Escrow Agent with a correct taxpayer identification number on a substitute Form W-9, or if it does not have such a number, a statement evidencing its status as an entity exempt from back-up withholding, within 30 days of the date of this Agreement (and, if it supplies a Form W-9, indicate thereon that it is not subject to backup withholding). A copy of the Form-W-9 is attached hereto as Appendix G. The Escrow established pursuant to the National Escrow Agreement and pursuant to this Agreement, is intended to be treated as a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1. The Escrow Agent shall comply with all applicable tax filing, payment and reporting requirements, including, without limitation, those imposed under Treas. Reg. § 1.468B made known to it by any Escrow Party or the Independent Auditor, and if requested to do so shall join in the making of the relation-back election under such regulation.

SECTION 9. DUTIES AND LIABILITIES OF ESCROW AGENT.

A. The parties to this Agreement agree that the Escrow Agent shall have no duty or obligation hereunder other than to take such specific actions as are required of it from time to time under the provisions of the National Escrow Agreement, and it shall incur no liability hereunder or in connection herewith for anything whatsoever other than any liability resulting from its own gross negligence or willful misconduct. The Escrow Agent shall not be bound in any way by any agreement or contract between the Participating Manufacturers and the State, or the State and any California local government units (whether or not the Escrow Agent has knowledge thereof) other than under the National Escrow Agreement, and the only duties and responsibilities of the Escrow Agent shall be the duties and obligations specifically set forth in the National Escrow Agreement.

B. The parties to this Agreement agree that the Escrow Agent may rely and shall be protected in acting or refraining from acting upon any written notice or instruction furnished to it hereunder appearing on its face to have been sent by a person entitled hereunder to deliver such notice and reasonably believed by the Escrow Agent to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. In the administration of the Escrow, the Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may consult with counsel, accountants and other professional persons to be selected and retained by it.

C. The parties to this Agreement agree that in the event that the Escrow Agent shall be uncertain as to its duties or rights, or shall receive instructions, claims or demands which, in its reasonable opinion, conflict with any instructions it has received from the State, the Escrow Agent shall be entitled to refrain from taking any action other than investment and reinvestment in accordance with Section 7 and its sole obligation shall be to keep safe and invest in accordance with Section 7 all property held in escrow until it shall be directed otherwise in writing by the State.

**SECTION 10.
NOTICES.**

All notices or other communications to the State or to any City/County or to the City/County Steering Committee shall be given in writing (including, but not limited to, facsimile or other electronic transmission, telex, telecopy or similar writing). Notices or other communication provided by the State to individual Cities and individual Counties, or by individual Cities or Counties or by the City/County Steering Committee to the State via facsimile or other electronic transmission shall also be given via mail to the individual City Designees and County Designees or to the State at the address(es) to be provided to the State by the City Designees and County Designees or by the State to the City Designees and County Designees.

**SECTION 11.
INTENDED BENEFICIARIES; SUCCESSORS.**

No persons or entities other than the State and the Cities and Counties are intended beneficiaries of this Agreement, and only the State and the Cities and Counties shall be entitled to enforce the terms of this Agreement. The provisions of this Agreement shall be binding upon and inure to the benefit of the State and the Cities and Counties and their successors.

**SECTION 12.
GOVERNING LAW.**

After such time as all events and conditions set forth in Section 3 C of the National Escrow Agreement have been satisfied and the funds are released to the State (and by virtue of the MOU to the Cities and Counties), this Agreement shall be construed in accordance with and governed by the laws of California, without regard to the conflicts of law rules of California.

**SECTION 13.
AMENDMENTS.**

This Agreement may be amended only by written instrument executed by all of the parties hereto that would be affected by the amendment, including any affected City or County and the State. The waiver of any rights conferred hereunder shall be effective only if made in a written instrument executed by the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous to this Agreement, nor shall such waiver be deemed to be or construed as a waiver by any other party.

**SECTION 14.
COUNTERPARTS.**

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery by facsimile or other electronic transmission of a signed counterpart shall be deemed delivery for purposes of acknowledging acceptance hereof; however, one executed original Agreement must promptly thereafter be delivered to the State and another executed original must promptly thereafter be delivered to the Escrow Agent.

**SECTION 15.
CAPTIONS.**

The captions herein are included only for convenience of reference and shall be ignored in the construction and interpretation hereof.

**SECTION 16.
CONDITIONS TO EFFECTIVENESS.**

This Agreement shall become effective when the State and no fewer than four members of the City/County Steering Committee shall have signed a counterpart hereof and the J.C.C.P. 4041 Court has entered an order approving, and retaining continuing jurisdiction over this Agreement.

**SECTION 17.
ADDRESS FOR PAYMENT.**

The State, in conformance with the requirements of this Agreement, shall provide the Escrow Agent with written disbursement instructions, which shall include the address to which payment shall be sent to each Eligible City and Eligible County, so that when funds in the California Account are required to be disbursed pursuant to this Agreement, the Escrow Agent will be able to disburse such funds.

**SECTION 18.
REPORTING.**

The State shall instruct the Escrow Agent to submit a monthly report to the State detailing at minimum: all deposits, transfers, disbursements, and balances of the California Account, a mark-to-market valuation of the California Account, the book value of the California Account, the fees and expenses owed to the Escrow Agent, the transactions executed by the Escrow Agent, and copies of any directions received by the State Investment Manager. As soon as practical after receipt of such information from the Escrow Agent, but in no event more than 48 hours after receipt of such information, or the next business day after receipt of such information, which ever is later, the State shall give notice to each City Designee and County Designee of whom the State is aware, by sending by facsimile or other electronic transmission to each such City Designee and County Designee, a copy of the information the State has received from the Escrow Agent.

IN WITNESS WHEREOF, the parties have executed this Agreement as of

_____, 2000.

[Signature Pages Follow.]

ESCROW AGREEMENT

This Escrow Agreement is entered into as of December 23, 1998 by the undersigned State officials (on behalf of their respective Settling States), the undersigned Participating Manufacturers and Citibank, N.A. as escrow agent (the "Escrow Agent").

WITNESSETH:

WHEREAS, the Settling States and the Participating Manufacturers have entered into a settlement agreement entitled the "Master Settlement Agreement" (the "Agreement"); and

WHEREAS, the Agreement requires the Settling States and the Participating Manufacturers to enter into this Escrow Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1. Appointment of Escrow Agent.

The Settling States and the Participating Manufacturers hereby appoint Citibank, N.A. to serve as Escrow Agent under this Agreement on the terms and conditions set forth herein, and the Escrow Agent, by its execution hereof, hereby accepts such appointment and agrees to perform the duties and obligations of the Escrow Agent set forth herein. The Settling States and the Participating Manufacturers agree that the Escrow Agent appointed under the terms of this Escrow Agreement shall be the Escrow Agent as defined in, and for all purposes of, the Agreement.

SECTION 2. Definitions.

- (a) Capitalized terms used in this Escrow Agreement and not otherwise defined herein shall have the meaning given to such terms in the Agreement.
- (b) "Escrow Court" means the court of the State of New York to which the Agreement is presented for approval, or such other court as agreed to by the Original Participating Manufacturers and a majority of those Attorneys General who are both the Attorney General of a Settling State and a member of the N.A.A.G executive committee at the time in question.

SECTION 3. Escrow and Accounts.

- (a) All funds received by the Escrow Agent pursuant to the terms of the Agreement shall be held and disbursed in accordance with the terms of this Escrow Agreement. Such funds and any earnings thereon shall constitute the "Escrow" and shall be held by the Escrow Agent separate and apart from all other funds and accounts of the Escrow Agent, the Settling States and the Participating Manufacturers.

(b) The Escrow Agent shall allocate the Escrow among the following separate accounts (each an "Account" and collectively the "Accounts") in accordance with written instructions from the Independent Auditor:

Subsection VI(b) Account	11.15.74.3
Subsection VI(c) Account (First)	11.15.74.3
Subsection VI(c) Account (Subsequent)	11.15.74.3
Subsection VII(b) Account	11.15.74.3
Subsection VIII(c) Account	11.15.74.3
Subsection IX(b) Account (First)	11.15.74.3
Subsection IX(b) Account (Subsequent)	11.15.74.3
Subsection IX(e)(1) Account	11.15.74.3
Subsection IX(e)(2) Account	11.15.74.3
Subsection IX(e) Account	11.15.74.3
Disputed Payments Account	11.15.74.3
State-Specific Accounts with respect to each Settling State in which State-Specific Finality occurs.	11.15.74.3

(c) All amounts credited to an Account shall be retained in such Account until disbursed therefrom in accordance with the provisions of this Escrow Agreement pursuant to (f) written instructions from the Independent Auditor; or (ii) written instructions from all of the following: all of the Original Participating Manufacturers; all of the Subsequent Participating Manufacturers that contributed to such amounts in such Account; and all of the Settling States (collectively, the "Escrow Parties"). The Escrow Agent shall be entitled to rely upon the Independent Auditor's identification of the Settling States and the Subsequent Participating Manufacturers that contributed to any amounts in an Account. In the event of a conflict, instructions pursuant to clause (f) shall govern over instructions pursuant to clause (i).

(d) On the first Business Day after each date identified to the Escrow Agent by the Independent Auditor in writing as a date upon which any payment is due under the Agreement, the Escrow Agent shall deliver to each other Notice Party a written statement showing the amount of such payment (or indicating that no payment was made, if such is the case), the source of such payment, the Account or Accounts to which such payment has been credited, and the payment instructions received by the Escrow Agent from the Independent Auditor with respect to such payment.

(e) The Escrow Agent shall comply with all payment instructions received from the Independent Auditor unless before 11:00 a.m. (New York City time) on the scheduled date of payment it receives written instructions to the contrary from all of the Escrow Parties, in which event it shall comply with such instructions.

(f) On the first Business Day after disbursing any funds from an Account, the Escrow Agent shall deliver to each other Notice Party a written statement showing the amount disbursed, the date of such disbursement and the payee of the disbursed funds.

SECTION 4. Failure of Escrow Agent to Receive Instructions.

In the event that the Escrow Agent fails to receive any written instructions contemplated by this Escrow Agreement, the Escrow Agent shall be fully protected in refraining from taking any action required under any section of this Escrow Agreement other than Section 5 until such written instructions are received by the Escrow Agent.

SECTION 5. Investment of Funds by Escrow Agent.

(a) The Escrow Agent shall invest and reinvest all amounts from time to time credited to the Accounts in either (i) direct obligations of, or obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by, the United States of America or any agency thereof, maturing no more than one year after the date of acquisition thereof; (ii) repurchase agreements fully collateralized by securities described in clause (i) above and with a counterparty whose long-term debt securities are rated "AA" or higher by Standard & Poor's and "Aa" or higher by Moody's; (iii) interest-bearing time or demand deposits with, or certificates of deposit maturing within 90 days of the acquisition thereof and issued by, any bank or trust company organized under the laws of the United States of America or of any of the 50 States thereof and having combined capital, surplus and undistributed profits in excess of \$500,000,000 whose long-term unsecured debt is rated "AA" or higher by Standard & Poor's and "Aa" or higher by Moody's; (iv) commercial paper rated (on the date of acquisition thereof) at least A-1 and P-1 or equivalent by Standard & Poor's and Moody's, respectively, maturing not more than 180 days from the date of creation thereof; (v) money market funds that invest solely in securities described in clause (i) above, so long as (x) such funds are rated Aaa by Moody's and AAAm by Standard & Poor's, (v) investment therein is on a short-term basis pending disbursement or further investment and (2) absent extraordinary circumstances no more than 5% of the Escrow is held in such funds; and (vi) other investments specified by written instructions from all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%.

(b) Each reference herein to a rating from Standard & Poor's or Moody's shall be construed as an equivalent rating by another nationally recognized credit rating agency of similar standing if neither of such corporations is then in the business of rating debt and if one (but not both) of Standard & Poor's and Moody's is not then in the business of rating debt the required rating from the corporation still in such business shall suffice for purposes of this Section 5.

(c) To the extent practicable, monies credited to any Account shall be invested in such a manner so as to be available for use at the times specified by the Independent Auditor in writing as the times when monies are expected to be disbursed by the Escrow Agent and charged to such Account. Obligations purchased as an investment of monies credited to any Account shall be deemed at all times to be a part of such Account and the income or interest earned, profits realized or losses suffered with respect to such

investments (including, without limitation, any penalty for any liquidation of an investment required to fund a disbursement to be charged to such Account), shall be credited or charged, as the case may be, to, such Account and shall be for the benefit of, or be borne by, the person or entity entitled to payment from such Account.

(d) In choosing among the investment options described in subclauses (i) through (vi) of clause (a) of this Section 5 with respect to amounts credited to all Accounts that are not State-Specific Accounts, the Escrow Agent shall comply with any instructions received from time to time from (x) all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3% or (y) the Investment Manager specified in the Investment Management Agreement attached hereto as Appendix B (the "Investment Management Agreement") or any other investment manager designated by all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3% (the "Investment Manager"). In the event of a conflict, instruction given pursuant to clause (x) of the preceding sentence shall govern over instructions given pursuant to clause (y) of the preceding sentence. In the absence of such instructions, the Escrow Agent shall invest in accordance with subclause (i) of clause (a) of this Section 5.

(e) In choosing among the investment options described in subclauses (i) through (vi) of clause (a) of this Section 5 with respect to amounts credited to a State-Specific Account, the Escrow Agent shall comply with any instructions received from time to time from (x) the Settling State to which such State-Specific Account pertains or (y) the Investment Manager or any other investment manager designated by such Settling State pursuant to Section 10 of the Investment Management Agreement. In the event of a conflict, instruction given pursuant to clause (x) of the preceding sentence shall govern over instructions given pursuant to clause (y) of the preceding sentence. In the absence of such instructions, the Escrow Agent shall invest in accordance with subclause (i) of clause (a) of this Section 5.

(f) The Escrow Agent shall have the right to liquidate any investments held hereunder in order to provide funds necessary to make required payments from the appropriate Accounts under this Escrow Agreement. The Escrow Agent hereunder shall not have any liability for any loss sustained as a result of any investment made pursuant to the instructions of the parties hereto or as a result of any liquidation of any investment prior to its maturity in order to make a payment required under this Escrow Agreement.

SECTION 6. *Substitute Form W-9; Qualified Settlement Fund.*

Each signatory to this Escrow Agreement shall provide the Escrow Agent with a correct taxpayer identification number on a substitute Form W-9 or if it does not have such a number, a statement evidencing its status as an entity exempt from back-up withholding, within 30 days of the date hereof (and, if it supplies a Form W-9, indicate thereon that it is not subject to backup withholding). The escrow established pursuant to this Escrow Agreement is intended to be treated as a Qualified Settlement Fund for

federal tax purposes pursuant to Treas. Reg. § 1.468B-1. The Escrow Agent shall comply with all applicable tax filing, payment and reporting requirements, including, without limitation, those imposed under Treas. Reg. § 1.468B made known to it by any Escrow Party or the Independent Auditor, and if requested to do so shall join in the making of the relation-back election under such regulation.

SECTION 7. *Duties and Liabilities of Escrow Agent.*

(a) The Escrow Agent shall have no duty or obligation hereunder other than to take such specific actions as are required of it from time to time under the provisions of this Escrow Agreement, and it shall incur no liability hereunder or in connection herewith for anything whatsoever other than any liability resulting from its own gross negligence or willful misconduct. The Escrow Agent shall not be bound in any way by any agreement or contract between the Participating Manufacturers and the Settling States (whether or not the Escrow Agent has knowledge thereof) other than this Escrow Agreement, and the only duties and responsibilities of the Escrow Agent shall be the duties and obligations specifically set forth in this Escrow Agreement.

(b) The Escrow Agent may rely and shall be protected in acting or refraining from acting upon any written notice or instruction furnished to it hereunder, appearing on its face to have been sent by a person entitled hereunder to deliver such notice and reasonably believed by the Escrow Agent to be genuine and to have been signed or presented by the proper party or parties. The Escrow Agent shall be under no duty to inquire into or investigate the validity, accuracy or content of any such document. In the administration of the Escrow, the Escrow Agent may execute any of its powers and perform its duties hereunder directly or through agents or attorneys and may consult with counsel, accountants and other professional persons to be selected and retained by it. In the event that the Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto which, in its reasonable opinion, conflict with any of the provisions of this Escrow Agreement, it shall be entitled to refrain from taking any action other than investment and reinvestment in accordance with Section 5 and its sole obligation shall be to keep safely and invest in accordance with Section 5 all property held in escrow until it shall be directed otherwise in writing by all of the Escrow Parties or by a final order or judgment of a court of competent jurisdiction.

SECTION 8. *Indemnification of Escrow Agent.*

The Participating Manufacturers shall indemnify, hold harmless and defend the Escrow Agent from and against any and all losses, claims, liabilities and reasonable expenses, including the reasonable fees of its counsel, which it may suffer or incur in connection with the performance of its duties and obligations under this Escrow Agreement, except for those losses, claims, liabilities and expenses resulting solely and directly from its own gross negligence or willful misconduct. Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable

for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits).

SECTION 9. Resignation or Removal of Escrow Agent.

The Escrow Agent may resign at any time by giving not less than ten Business Days' prior written notice thereof to the other Notice Parties and may be terminated at any time by not less than ten Business Days' prior written notice to the Escrow Agent from all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%, but such resignation or termination shall not become effective until a successor Escrow Agent, selected by all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%, shall have been appointed and shall have accepted such appointment in writing. If an instrument of acceptance by a successor Escrow Agent shall not have been delivered to the resigning Escrow Agent within 90 days after the giving of such notice of resignation or termination, the resigning or terminated Escrow Agent may, at the expense of the Participating Manufacturers (to be shared according to their pro rata Market Shares), petition the Escrow Court for the appointment of a successor Escrow Agent.

SECTION 10. Escrow Agent Fees and Expenses; Investment Manager Fees.

The Participating Manufacturers shall pay to the Escrow Agent its fees as set forth in Appendix A, hereto as amended from time to time by agreement of the Original Participating Manufacturers and the Escrow Agent. The Participating Manufacturers shall pay to the Escrow Agent its reasonable fees and expenses, including all reasonable expenses, charges, counsel fees, and other disbursements incurred by it or by its attorneys, agents and employees in the performance of its duties and obligations under this Escrow Agreement. Such fees and expenses shall be shared by the Participating Manufacturers according to their pro rata Market Shares. The fees of the Investment Manager shall be paid in accordance with Section 10 of the Investment Management Agreement.

SECTION 11. Notices.

All notices, written instructions or other communications to any party or other person hereunder shall be given in the same manner as, shall be given to or by the same person as, and shall be effective at the same time as provided in subsection XVIII(k) of the Agreement.

SECTION 12. Setoff; Reimbursement.

The Escrow Agent acknowledges that it shall not be entitled to set off against any funds in, or payable from, any Account to satisfy any liability of any Participating Manufacturer. Each Participating Manufacturer that pays more than its pro rata Market Share of any payment that is made by the Participating Manufacturers to the Escrow Agent pursuant to Section 8, 9 or 10 hereof shall be entitled to reimbursement of such

excess from the other Participating Manufacturers according to their pro rata Market Shares of such excess.

SECTION 13. Intended Beneficiaries; Successors.

(a) No persons or entities other than the Settling States, the Participating Manufacturers and the Escrow Agent are intended beneficiaries of this Escrow Agreement, and only the Settling States, the Participating Manufacturers and the Escrow Agent shall be entitled to enforce the terms of this Escrow Agreement. Pursuant to the Agreement, the Settling States have designated NAAG and the Foundation as recipients of certain payments, for all purposes of this Escrow Agreement, the Settling States shall be the beneficiaries of such payments entitled to enforce payment thereof. The provisions of this Escrow Agreement shall be binding upon and inure to the benefit of the parties hereto and, in the case of the Escrow Agent and Participating Manufacturers, their respective successors. Each reference herein to the Escrow Agent or to a Participating Manufacturer shall be construed as a reference to its successor, where applicable.

(b) Neither this Escrow Agreement nor any right or interest hereunder may be assigned in whole or in part by the Escrow Agent without the prior consent of all of the Escrow Parties.

SECTION 14. Governing Law.

This Escrow Agreement shall be construed in accordance with, and governed by the laws of the State in which the Escrow Court is located, without regard to the conflicts of law rules of such state.

SECTION 15. Jurisdiction and Venue.

The parties hereto irrevocably and unconditionally submit to the continuing exclusive jurisdiction of the Escrow Court for purposes of any suit, action or proceeding seeking to interpret or enforce any provision of, or based on any right arising out of, this Escrow Agreement, and the parties hereto agree not to commence any such suit, action or proceeding except in the Escrow Court. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in the Escrow Court and hereby further irrevocably waive and agree not to plead or claim in the Escrow Court that any such suit, action or proceeding has been brought in an inconvenient forum.

SECTION 16. Amendments.

This Escrow Agreement may be amended only by written instrument executed by all of the parties hereto that would be affected by the amendment. The waiver of any rights conferred hereunder shall be effective only if made in a written instrument executed by the waiving party. The waiver by any party of any breach of this Escrow Agreement shall not be deemed to be or construed as a waiver of any other breach,

whether prior, subsequent or contemporaneous, of this Escrow Agreement, nor shall such waiver be deemed to be or construed as a waiver by any other party.

SECTION 17. Counterparts.

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery by facsimile of a signed counterpart shall be deemed delivery for purposes of acknowledging acceptance hereof; however, an original executed Escrow Agreement must promptly thereafter be delivered to each party.

SECTION 18. Captions.

The captions herein are included for convenience of reference only and shall be ignored in the construction and interpretation hereof.

SECTION 19. Conditions to Effectiveness.

This Escrow Agreement shall become effective when each party hereto shall have signed a counterpart hereof and the Escrow Court has entered an order approving, and retaining continuing jurisdiction over, the Escrow Agreement.

SECTION 20. Address for Payments.

Whenever funds are under the terms of this Escrow Agreement required to be disbursed to a Settling State, a Participating Manufacturer, NAAG or the Foundation, the Escrow Agent shall disburse such funds by wire transfer to the account specified by such payee by written notice delivered to all Notice Parties in accordance with Section 11 hereof at least five Business Days prior to the date of payment. Whenever funds are under the terms of this Escrow Agreement required to be disbursed to any other person or entity, the Escrow Agent shall disburse such funds to such account as shall have been specified in writing by the Independent Auditor for such payment at least five Business Days prior to the date of payment.

SECTION 21. Reporting.

The Escrow Agent shall provide such information and reporting with respect to the escrow as the Independent Auditor may from time to time request.

SECTION 22. Call-back Procedure.

The Escrow Agent is authorized to seek confirmation of any written instructions received by it by telephone call-back to the person or persons at the sender of such instructions who is designated pursuant to subsection XVIII(k) of the Agreement to receive notice, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in a writing actually received and acknowledged by

the Escrow Agent. The parties to this Escrow Agreement acknowledge that such security procedure is commercially reasonable.

SECTION 23. Investment Management Agreement.

The Investment Management Agreement attached hereto as Appendix B is hereby incorporated by reference and execution of this Escrow Agreement by any Escrow Party shall constitute its execution of such Investment Management Agreement.

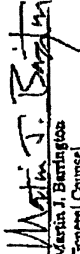
IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the day and year first hereinabove written.

APPENDIX A
(to Escrow Agreement)

FEE SCHEDULE FOR ESCROW SERVICES

First 12 months	\$250,000
Second 12 months	\$350,000
Each 12 months thereafter.....	\$100,000

PHILIP MORRIS INCORPORATED

By: 
Martin J. Bunting
General Counsel

Date: February 23, 1998

BROWN & WILKINSON TOBACCO
CORPORATION

By: *[Signature]*
F. Anthony Buzick
Vice President and General Counsel


Date: 12/23/98

LORILLARD TOBACCO COMPANY

By: *[Signature]*
Ronald S. Milstein
General Counsel

Date: 12/23/98

R.J. REYNOLDS TOBACCO COMPANY

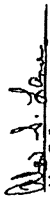
By: 
Charles A. Billet
Executive Vice President and
General Counsel

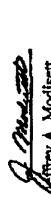
Date: 12-23-98


CITIBANK, N.A.

By: 
Elizabeth Price
Vice President


Date: 12/23/98



Alan G. Lance
Attorney General of Idaho



Jeffrey A. Modisett
Attorney General of Indiana



Carla J. Stovall
Attorney General of Kansas



Richard P. LeRoy
Attorney General of Louisiana



Joseph Curran, Jr.
Attorney General of Maryland


Frank J. Kelley
Attorney General of Michigan


Margery S. Browner
Attorney General of Hawaii

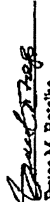

Jim Rydell
Attorney General of Illinois

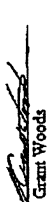

Tom Miller
Attorney General of Iowa



A.B. "Ben" Chandler III
Attorney General of Kentucky



Andrew Keener
Attorney General of Maine

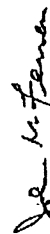

Scott Harshbarger
Attorney General of Massachusetts



Bruce M. Botscho
Attorney General of Alaska

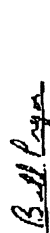

Grant Woods
Attorney General of Arizona



Daniel E. Lungren
Attorney General of California

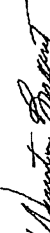

Richard Blumenthal
Attorney General of Connecticut



John M. Ferran
Corporation Counsel of D.C.



Michael C. Stern
Acting Attorney General of Guam

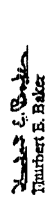

Bill Pryor
Attorney General of Alabama



Toetegata Albert Mallo
Attorney General of American Samoa



Winston Bryant
Attorney General of Arkansas

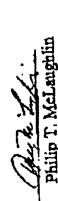

Gale A. Norton
Attorney General of Colorado



M. Jane Brady
Attorney General of Delaware

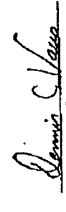

Thurbert E. Baker
Attorney General of Georgia



Jeremiah W. Nixon
Attorney General of Missouri



Don Stenberg
Attorney General of Nebraska

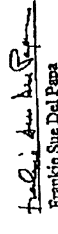

Philip T. McLaughlin
Attorney General of New Hampshire

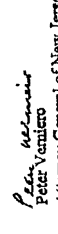

Tom Udall
Attorney General of New Mexico

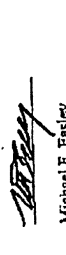

Dennis C. Vacco
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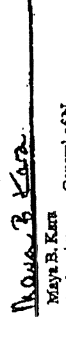

Heidi Heitkamp
Attorney General of North Dakota

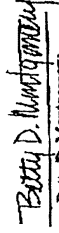

Joseph P. Mazurek
Attorney General of Montana

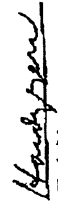

Frankie Sue Del Papa
Attorney General of Nevada

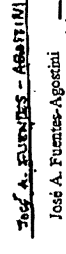

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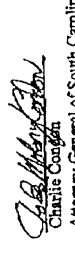

Michael F. Easley
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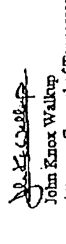

Mays B. Kira
Acting Attorney General of N.
Marshall Island


Betty D. Montgomery
Attorney General of Ohio


Hardy Myers
Attorney General of Oregon

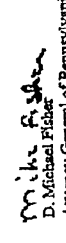

José A. Fuentes-Agostini
Attorney General of Puerto Rico

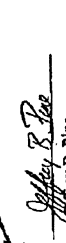

Charlie Condon
Attorney General of South Carolina



John Knox Walkup
Attorney General of Tennessee

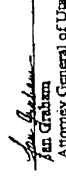

William H. Sorrell
Attorney General of Vermont



W. Drew Edmondson
Attorney General of Oklahoma


D. Michael Fisher
Attorney General of Pennsylvania


Jeffrey B. Ples
Attorney General of Rhode Island

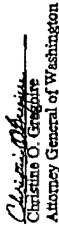

Mark Bennett
Attorney General of South Dakota

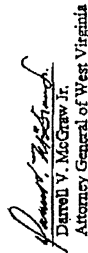

Ian Graham
Attorney General of Utah

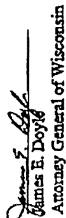

Julio A. Brady
Attorney General of Virgin Islands

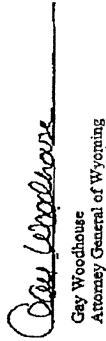


Mark L. Barley
Attorney General of Virginia


Christine O. Gregoire
Attorney General of Washington


Darrell V. McGraw Jr.
Attorney General of West Virginia


James E. Doyle
Attorney General of Wisconsin


Gay Woodhouse
Attorney General of Wyoming



COMMONWEALTH OF VIRGINIA

Office of the Attorney General
Richmond 22019

Mark L. Barley
Attorney General

200 East Main Street
Richmond, VA 23219
804-571-1848 TDD

December 22, 1998

By Telefax: (202) 458-6999

Ms. Karen Conroy
National Association of Attorneys General
750 1st Street, N.E., Suite 1100
Washington, D.C. 20002

Re: Tobacco Settlement - Draft Escrow Agreement and Investment
Management Agreement

Dear Karen:

Pursuant to Laurie Loveland's December 20 letter (received December 21) forwarding copies of the draft Escrow Agreement and Investment Management Agreement, I have reviewed those agreements with our staff attorneys and enclose herewith the executed Authorization Form for electronic signature.

Because the Investment Management Agreement (Appendix B to the Escrow Agreement) was not previously an exhibit to the Master Settlement Agreement, I must note one potential problem that arises under Virginia law. To the extent that any provisions of the Investment Management Agreement (including, but not limited to, paragraphs 12 and 16) are found to constitute indemnification or hold-harmless agreements that waive the sovereign immunity of the Commonwealth of Virginia, they would be void and unenforceable as a matter of Virginia law. Only the General Assembly of Virginia can waive the Commonwealth's sovereign immunity.

I appreciate your and Laurie Loveland's taking the time to explain certain provisions of these agreements to my staff attorneys and your continued assistance in this complex transaction.

APPENDIX B
(to Escrow Agreement)

INVESTMENT MANAGEMENT AGREEMENT

This is an Investment Management Agreement (including Annexes I and II hereto, this "Agreement") made by and between Salomon Smith Barney Inc. (herein referred to as the "Manager") and the Escrow Parties (herein collectively referred to as the "Client") identified in an Escrow Agreement dated as of December 23, 1998 (the "Escrow Agreement"), to which this Agreement is an appendix. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Escrow Agreement.

1. The Manager will supervise and manage the investment of the Escrow established pursuant to the Escrow Agreement subject to the terms of the Escrow Agreement and to such limitations as the Client may impress upon Manager pursuant to paragraph 5 below. The Escrow Agent shall be the custodian to maintain possession of the Escrow and the Escrow Agent will not charge any custody fees over and above the Escrow Agent's fees for escrow services.

2. The Client hereby authorizes the Manager, at any time and from time-to-time, in connection with the performance of Manager's services hereunder, to issue instructions to any custodian of the Escrow or to any broker selected by the Manager for the sale, purchase or exchange of any securities or investments which the Manager may deem advisable in connection with the management of the Escrow. It is understood that brokers will be selected in accordance with the practices and procedures set forth in the Manager's response to item 12 of Part II of the Manager's Form ADV, as amended from time to time.

3. It is explicitly understood that any information or recommendations supplied by the Manager in connection with the performance of the Manager's obligations hereunder are to be regarded as confidential and for use only by the Client or such persons as the Client may designate in connection with the Escrow.

4. Nothing herein contained shall be construed to prevent the Manager or any of the Manager's affiliates and/or employees in any way from purchasing or selling any securities for the Manager or its affiliates' and/or employees' own account(s) or for the account(s) of any other client, provided, however, that no such transaction shall violate any applicable law.

5. The Client hereby authorizes the Manager to manage the Escrow in accordance with Section 5 of the Escrow Agreement and the investment objectives and restrictions attached as Annex I hereto. With respect to any amounts credited to a State-Specific Account, the Investment Manager shall invest and reinvest all amounts credited to such Account in accordance with the law of the applicable Settling State to the extent such law

Ms. Karen Conroy
December 23, 1998
Page 2

In accordance with the instructions in the December 20 letter, the Attorney General has also executed the original signature block, and we are mailing that to you with the original of this letter.

Sincerely,



Randolph A. Beales
Chief Deputy Attorney General

2/8/2003

cc: The Honorable Mark L. Earley, Attorney General
Ms. Loretta J. Loveland, NAAG
Ms. Judith Williams Jagdmann, Deputy Attorney General
Enclosures

JUNNAG L00017

is inconsistent with Section 5 of the Escrow Agreement and is made known to it in writing by such Settling State. The Client may change these investment objectives and restrictions at any time and from time to time by a notice to the Manager, signed by either (x) all of the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%, with respect to Accounts other than State-Specific Accounts governed by a separate Investment Management Agreement entered into pursuant to Section 7 of this Agreement, or (y) the Settling State to which such Account pertains, with respect to a State-Specific Account that is governed by a separate Investment Management Agreement entered into pursuant to Section 7 of this Agreement. Such changes will be confirmed to the Client by the Manager in writing. The Manager will not be required to sell any securities that become impermissible investments as a result of such change unless the Client specifically directs the Manager to do so in a notice signed by the parties specified in clause (x) or (y) (as applicable) of the preceding sentence. The Manager will, however, use its reasonable efforts to notify the Client promptly when the Manager becomes aware of a downgrade which, had it been in effect at the time of purchase of the instrument, would have meant that the instrument would not have been a permissible investment under clause (a) of Section 5 of the Escrow Agreement and the Manager will promptly effect the disposition of the instrument following notice to the Client unless (a) otherwise instructed by a notice signed by the parties specified in clause (x) or (y) (as applicable) of the second preceding sentence, or (b) the Manager believes it is not in the best interest of Client to dispose of the instrument at such time.

6. The Manager will seek to achieve the investment objectives of the Escrow, but except for negligence or willful misconduct, neither the Manager nor any of the Manager's partners, officers, directors or employees shall be liable hereunder for any action performed or omitted to be performed, or for any errors of judgment in managing the investment of the assets of the Escrow. Nothing in this Agreement shall constitute a waiver or limitation of any right that the Client may have under the federal securities laws or any rules thereunder. The Manager will indemnify and hold harmless the Client from and against all loss, claims, liabilities and damages (including without limitation reasonable attorney's fees, but excluding any indirect, special or consequential damages), arising out of or resulting from the negligence or willful misconduct of the Manager and the Manager's partners, officers, directors and employees in connection with any action or failure to act relating to the Escrow.

7. The obligations of the parties under this Agreement shall commence when (a) this Agreement is signed by the Manager and (b) the Escrow Agreement is signed by all of the Settling States and Original Participating Manufacturers, and shall continue until canceled upon 10 days written notice as follows: Manager may terminate this Agreement upon not less than 10 days' written notice to client and each other Notice Party. Client may terminate this Agreement by delivery of written notice to Manager and each other Notice Party at least 10 days prior to the effective date of such termination or at any time prior to the Escrow Agreement becoming effective pursuant to Section 19 thereof (a) with respect to all Accounts that are not State-Specific Accounts, from all of the Original

B-2

Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%, and (b) with respect to a State Specific Account from the Settling State to which such State-Specific Account pertains. Any notice of termination of Manager delivered pursuant to clause (b) of the preceding sentence shall designate a successor Manager, which shall be either The Chase Manhattan Bank or Bank of America, and the copy of such notice delivered to Notice Parties other than Settling States shall be accompanied by an executed investment management agreement between such Settling State, as Client, and such successor Manager in substantially the form of this Agreement. The Client Manager shall cooperate in effecting a transition to any successor Manager. The Client may also terminate this Agreement without any penalty within five business days after the initial agreement date indicated below. The fees for the Manager's services set forth below shall accrue and be payable through the effective date of cancellation.

8. The Manager represents to the Client that the Manager is registered as an investment adviser under the Investment Advisers Act of 1940.

9. This Agreement shall not be assignable by the Manager without the consent of the Client. This Agreement represents the entire agreement between the parties with respect to the services described herein. Except as otherwise provided herein with respect to modifications that may be effected by notice from the Original Participating Manufacturers and Settling States having Allocable Shares aggregating at least 66-2/3%, this Agreement may be modified or amended only by written instrument executed by all of the parties hereto that would be affected by the modification or amendment. The waiver of any rights conferred hereunder shall be effective only if made in a written instrument executed by the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement, nor shall such waiver be deemed to be or construed as a waiver by any other party. This Agreement supersedes all previous agreements and understandings between the parties hereto with respect to the subject matter hereof.

10. The fees for the Manager's services hereunder are to be in accordance with the fee schedule attached as Annex II hereto, and the Independent Auditor is hereby authorized by the Client to direct the Escrow Agent to charge the Accounts for which Manager acts as Manager quarterly in arrears on the first business day of the following month with the amount of said fees. The fee schedule may be amended from time-to-time by mutual written agreement of the Manager and (x) all of the Original Participating Manufacturer and Settling States having Allocable Shares aggregating at least 66-2/3%, in the case of Accounts other than State-Specific Accounts governed by a separate Investment Management Agreement entered into pursuant to Section 7 of this Agreement, or (y) the Settling State to which such Account pertains, with respect to a State-Specific Account that is governed by a separate Investment Management Agreement entered into pursuant to Section 7 of this Agreement. Fees are computed on the average daily assets in the Escrow.

B-3

11. The Manager will notify the Client of any changes in the identity of the Manager's key investment personnel with responsibility for the services to be performed hereunder within a reasonable time after such change.

12. The authority of the Manager hereunder shall continue notwithstanding the Client's insolvency, bankruptcy or any legal disability and the Client agrees hereby to hold the Manager harmless (as and to the extent set forth in paragraph 16 hereof) from all liability, loss and expense arising as a consequence of any action taken or omitted to be taken by the Manager after any such event and prior to receipt of actual knowledge of such event. The Client hereby authorizes the Manager to accept and rely upon all instructions given on the Client's behalf by any person or entity the Manager reasonably believes to be the Client's authorized agent (agents) if such instructions are not inconsistent with the Escrow Agreement. All instructions will continue to be effective until canceled.

13. Any notices to be sent to the Client pursuant to this agreement shall be delivered to the Client in accordance with Section 11 of the Escrow Agreement, and any notices to be delivered to the Manager shall be addressed as follows:

Salomon Smith Barney Inc.
388 Greenwich Street
New York, New York 10013
Attn: John Hartigan, Managing Director
Michael Rosenbaum, General Counsel, Asset Management
Phone: (212) 816-6000
Fax: (212) 816-5338

14. The Client hereby agrees and acknowledges that the Manager may act on the Client's behalf even though the Manager or any of the Manager's affiliates may have a potential conflict of duty or interest in a transaction, provided that such conflict and the nature thereof is disclosed to the Client in Part II of Manager's Form ADV or otherwise in writing. This includes the fact that the Manager or one of the Manager's affiliates may: (a) provide brokerage services to other clients; (b) act as underwriter, dealer or placement agent with respect to securities; (c) invest on the Client's behalf in mutual or unit trust funds established, sponsored, advised or managed by the Manager or one of the Manager's affiliates; (d) act as a counterparty in currency exchange transactions; (e) act in the same transaction as agent for more than one client; or (f) have a material interest in an issue of securities. Manager earns fees and profits from the activities described in the previous sentence in addition to the fees charged to the Client for the Manager's services under this Agreement.

15. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of law doctrines.

16. The Client shall, by allowance of a claim for set-off against the funds under management hereunder, indemnify, hold harmless and defend the Manager (together with its successors and assigns) from and against any and all losses, claims, liabilities and reasonable expenses, including the reasonable fees of its counsel, which it may suffer or incur in connection with the performance of its duties and obligations under this Agreement, except for those losses, claims, liabilities and expenses resulting solely and directly from its own negligence or willful misconduct. Anything in this Agreement to the contrary notwithstanding, in no event shall the Manager be liable for special, indirect or consequential loss or damage of any kind whatsoever (including but not limited to lost profits). The provisions of this Section 16 shall survive termination of this Agreement.

17. The Manager shall have the right to cause the liquidation of any investments held under the Escrow Agreement in order to provide funds necessary to make payments required under the Escrow Agreement. The Manager shall not have any liability for any loss sustained as a result of any liquidation of any investment prior to its maturity in order to make a payment required under the Escrow Agreement.

18. By acceptance of this Agreement, the Client acknowledges receipt of Part II of the Manager's Form ADV.

MANAGER:
By: Robert S. Smith
Title: Managing Director
Date: 12/23/98

INVESTMENT GUIDELINES

ANNEX I TO APPENDIX B

Investment Objectives:

To maximize current income to the extent consistent with the preservation of principal and the maintenance of liquidity.

Risk Tolerance:

Low

Time Horizon:

The weighted average duration of the total portfolio shall be consistent with the anticipated disbursement schedule under the Escrow Agreement.

Permitted Investments:

As provided in Section 5 of the Escrow Agreement.

Performance Benchmark:

To be agreed upon by Manager and Client.

ANNEX II TO APPENDIX B

FEE SCHEDULE FOR
INVESTMENT MANAGEMENT SERVICES

1.5 basis points per annum, payable quarterly in arrears based on average deposit balance for preceding quarter.

WHEREAS the City/County of _____ (hereinafter the "Undersigned

City/County") wishes to receive its allocated share of settlement proceeds as provided for and set

forth in the Memorandum of Understanding ("MOU"), a copy of which is attached as Exhibit B to

the Consent Decree and Final Judgment agreed to by the State of California and various Participating

Manufacturers of Tobacco Products in the matter of *People of the State of California, et al. v. Philip*

Morris Inc., et al., Case No. J.C.C.P. 4041 (originally filed as Sacramento Superior Court Case No.

97 AS 03031), which Consent Decree and Final Judgment was entered by the Court on December

9, 1998 (a copy of which is attached as Exhibit B to the Agreement Regarding Interpretation of

Memorandum of Understanding), and incorporates within it as exhibit A thereto the Master

Settlement Agreement ("MSA") entered on November 23, 1998;

WHEREAS, the Attorney General of the State of California and representatives of a number

of California Counties and Cities entered into the MOU dated August 5, 1998, which allocates a

portion of settlement proceeds to certain California Cities and all California Counties that comply

with the terms of the MOU, by releasing all Released Claims such City or County may have

consistent with the extent of the State's Release, and dismissing any Released Claims from any

pending actions with prejudice;

WHEREAS, the State of California and certain Participating Manufacturers of Tobacco

Products entered into the MSA, the terms of which were approved by the Court by the entry of the

Consent Decree and Final Judgment;

WHEREAS, certain Cities and Counties within the State of California had, prior to

December 9, 1998, commenced litigation asserting various claims for monetary, equitable and

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

Coordination Proceeding Special Title (Rule) No. JCCP 4041

1550(b))

TOBACCO CASES I

Including Actions:

Cordova vs. Liggett Group, Inc.)

) San Diego Superior Court No. 651824

) Davis vs. R.J. Reynolds Tobacco Co.)

) San Diego Superior Court No. 706458

) County of Los Angeles vs. R.J. Reynolds Tobacco)

) Co.) San Diego Superior Court No. 707651

) People vs. Philip Morris, Inc.)

) San Francisco Superior Court No.)

) 980864

) People vs. Philip Morris, Inc.)

) Sacramento Superior Court No. 97AS)

) 03031)

RELEASE AND DISCHARGE OF CLAIMS

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1 injunctive relief against certain Participating Manufacturers and others as defendants,¹ and other
2 Cities or Counties that have not filed suit can potentially assert similar claims;

3 WHEREAS, the ability of each eligible City and County to share in its portion of the
4 settlement proceeds is conditioned upon a release executed by the eligible City and County of
5 tobacco related claims which is consistent with the extent of the State's release, and dismissal of any
6 Released Claims from any pending actions with prejudice;

7 WHEREAS, the Undesignated City/County has obtained any necessary approval to participate
8 in the settlement under the terms and conditions as memorialized in the MOU and the MSA executed
9 between the Attorney General of the State of California and the Participating Manufacturers, and
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11 WHEREAS, in consideration for receiving its portion of the settlement proceeds as allocated
12 to Cities and Counties in the MOU, the Undesignated City/County executes this Release, consistent
13 with the terms of the MOU and the MSA;

14 NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

15 1. DEFINITIONS

16 As used herein, the following terms have the same meaning as and are defined the same as
17 they are defined in the Master Settlement Agreement and the Agreement Regarding Interpretation
18 of Memorandum of Understanding² unless specifically modified in this paragraph 1:

19 _____
20 ¹ People of the State of California, et al., v. Philip Morris Inc., et al., No. 980864 (San
21 Francisco County Superior Court); The City and County of San Francisco, et al., v. Philip Morris
22 Inc., et al., No. C-96-2090-DLJ (N.D. Cal.); and County of Los Angeles v. R.J. Reynolds
23 Tobacco Co., et al., No. 707651 (San Diego Superior Court).

24 ² For the purposes of this Release, the meaning of terms appearing herein with initial
25 capitalized letters that are not specifically separately defined in this paragraph 1, have the same
26 definition as such term has in the Master Settlement Agreement or the Agreement Regarding
27 Interpretation of Memorandum of Understanding.
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1 (a) The term "City/County" and variations thereon, as used herein means each individual
2 City and/or County which signs this Release and includes all past, present and future agencies,
3 districts, divisions and departments, as well as all past, present and future officers, directors,
4 employees, agents and attorneys of such executing City and/or County.

5 (b) The term "Master Settlement Agreement" or "MSA" means that document, including
6 exhibits thereto, which is attached as Exhibit A to the Consent Decree and Final Judgment entered
7 by the San Diego Superior Court on December 9, 1998, in People of the State of California, et al.
8 Daniel E. Lungren, et al. v. Philip Morris Inc., et al., J.C.P. 4041 (originally filed as Sacramento
9 Superior Court No. 97 AS 30301), and includes any subsequent agreements with respect to
10 modifications of the MSA.

11 (c) The term "Original Participating Manufacturers" means the following: Brown &
12 Williamson Tobacco Corporation, Lorillard Tobacco Company, Philip Morris Incorporated and R.J.
13 Reynolds Tobacco Company, and the respective successors of each of the foregoing. Except as
14 expressly provided in the Master Settlement Agreement, once an entity becomes an Original
15 Participating Manufacturer, such entity shall permanently retain the status of Original Participating
16 Manufacturer.

17 (d) The term "Participating Manufacturer" means a Tobacco Product Manufacturer that
18 is or becomes a signatory to the MSA, provided that (1) in the case of a Tobacco Product
19 Manufacturer that is not an Original Participating Manufacturer, such Tobacco Product Manufacturer
20 is bound by the MSA and the Consent Decree (or, in any Settling State that does not permit
21 amendment of the Consent Decree, a consent decree containing terms identical to those set forth in
22 the Consent Decree) in all Settling States in which the MSA and the Consent Decree binds Original
23 Participating Manufacturers (provided, however, that such Tobacco Product Manufacturer need only
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1 become bound by the Consent Decree in those Settling States in which the Settling State has filed
2 a Released Claim against it), and (2) in the case of a Tobacco Product Manufacturer that signs the
3 MSA after the MSA Execution Date, such Tobacco Product Manufacturer, within a reasonable
4 period of time after signing the MSA, makes any payments (including interest thereon at the Prime
5 Rate) that it would have been obligated to make in the intervening period had it been a signatory as
6 of November 23, 1998. "Participating Manufacturer" shall also include the successor of a
7 Participating Manufacturer. Except as expressly provided in the MSA, once an entity becomes a
8 Participating Manufacturer such entity shall permanently retain the status of Participating
9 Manufacturer.

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12 (e) The term "Released Claims" means: (1) for conduct, acts or omissions occurring prior
13 to November 23, 1998 (including any damages incurred in the future arising from such past conduct,
14 acts or omissions), those Claims directly or indirectly based on, arising out of or in any way related,
15 in whole or in part, to (A) the use, sale, distribution, manufacture, development, advertising,
16 marketing or health effects of, (B) the exposure to, or (C) research, statements or warnings regarding
17 Tobacco Products (including, but not limited to, the Claims asserted in the actions identified in
18 footnote 1 of this Release, or any comparable Claims that were, could be or could have been asserted
19 now or in the future in those actions or in any comparable action in federal, state or local court
20 (whether or not the Undersigned City/County has brought such action)), except for claims for
21 outstanding liability under existing licensing (or similar) fee laws or existing tax laws (but not
22 excepting claims for any tax liability of the Tobacco-Related Organizations or of any Released Party
23 with respect to such Tobacco-Related Organizations, which claims are covered by the release and
24 covenants set forth in the MSA); (2) for conduct, acts or omissions occurring after November 23,
25 1998, only those monetary Claims directly or indirectly based on, arising out of or in any way related
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1 to, in whole or in part, the use of or exposure to Tobacco Products manufactured in the ordinary
2 course of business, including, without limitation, any future Claims for reimbursement of health care
3 costs allegedly associated with the use of or exposure to Tobacco Products.

4 (g) The term "Released Parties" means all Participating Manufacturers and their past,
5 present and future Affiliates, divisions, officers, directors, employees, representatives, insurers,
6 lenders, underwriters, Tobacco-Related Organizations, trade associations, suppliers, agents, auditors,
7 advertising agencies, public relations entities, attorneys, retailers and distributors of any Participating
8 Manufacturer (and the predecessors, heirs, executors, administrators, successors and assigns of each
9 of the foregoing). Provided, however, that "Released Parties" does not include any person or entity
10 (including, but not limited to, an Affiliate) that is itself a Non-Participating Manufacturer at any time
11 after November 23, 1998, unless such person or entity becomes a Participating Manufacturer.

12 (f) The term "Represented City," "Represented County" and/or "Represented Cities and
13 Counties" means individually or collectively, the City and County of San Francisco, the Cities of
14 Los Angeles, San Diego and San Jose, and the Counties of Alameda, Contra Costa, Marin,
15 Monterey, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis
16 Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta and Ventura who executed
17 contingency fee contracts with private outside counsel to prosecute tobacco-related claims, and the
18 County of Los Angeles who executed a separate contingent fee contract with private outside counsel
19 to prosecute tobacco-related claims.

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24 2. Upon the occurrence of State-Specific Finality in California, and the entry of a
25 dismissal with prejudice in People of the State of California, et al. v. Philip Morris Inc., et al., No.
26 980864 (San Francisco County Superior Court), City and County of San Francisco, et al. v. Philip
27 Morris Inc., et al., No. C-96-2090-DLJ (N.D. Cal.) and County of Los Angeles, et al. v. R.J.
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1 Reynolds Tobacco Co., et al., No. 707651 (San Diego County Superior Court), the Undersigned
2 City/County shall absolutely and unconditionally release and forever discharge all Released Parties
3 from all Released Claims that the Undersigned directly, indirectly, derivatively or in any other
4 capacity ever had, now has, or hereafter can, shall or may have.

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6 3. This Release and Discharge of Claims shall not apply to, and shall be of no force or
7 effect as against, any Participating Manufacturer which is a signatory to the MSA or as to or against
8 the Undersigned City/County if, for any reason whatsoever, State Specific Finality does not occur
9 in California or the provisions of the MSA or the Consent Decree and Final Judgment entered in the
10 matter of People of the State of California, et al. v. Philip Morris, Inc., et al., Case No. J.C.C.P. 4041
11 (originally filed as Sacramento Superior Court Case No. 97 AS 03031) are reversed.

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13 4. The Undersigned City/County covenants and agrees that it shall not after the
14 occurrence of State-Specific Finality in California sue or seek to establish civil liability against any
15 Released Party based, in whole or in part, upon any of the Released Claims, and further agrees that
16 such covenant and agreement shall be a complete defense to any such civil action or proceeding.

17
18 5. The Undersigned City/County covenants and agrees that, if a Released Claim brought
19 by the Undersigned City/County against any person or entity that is not a Released Party (a "non-
20 Released Party"), or against any retailer, supplier or distributor who is a Released Party, but who is
21 not released from a Released Claim because of the operation of paragraph 9 below (hereinafter a
22 "non-Released Retailer"), results in or in any way gives rise to a claim-over (e.g., a cross-complaint;
23 on any theory whatever other than a claim based on an express written indemnity agreement) by such
24 non-Released Party or non-Released Retailer against any Released Party (and the Attorney General
25 gives notice to the undersigned and to Milberg Weiss Bershad Hynes & Lerach LLP ("Milberg
26 Weiss"), the City and County of San Francisco, Leiff Cabraser Heimann & Bernstein ("LCHB") and
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1 Robinson, Calcagni & Robinson ("Robinson") within 30 days of the service of such claim-over and
2 prior to entry into any settlement of such claim-over), the Undersigned City/County:

3 (a) shall reduce or credit against any judgment or settlement it may obtain against
4 such non-Released Party or non-Released Retailer the full amount of any judgment or settlement
5 such non-Released Party or non-Released Retailer may obtain against the Released Party on such
6 claim-over (e.g., if the amount obtained on the claim-over against the Released Party by the non-
7 Released Party or non-Released Retailer is equal to the amount of the settlement or judgment the
8 Undersigned City/County obtains against the non-Released Party or non-Released Retailer, the
9 City/County shall receive no payment on its settlement or judgment since the full amount of such
10 settlement or judgment shall be reduced by the amount obtained on the claim-over against the
11 Released Party by the non-Released Party or non-Released Retailer); and

12 (b) shall, as part of any settlement with such non-Released Party or non-Released
13 Retailer, obtain from such non-Released Party or non-Released Retailer for the benefit of such
14 Released Party a satisfaction in full of such non-Released Party's or non-Released Retailer's
15 judgment or settlement against the Released Party.

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17 6. The Undersigned City/County further agrees that in the event that the provisions of
18 paragraph 5 do not fully eliminate any and all liability of any Original Participating Manufacturer
19 (or of any person or entity that is a Released Party by virtue of its relation to any Original
20 Participating Manufacturer) with respect to claims-over (on any theory whatever other than a claim
21 based on an express written indemnity agreement) by any non-Released Party or non-Released
22 Retailer to recover in whole or in part any liability (whether direct or indirect, or whether by way of
23 settlement judgment or otherwise), of such non-Released Party or non-Released Retailer to the
24 Undersigned City/County arising out of any Released Claim, (to the extent that the Attorney General
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1 from the sale or distribution of Tobacco Products of, or the supply of component parts of Tobacco
2 Products to, any non-Released Party.

3 10. As provided under the MOU, Private Outside Counsel for the Represented Cities and
4 Countries will make their best efforts to obtain their fees and costs from the Original Participating
5 Manufacturers as provided for in the MSA. Any attorneys fees and costs obtained shall be credited
6 against the amounts owed Private Outside Counsel under their contingency fee agreements. To the
7 extent, if any, that the arbitration award is insufficient to satisfy the outstanding contingency fee
8 contracts, and to the extent, if any, private counsel seek to enforce such contracts, all cities and
9 countries receiving an allocated share of settlement proceeds pursuant to the MOU will share the risk
10 that attorneys fees and costs may be due and owing to Private Outside Counsel who prosecuted the
11 tobacco actions identified in footnote 1 herein. Accordingly, the Undersigned City/County, as well
12 as every other non-litigating County covenants and agrees that, to the extent that any of the
13 Represented Cities and Counties pay attorney's fees to their Private Outside Counsel, in any year,
14 to compensate Private Outside Counsel for work done in the Cities' and Counties' suits against the
15 Participating Manufacturers, the settlement proceeds to be paid to the Undersigned City/County in
16 that year (or as soon thereafter as possible) will be decreased by an offset equal to the Undersigned
17 City's/County's "Proportional Share Percentage" of the sum of fees and costs paid by any
18 Represented City or County. The amount of the offset shall be added to the settlement proceeds to
19 be paid to the Represented City or County that made the private counsel fee payment, provided
20 however, that no Represented City or County shall be subject to an offset for attorneys' fees or costs
21 paid by any other Represented City or County to Private Outside Counsel. For the purpose of this
22 paragraph, "Proportional Share Percentage" shall mean the Undersigned City's/County's allocation
23 percentage of the total amount payable to California local governments (as determined by the
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1 has given notice to the undersigned and to Milberg Weiss, the City and County of San Francisco,
2 LCHB and Robinson within 30 days of the service of such claim-over and prior to entry into any
3 settlement of such claim-over), such Original Participating Manufacturer shall receive a continuing
4 dollar-for-dollar offset for any amounts paid by such Original Participating Manufacturer; (or by any
5 person or entity that is a Released Party by virtue of its relation to such Original Participating
6 Manufacturer) on any such claim-over liability as against the payment the Original Participating
7 Manufacturer is to make pursuant to the MSA (determined as described in step "E" of clause
8 "Seventh" of §IX(j) of the MSA) up to the full amount of such Original Participating Manufacturer's
9 share of the MSA Allocated Payment each year, until all such amounts paid on such claim-over
10 liability have been offset. The Undersigned City's/County's MOU Proportional Allocable Share shall
11 likewise be reduced dollar-for-dollar until the full claim-over amount of the Original Participating
12 Manufacturer's offset has been deducted from the MOU Proportional Allocable Share owing to the
13 Undersigned City/County. The amount deducted from the MOU share owing to the Undersigned
14 City/County will be distributed, pursuant to the terms of the MOU, 50% to the State and 50% to the
15 other cities and counties which did not bring the original action against the non-Released Party or
16 non-Released Retailers which gave rise to the claim-over.

17 7. The Undersigned City/County does not purport to waive or release any claims on
18 behalf of Indian tribes.
19 8. The Undersigned City/County does not waive or release any criminal liability based
20 on federal, state or local law.
21 9. Notwithstanding the foregoing (and the definition of Released Parties), this release
22 and covenant shall not apply to retailers, suppliers or distributors to the extent of any liability arising
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1 allocation formula set forth in the MOU, calculated as of the year of the fee payment in question),
2 multiplied by the amount of the fee payment made by the Represented City or County in question.
3 A separate offset will be calculated for and paid to each Represented City and County that makes
4 a fee payment to private counsel in any given year.

5 11. Except as otherwise stated herein, notwithstanding any provision of law, statutory or
6 otherwise, which provides that a general release does not extend to claims which the creditor does
7 not know or suspect to exist in its favor at the time of executing the release, which if known by it
8 must have materially affected its settlement with the debtor, the releases set forth herein release all
9 Released Claims against the Released Parties, whether known or unknown, foreseen or unforeseen,
10 suspected or unsuspected, that the Undersigned City/County may have against the Released Parties,
11 and the Undersigned City/County understands and acknowledges the significance and consequences
12 of waiver of any such provision and hereby assumes full responsibility for any injuries, damages or
13 losses that the Undersigned City/County may incur.

14 DATED: _____

15 CITY/COUNTY OF _____

16 BY: _____

Appendix E

MODEL RESOLUTION BY CITY COUNCIL

A RESOLUTION AUTHORIZING WITHDRAWAL AND ACCEPTANCE OF
TOBACCO SETTLEMENT MONIES PURSUANT TO THE
MEMORANDUM OF UNDERSTANDING

WHEREAS the Attorney General of the State of California and representatives of a
number of California Counties and Cities entered into a Memorandum of Understanding
("MOU"), which allocates a portion of settlement proceeds stemming from litigation against
various manufacturers of tobacco products;

WHEREAS the City of _____ (hereinafter "the City") wishes to receive its
allocated share of settlement proceeds as provided for and set forth in the MOU;

WHEREAS the City has obtained any necessary approval to participate in the settlement
under the terms and conditions memorialized in the MOU; and

WHEREAS the City has, in consideration for receiving its portion of the settlement
proceeds as allocated to Cities and Counties in the MOU, executed the Agreement Regarding
Interpretation of MOU and the Release, approved by the J.C.C.P. 4041 Court;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize
the acceptance and deposit of the City's portion of the settlement proceeds as allocated to Cities
and Counties in the MOU.

BE IT FURTHER RESOLVED, that the City Council does hereby authorize the
verification by the Office of the Attorney General of all banking information provided to
effectuate the acceptance of the settlement proceeds.

///

///

BE IT FURTHER RESOLVED, that the following officers or their successors in office shall be authorized to direct the transfer of the City's settlement funds on behalf the City:

(NAME) _____ (NAME) _____ (NAME)

(TITLE) _____ (TITLE) _____ (TITLE)

(SIGNATURE) _____ (SIGNATURE) _____ (SIGNATURE)

BE IT FURTHER RESOLVED, that all notices from the Office of the Attorney General to the City regarding tobacco settlement funds shall be sent to following person/agency:

Name of Person/Agency: _____
Title: _____
Address: _____

Telephone: _____
Facsimile: _____
E-Mail: _____

PASSED AND ADOPTED, by the City Council of the City of _____
County of _____, State of California, this ____ day of _____.

Appendix E
MODEL RESOLUTION BY COUNTY BOARD OF SUPERVISORS

A RESOLUTION AUTHORIZING WITHDRAWAL AND ACCEPTANCE OF TOBACCO SETTLEMENT MONIES PURSUANT TO THE MEMORANDUM OF UNDERSTANDING

WHEREAS the Attorney General of the State of California and representatives of a number of California Counties and Cities entered into a Memorandum of Understanding ("MOU"), which allocates a portion of settlement proceeds stemming from the litigation against various manufacturers of tobacco products;

WHEREAS the County of _____ (hereinafter "the County") wishes to receive its allocated share of settlement proceeds as provided for and set forth in the MOU;

WHEREAS the County has obtained any necessary approval to participate in the settlement under the terms and conditions memorialized in the MOU; and

WHEREAS in consideration for receiving its portion of the settlement proceeds as allocated to Cities and Counties in the MOU, the County has executed the Agreement Regarding Interpretation of MOU and the Release, approved by the I.C.C.P. 4041 Court;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors does hereby authorize the acceptance and deposit of the County's portion of the settlement proceeds as allocated to Cities and Counties in the MOU.

BE IT FURTHER RESOLVED, that the Board of Supervisors does hereby authorize the verification by the Office of the Attorney General of all banking information provided to effectuate the acceptance of the settlement proceeds.

///
///

Appendix F
Transfer Instructions

CALIFORNIA ACCOUNT - TOBACCO SETTLEMENT FUND
Wiring Instructions Information Form

Please complete this form and mail to the Office of the Attorney General, Tobacco Litigation Section, P.O. BOX 944255, Sacramento, CA 94244-2550

CITY/COUNTY NAME _____

BANK ROUTING INFORMATION

Bank Name: _____
 Bank ABA Routing #: _____
 Bank Account #: _____
 Bank Account Name: _____
 Bank Address: _____
 Bank Branch #: _____
 Bank Telephone #: _____ Bank Fax #: _____
 Bank Contact Person, Title, Telephone # and E-mail Address: _____

AUTHORIZED SIGNATURES

(Signatures of two of three designated city/county officers are required)

 Typed or Printed Name _____ Typed or Printed Name _____

 Signature _____ Signature _____
 Date: _____ Date: _____

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BE IT FURTHER RESOLVED, that the following officers or their successors in office shall be authorized to direct the transfer of the County's settlement funds on behalf the County:

 (NAME) _____ (NAME) _____ (NAME) _____

 (TITLE) _____ (TITLE) _____ (TITLE) _____

 (SIGNATURE) _____ (SIGNATURE) _____ (SIGNATURE) _____

BE IT FURTHER RESOLVED, that all notices from the Office of the Attorney General to the County regarding tobacco settlement funds shall be sent to following person/agency:

Name of Person/Agency: _____
 Title: _____
 Address: _____

 Telephone: _____
 Facsimile: _____
 E-Mail: _____

PASSED AND ADOPTED, by the Board of Supervisors of the County of _____, State of California, this _____ day of _____.

Appendix H

Address for Agreement Section 1.B (9) Documents

- One executed original **Model Release,**
- One executed original **Agreement Regarding Interpretation of Memorandum of Understanding,**
- One executed original **Authorization and Designation of City/County Designees**
- One executed original **Transfer Instructions, and**
- One executed original **Form W-9**

Are to be sent to the State at the following address by each City and each County:

**Tobacco Litigation Section
 Local Escrow Implementation
 Office of the Attorney General
 PO Box 94255
 Sacramento CA 94244-2550**

**APPENDIX "I"
 (MODEL ESCROW INSTRUCTIONS)**

At such time as all events and conditions set forth in Section 3.C of the National Escrow Agreement have been satisfied and the Escrow Agent is notified to release the escrow funds to the States, the Escrow Agent shall disburse all funds held in the "California Account"¹¹ as follows:

1. All funds allocated to the California Account shall be credited to the following governmental entities in the following percentages:
 - (a) 50% of the funds allocated to the California Account at the time of release shall be credited to the State of California ("hereinafter the "State").
 - (b) The remaining funds allocated to the California Account at the time of release shall be credited to the Cities and Counties in the MOU Proportional Allocable Shares indicated in the following chart:

City/County	MOU Proportional Allocable Share
County of Alameda	0.038684912
County of Alpine	0.000033659
County of Amador	0.000908437
County of Butte	0.005507657
County of Calaveras	0.000967681
County of Colusa	0.000492187

¹¹All terms herein have the same meaning as, and are defined the same as they are defined in the California State Escrow Agreement. All definitions contained in the California State Escrow Agreement are incorporated by reference herein in these instructions

County of Contra Costa	0.024306394	County of San Benito	0.001109788
County of Del Norte	0.000709475	County of San Bernardino	0.042894526
County of El Dorado	0.003810330	County of San Diego	0.075544785
County of Fresno	0.020186175	City of San Diego	0.025000000
County of Glenn	0.000749939	City and County of San Francisco	0.046893906
County of Humboldt	0.003602356	County of San Joaquin	0.014535111
County of Imperial	0.003305532	County of San Luis Obispo	0.006567395
County of Inyo	0.000552852	County of County of San Mateo	0.019645843
County of Kern	0.016435785	County of Santa Barbara	0.011177653
County of Kings	0.003068617	County of Santa Clara	0.045289595
County of Lake	0.001531178	City of San Jose	0.025000000
County of Lassen	0.000834616	County of Santa Cruz	0.006947596
County of Los Angeles	0.268039045	County of Shasta	0.004446650
City of Los Angeles	0.025000000	County of Sierra	0.000100343
County of Madera	0.002664010	County of Siskiyou	0.001316461
County of Marin	0.006958543	County of Solano	0.010294983
County of Mariposa	0.000432520	County of Sonoma	0.011740576
County of Mendocino	0.002429787	County of Stanislaus	0.011205295
County of Merced	0.005395248	County of Sutter	0.001948033
County of Modoc	0.000292681	County of Tehama	0.001500755
County of Mono	0.000301088	County of Trinity	0.000395050
County of Monterey	0.010755839	County of Tulare	0.009433088
County of Napa	0.003349746	County of Tuolumne	0.001465402
County of Nevada	0.002374293	County of Ventura	0.020232324
County of Orange	0.072899828	County of Yolo	0.004266892
County of Placer	0.005225682	County of Yuba	0.001760926
County of Plumas	0.000596945		
County of Riverside	0.035395529		
County of Sacramento	0.031488456		
			1.0000000

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I-2

Appendix J

Mathematical Example:
State as Responsible Entity
Offset Recouped in One Year

Assumptions: An annual payment of \$1,000 is due to be released to the California Account. However, an Original Participating Manufacturer claims an offset of \$100 against this payment, because of a judgment obtained by the State on a released claim. The California Account therefore receives a payment of only \$900. All Cities and Counties are Eligible Cities/Counties.

Instructions: Absent other instructions, the Escrow Agent would normally divide this amount by giving \$450 to the State and \$450 to the Cities and Counties. However, pursuant to section 4.C.(2)(a)(i) of this Agreement, the State notifies the Escrow Agent and the City/County Steering Committee that the \$100 offset has occurred and that the State is the Responsible Party. The State instructs the Escrow Agent to deduct one-half of the amount of the offset (or \$50) from the State's share, and credit that amount to the City and County share. The Escrow Agent therefore transmits \$400 to the State and transmits the remaining \$500 to the Cities and Counties, pursuant to their MOU Proportional Allocable Shares. Thus all parties are returned to the same position that they would have been in if the offset had not occurred.

2. The amounts credited to the State and to the Cities and Counties pursuant to Section 1 above shall be transferred by wire transfer as follows:

(a) The amount credited to the State shall be wire transferred to the "California State General Fund."

(b) If the State has notified the Escrow Agent that a City or County has attained the status of Eligible City and/or Eligible County, all amounts credited to such Eligible City and/or Eligible County shall be wire transferred to the accounts specified by such Eligible Cities and/or Eligible Counties in the "Transfer Instructions" submitted to the Escrow Agent pursuant to section ___ of the "California State Escrow Agreement" (modeled after section 1.B.(9)(d) of the "Agreement Regarding Interpretation of Memorandum of Understanding").

(c) If the State has not notified the Escrow Agent that a City or County has attained the status of Eligible City and/or Eligible County, all amounts credited to such City and/or County shall be transferred to the "City/County Account" established pursuant to section ___ of the "California State Escrow Agreement" (modeled after section 4.B.(2)(ii) of the "Agreement Regarding Interpretation of Memorandum of Understanding"), and held by the Escrow Agent (along with any earnings thereon), separate and apart from all other funds and accounts of the Escrow Agent, the State, the Eligible Cities, Eligible Counties and the Participating Manufacturers until the Escrow Agent receives further instructions pursuant to section ___ of the California State Escrow Agreement (modeled after section 4.B.(2)(ii) of the "Agreement Regarding Interpretation of Memorandum of Understanding").

Appendix L

Mathematical Example:
State as Responsible Entity
Offset Not Recouped in First Year

Assumptions: An annual payment of \$1,000 is due to be released to the California Account. However, an Original Participating Manufacturer claims an offset of \$750 against this payment, because of a judgment obtained by the State on a released claim. The California Account therefore receives a payment of only \$250. The next year, the California account receives its regular annual payment of \$1,000. The applicable rate of interest pursuant to section 4 C (1)(b) of this Agreement is assumed to be 5%. All Cities and Counties are Eligible Cities/Counties.

Instructions: Absent other instructions, the Escrow Agent would normally divide this amount by giving \$125 to the State and \$125 to the Cities and Counties. However, pursuant to section 4 C 2(b)(i) of this Agreement, the State notifies the Escrow Agent and the City/County Steering Committee that the \$750 offset has occurred and that the State is the Responsible Entity. The State instructs the Escrow Agent to deduct one-half of the amount of the offset (or \$375) from the State's share. Since this exceeds the amount of the State's share, the State instructs the Escrow Agent to credit the entire amount of its payment for the year to the City and County share, and to deduct the unremitted amount (\$250, plus interests as described in section 4 C (1)(b) of this Agreement) from its next payment(s). In the first year, the Escrow Agent therefore transmits nothing to the State and distributes the entire \$250 to the Cities and Counties, pursuant to their MOU Proportional Allocable Shares. In the next year, the Escrow Agent will deduct \$250 (plus \$12.5 in interest at the hypothetical rate of 5%) from the State's share, and credit this amount to the Cities/Counties' share. Thus the State will receive \$237.5 and the Cities/Counties will receive \$762.5. Including the money the State received directly from the Original Participating manufacturer, the two year cash flow would be as follows:

Year	State	Cities and Counties
1	\$750	\$250
2	\$237.5	\$762.5
Total	\$987.5	\$1,012.5

Thus in effect, the State receives an advance of settlement funds in the first year, and pays this advance back to the Cities and Counties, with interest, in the second year.

Appendix M

Mathematical Example:
City / County as Responsible Entity
Offset Not Recouped in First Year

Assumptions: An annual payment of \$1,000 is due to be released to the California Account. However, an Original Participating Manufacturer claims an offset of \$40 against this payment, because of a judgment obtained by the City and County of San Francisco on a released claim. The California Account therefore receives a payment of only \$960. The next year, the California account receives its regular annual payment of \$1,000. The applicable rate of interest pursuant to section 4 C (1)(b) of this Agreement is assumed to be 5%. Based on the 1990 Official United States Decennial Census, San Francisco's MOU Proportional Allocable Share is equal to 4.6893906% of the total money to be split among the Cities and Counties. The remaining Cities and Counties have a combined MOU Proportional Allocable Share of 95.3106094. All Cities and Counties are Eligible Cities/Counties.

Instructions: Absent other instructions, the Escrow Agent would normally divide the \$960 payment by giving \$480 to the State and \$480 to the Cities and Counties. San Francisco's MOU Proportional Allocable Share of \$480 would be \$22.50. However, pursuant to section 4 C (2)(b)(ii) of this Agreement, the State notifies the Escrow Agent and the City/County Steering Committee that the \$40 offset has occurred and that San Francisco is the Responsible Entity. Since the amount of the offset exceeds San Francisco's MOU Proportional Allocable Share, the State instructs the Escrow Agent to credit the State with one-half of San Francisco's MOU Proportional Allocable Share (\$11.25), and to credit the Cities and Counties (excluding San Francisco) with the other half (\$11.25). The State further instructs the Escrow Agent to calculate San Francisco's MOU Proportional Allocable Share of the amount credited to the Cities and Counties (\$11.25 x .046893906 = \$.52), and credit one-half of this amount (\$.26) to the State and one-half to the Cities and Counties (excluding San Francisco). Thus in the first year, the Escrow Agent pays nothing to San Francisco, pays \$491.51 to the State [\$480.00 + \$11.25 + \$.26 = 491.51], and divides 468.49 [\$480 - 11.25 - .26 + = 468.49] among the Cities and Counties (excluding San Francisco), based on their pro rata MOU Proportional Allocable Shares. The State further instructs the Escrow Agent to deduct the unremitted amount [\$40 - 22.50 - .52 = 16.98] plus interest as described in section 4 C (1)(b) of this Agreement from the next payment(s) due to San Francisco. In the second year, the Escrow Agent will deduct \$16.98 (plus \$.84 in interest at the hypothetical rate of 5%, for a total deduction of \$17.82) from San Francisco's share, and credit one-half of this amount (\$8.91) to the State and one-half to the Cities/Counties' share, to be redistributed to all Cities and Counties (including San Francisco) based on their MOU Proportional Allocable Share. San Francisco therefore receives a payment in the second year equal to:

$$(\$500 \times .046893906) - 17.82 + (\$8.91 \times .046893906) = (23.44) - 17.82 + (0.42) = 6.04$$

The State will receive \$508.91. The Cities and Counties other than San Francisco receive: 500 - 23.44 + 8.91 - .42 = 485.05. Including the money that San Francisco received in the first year directly from the Original Participating Manufacturer (thereby triggering the offset), the two year cash flow would be as follows:

Year	State	San Francisco	Other Cities and Counties
1	\$491.51	\$40	468.49
2	\$508.91	\$6.04	485.05
Total	\$1,000.42	\$46.04	953.54
2 yr. av.	\$1,000.	\$46.88	953.12
Difference	+.42	-.84	+.42

Because San Francisco has to pay interest, it receives \$ 84 less than its normal two-year allocation (which is $23.44 \times 2 = 46.88$) but it receives the bulk of its money sooner. Conversely, because the State and the other Cities and Counties are paid interest, they receive \$ 42 more than their normal two-year allocation [\$1,000 for the State, \$953.12 for the other Cities and Counties], but they get less in the first year.

This is demonstrated graphically as follows:

- Step 1:** Divide California Payment 50/50 between the State and the Cities and Counties.
- (a) $\$960 / 2 = \480 (State Share)
 $\$480$ (City/County Share)
- Step 2:** Calculate the Base MOU Proportional Allocable Shares of the Cities and Counties ("City/County Base MPAS") by multiplying the City/County Share by the MOU Proportional Allocable Share percentages ("MPAS%").
- (a) City/County Share x MPAS% = City/County Base MPAS
 (b) Repeat for each City and County
 (c) San Francisco's Base MPAS is: $\$480 \times .046893906 = \22.50907488
- Step 3:** Deduct 1/2 of the Responsible Entity's Base MPAS and adjust the State Share by adding this amount to the State Share.
- (a) State Share + (Responsible Entity Base MPAS / 2) = Adjusted State Share
 (b) Under this example, the Adjusted State Share is:
 $\$480 + (\$22.50907488 / 2) = \$491.25$
- Step 4:** Deduct the remaining 1/2 of the Responsible Entity's Base MPAS and adjust the Cities' and Counties' Base MPAS by adding their MPAS% of this amount to their respective Base MPAS.
- (a) $[(\text{Responsible Entity's Base MPAS} / 2) \times \text{MPAS}\%] + \text{Base MPAS} =$
 City/County Adjusted Base MPAS
 (b) Repeat for each City and County
 (c) San Francisco's Adjusted Base Amount is:
 $[(\$22.50907488 / 2) \times .046893906 + 0] = \527.692189091
- Step 5:** Deduct 1/2 of the Responsible Entity's Adjusted Base MPAS and adjust the Adjusted State Share by adding this amount to the State Share.
- (a) Adjusted State Share + (Responsible Entity Adjusted Base MPAS / 2) =
 State Distribution
 (b) Under this example, the State Distribution is:
 $\$491.25 + (\$527.692189091 / 2) = \$491.51$

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Step 6: Calculate the Enhanced MPAS% of each City and County (except the Responsible Entity) by their proportional share of the Responsible Entity's MPAS% to their respective MPAS%.

(a) $\text{Individual MPAS\%} / \text{Combined MPAS\% (excluding Responsible Entity)} =$
 Enhanced MPAS%

(b) Repeat for each City and County

Step 7: Deduct the remaining 1/2 of the Responsible Entity's Adjusted Base MPAS and adjust the Cities' and Counties' Adjusted Base MPAS by adding their Enhanced MPAS% of this amount to their respective Adjusted Base MPAS.

(a) $[(\text{Responsible Entity's Adjusted Base MPAS} / 2) \times \text{Enhanced MPAS\%}] +$
 City/County Adjusted Base MPAS = City/County Distribution

(b) Repeat for each City and County

(c) San Francisco's Distribution is \$0

Step 8: Calculate Principal owed by the Responsible Entity and begin time for interest to run on amount owed.

(a) $\text{Offset Amount} - \text{Responsible Entity's Base MPAS} - \text{Responsible Entity's Adjusted Base MPAS} = \text{Principal Amount Owed}$

(b) San Francisco's Principal owed is: $\$40 - \$22.50 - \$5.52 = \11.98

Step 9: At time of next payment by the Tobacco Industry, calculate principal and interest owed by the Responsible Entity.

(a) $\text{Principal Owed} + \text{Interest on Principal Since Last Distribution} = \text{Offset Amount}$

(b) San Francisco's Offset owed at the time of the next payment is:
 $\$10.98 + \$84 = \$117.82$

Step 10: (see following page)

¹Under this example, the Combined MPAS% is: $1 - .046893906 = .953106094$

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Step 10:

Deduct the Offset Owed from the Responsible Entity's MPAS of the second year payment and divide this amount 50/50 between State and Cities and Counties. If the amount owed is less than the Responsible Entity's MPAS, then utilize redistribution methodology embodied in "Appendix K." If the amount owed is greater than the Responsible Entity's MPAS, then utilize redistribution methodology embodied in this Appendix M.

- (a) Under this example, the year two Adjusted State Share would be:
 $(\$1000 / 2) + (\$17.82 / 2) = \$508.91$
- (b) Under this example, the year two Cities' and Counties' Adjusted MPAS would be:
 $[(\$1000 / 2) \times \text{MPAS}\%] + [(\$17.82 / 2) \times \text{MPAS}\%]$
 $= \text{City/County Adjusted MPAS}$
- (c) In year two, San Francisco would receive:
 $([(\$1000 / 2) \times .046893906] - \$17.82) + ((\$17.82 / 2) \times 0.46893906) = \6.04

1 BILL LOCKYER
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 2 RICHARD M. FRANK
 Chief Assistant Attorney General
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 4 CORINNE MURPHY
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 8 Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN DIEGO
 CENTRAL

PEOPLE OF THE STATE OF CALIFORNIA
 ex rel. DANIEL E. LUNGREN, ATTORNEY
 GENERAL OF THE STATE OF CALIFORNIA;
 S. KIMBERLY BELSHE, DIRECTOR OF
 HEALTH SERVICES OF THE STATE OF
 CALIFORNIA,

Plaintiffs,

v.

PHILIP MORRIS, INC.; R.J. REYNOLDS
 TOBACCO COMPANY; BROWN &
 WILLIAMSON TOBACCO CORPORATION;
 B.A.T. INDUSTRIES, P.L.C.; BRITISH
 AMERICAN TOBACCO COMPANY;
 LORILLARD TOBACCO COMPANY, INC.;
 AMERICAN TOBACCO COMPANY, INC.;
 UNITED STATES TOBACCO COMPANY; HILL
 & KNOWLTON, INC.; THE COUNCIL FOR
 TOBACCO RESEARCH-U.S.A., INC.;
 TOBACCO INSTITUTE, INC.; SMOKELESS
 TOBACCO COUNCIL, INC. and DOES 1-200,
 inclusive,

Defendants.

J.C.C.P. 4041

(Sacramento Superior Court
Case No: 97AS03031)

NOTICE OF MOTION AND
 OF AMENDMENT TO THE
 AGREEMENT REGARDING
 INTERPRETATION OF
 MEMORANDUM OF
 UNDERSTANDING
 APPLICABLE ONLY TO THE
 STATE OF CALIFORNIA
 AND EACH ELIGIBLE CITY
 OR COUNTY THAT
 EXECUTES THE SAME;
 MEMORANDUM OF POINTS
 AND AUTHORITIES

Date: June 3, 2001
 Time: 3:00 p.m.
 Dept: 69
 Judge: Ronald S. Prager

1 PLEASE TAKE NOTICE that on June 3, 2001, at 3:00 p.m., the Honorable Ronald S.
2 Prager, will issue a telephonic ruling on the joint motion of the People of the State of California and
3 the Counties of Sacramento and San Diego for an order approving the "Amendment to Agreement
4 Regarding Interpretation of Memorandum of Understanding Affecting Only the State of California
5 and Each Eligible City and Eligible County Which Is a Signatory Hereto," (Exhibit A), which is
6 necessary to facilitate the Securitization Transactions contemplated by certain Eligible Cities and/or
7 Counties.

8 Plaintiff's motion will be based on this Notice of Motion, Memorandum of Points and
9 Authorities, and all papers, pleadings and records on file in this action and on such other and further
10 argument and evidence as may be presented.


11 ///
12 ///
13 ///

1 Defendants may obtain a date for oral argument by calling the Tobacco Litigation Calendar
2 Clerk at (619) 531-1331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.

3
4 Dated: 4/26, 2001

5 Respectfully submitted,
6 BILL LOCKYER

7 Attorney General of the State of California
8 RICHARD M. FRANK
9 Chief Assistant Attorney General
10 DENNIS ECKHART
11 Senior Assistant Attorney General

12 
13 CORINNE MURPHY
14 Deputy Attorney General
15 Attorneys for Plaintiffs

16 and

17 COUNTY OF SACRAMENTO
18 ROBERT A. RYAN, JR.
19 County Counsel

20 M. HOLLY GILCHRIST
21 Deputy County Counsel

22 and

23 COUNTY OF SAN DIEGO
24 JOHN J. SANSOME
25 County Counsel

26 WILLIAM SMITH
27 Deputy County Counsel

28 **MEMORANDUM OF POINTS AND AUTHORITIES**

On December 9, 1998, this Court entered the Consent Decree and Final Judgment
("Consent Judgment"), approving the terms of the Master Settlement Agreement ("MSA") reached

1 Defendants may obtain a date for oral argument by calling the Tobacco Litigation Calendar
2 Clerk at (619) 531-1331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.
3

4 Dated: _____, 2001

5 Respectfully submitted,
6 BILL LOCKYER

7 Attorney General of the State of California
8 RICHARD M. FRANK
9 Chief Assistant Attorney General
10 DENNIS ECKHART
11 Senior Assistant Attorney General

12 CORINNE MURPHY
13 Deputy Attorney General
14 Attorneys for Plaintiffs

15 and

16 COUNTY OF SACRAMENTO
17 ROBERT A. RYAN, JR.
18 County Counsel

19 *M. Holly Gilchrist*
20 M. HOLLY GILCHRIST
21 Deputy County Counsel

22 and

23 COUNTY OF SAN DIEGO
24 JOHN J. SANSOME
25 County Counsel

26 WILLIAM SMITH
27 Deputy County Counsel

28 MEMORANDUM OF POINTS AND AUTHORITIES

On December 9, 1998, this Court entered the Consent Decree and Final Judgment
("Consent Judgment"), approving the terms of the Master Settlement Agreement ("MSA") reached

3
Notice of Motion and Motion for Approval of Amendment to Agreement Regarding Interpretation of MSA

1 Defendants may obtain a date for oral argument by calling the Tobacco Litigation Calendar
2 Clerk at (619) 531-1331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.
3

4 Dated: _____, 2001

5 Respectfully submitted,
6 BILL LOCKYER

7 Attorney General of the State of California
8 RICHARD M. FRANK
9 Chief Assistant Attorney General
10 DENNIS ECKHART
11 Senior Assistant Attorney General

12 CORINNE MURPHY
13 Deputy Attorney General
14 Attorneys for Plaintiffs

15 and

16 COUNTY OF SACRAMENTO
17 ROBERT A. RYAN, JR.
18 County Counsel

19 M. HOLLY GILCHRIST
20 Deputy County Counsel

21 and

22 COUNTY OF SAN DIEGO
23 JOHN J. SANSOME
24 County Counsel

25 *William Smith*
26 WILLIAM SMITH
27 Deputy County Counsel

28 MEMORANDUM OF POINTS AND AUTHORITIES

On December 9, 1998, this Court entered the Consent Decree and Final Judgment
("Consent Judgment"), approving the terms of the Master Settlement Agreement ("MSA") reached

3
Notice of Motion and Motion for Approval of Amendment to Agreement Regarding Interpretation of MSA

1 between the Attorneys General of 46 states, 5 territories, the District of Columbia, and the tobacco
2 industry. Pursuant to the terms of the Memorandum of Understanding ("MOU"), which was also
3 approved as part of the Consent Decree, the Attorney General on behalf of the People agreed to share
4 a portion of the tobacco settlement funds coming to the State of California through the MSA with
5 all California Counties and the Cities of Los Angeles, San Diego, San Francisco, and San Jose
6 ("Cities and Counties"). Pursuant to paragraph VI(A) of the Consent Decree and Final Judgment,
7 this Court retained continuing jurisdiction to implement the settlement.

8 In December 1999, the People and the California Cities and Counties prosecuting
9 tobacco claims in J.C.C.P. 4041 asked this Court to enter an order approving a further document, the
10 Agreement Regarding Interpretation of Memorandum of Understanding ("ARIMOU"), which
11 was necessary to implement disbursement of tobacco settlement proceeds to the Eligible Cities and
12 Counties. That order was entered on January 18, 2000. The ARIMOU was executed by all the Cities
13 and Counties. The State, through the Attorney General, entered into an agreement with Citibank,
14 N.A., to act as escrow agent to disburse half of the tobacco settlement proceeds to the Cities and
15 Counties. Several disbursements have already been made in accordance with these agreements.

16 The Counties of Sacramento and San Diego are contemplating "securitization"
17 transactions by which they would sell their rights to receive some or all of their shares of the
18 settlement proceeds. To effect such a sale, the counties must place restrictions on their ability to
19 change the transfer instructions they give the Attorney General, which the Attorney General passes
20 on to the escrow agent for the disbursement of funds. Although the ARIMOU provides for amending
21 transfer instructions, it does not provide for the type of amendment necessary to effectuate the sale
22 of this asset.

23 By this motion, the State and the Counties of San Diego and Sacramento ask this
24 Court to enter an order approving an amendment to the ARIMOU which will provide a modified
25 procedure regarding transfer instructions, which will be applicable to the State of California on one
26 hand and each City or County that elects to become a signatory thereto.

27 ///

28 ///

ARGUMENT

1 On August 5, 1998, the Cities and Counties which were litigating against the Tobacco
2 Industry in the J.C.C.P. 4041 action reached agreement with the Attorney General, regarding joint
3 prosecution of tobacco claims against the tobacco industry. This agreement was embodied in the
4 MOU which, along with the MSA, was approved by this Court on December 9, 1998, as Exhibit B
5 to the Consent Judgment. The MOU provides that if the parties received a monetary award, whether
6 by settlement or trial, the monetary recovery would be divided equally between the State and the
7 Cities and Counties. By virtue of the MOU, the Cities and Counties receive 50% of all tobacco
8 settlement proceeds received by California pursuant to the MSA. The Cities and Counties, which
9 are parties to the J.C.C.P. 4041 Coordinated Proceedings negotiated the ARIMOU to implement the
10 process by which the Cities and Counties receive their share of the tobacco settlement proceeds. On
11 January 18, 2000, the ARIMOU was approved by order of this Court.

12 The Counties of San Diego and Sacramento now contemplate a "securitization"
13 transaction, in which each of them would sell its right to receive its MOU Proportional Allocable
14 Share of the settlement payments to a non-profit corporation or other transferee. The buyer would
15 raise money to purchase the share(s) by borrowing it from a joint powers authority. The authority,
16 whose members would be two or more of the Eligible Cities and Counties, would issue bonds to
17 generate money to loan to the buyer. The buyer would use the proceeds of the bond sale to pay the
18 purchase price to the city or county that is selling its share of the settlement. As part of the
19 transaction, related bonds will be issued under an indenture between the relevant authority and a
20 trustee (the "Indenture Trustee"). The share of the settlement payments of a participating city or
21 county would be pledged to secure repayment of the related bonds.


22 Once the related bonds are issued and so long as they are outstanding, the city or
23 county will need to provide that its share of the settlement payments are to be transferred directly to
24 the Indenture Trustee by the Escrow Agent. Thus, so long as such bonds are outstanding, the city
25 or county will need to agree that no further transfer instructions may be given to the State for
26 transmission to the escrow agent unless they are countersigned by a representative of the Indenture
27 Trustee. The city or county will also need to agree that, after the related bonds are repaid, any further

CONCLUSION

For all of the above reasons, the State and the Counties of San Diego and Sacramento jointly request that the Court approve the Amendment to the ARIMOU and enter the order submitted with this motion.

Dated: 4/16/2001

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transfer instructions must be countersigned by the relevant buyer (or any successor transferee). It is anticipated that other Eligible Cities and Eligible Counties may also decide to engage in a securitization transaction.

The ARIMOU currently provides that the State shall instruct the Escrow Agent to disburse each Eligible City's and/or Eligible County's MOU Proportional Allocable Share to a single account as specified pursuant to instructions received by the State from the Eligible City or Eligible County. This account information must be given in the form of Transfer Instructions jointly executed by two of the three designees for the Eligible City or Eligible County. (ARIMOU, § 4.B.(2)(i)(ea) and Appendix F). This motion seeks court approval of an amendment to section 4.B.(2)(i)(bb) to add the following paragraph at the end of the present text:

"Modifications to instructions described in Section 4.B.(2)(i)(ea) above may contain instructions that the same may not be further modified without the counter signature of a third party designated in the instructions including but not limited to, an indenture trustee for bonds secured by the MOU Proportional Allocable Share of an Eligible City or Eligible County or a transferee to which an MOU Proportional Allocable Share has been sold or otherwise assigned or disposed of."

(See proposed "Agreement Regarding Interpretation of Memorandum of Understanding Affecting Only the State of California and Each Eligible City and Eligible County Which Is a Signatory Hereto," attached as Exhibit A).

///
///
///

CONCLUSION

For all of the above reasons, the State and the Counties of San Diego and Sacramento jointly request that the Court approve the Amendment to the ARMOU and enter the order submitted with this motion

Dated: _____, 2001

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CONCLUSION

For all of the above reasons, the State and the Counties of San Diego and Sacramento jointly request that the Court approve the Amendment to the ARMOU and enter the order submitted with this motion

Dated: _____, 2001

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1 AMENDMENT TO AGREEMENT REGARDING INTERPRETATION OF
2 MEMORANDUM OF UNDERSTANDING AFFECTING ONLY THE
3 STATE OF CALIFORNIA AND EACH ELIGIBLE CITY AND ELIGIBLE
4 COUNTY WHICH IS A SIGNATORY HERETO

5 This Amendment to Agreement Regarding Interpretation of Memorandum
6 of Understanding affecting only the State of California (the "State") and each Eligible City
7 and Eligible County which is a signatory hereto.

8 **W I T N E S S E T H**

9 WHEREAS, the State, four cities, fifty-seven counties and one city and
10 county have heretofore become signatories to an Agreement Regarding Interpretation of
11 the Memorandum of Understanding (the "ARIMOU") which was approved by the
12 J.C.P. 4041 Court on January 18, 2000; and

13 WHEREAS, the ARIMOU provides interpretations of an agreement entitled
14 Memorandum of Understanding (the "MOU"), attached as Appendix A to the ARIMOU,
15 to which the State as well as others, are parties; and

16 WHEREAS, one of the purposes of the ARIMOU is to specify the
17 procedures by which funds allocated to Cities and Counties pursuant to the MOU are to be
18 transferred to Cities and Counties by the Escrow Agent; and

19 WHEREAS, Section 4 of the ARIMOU contemplates that with respect to an
20 Eligible City or an Eligible County, the transfer instructions are limited to providing only
21 bank routing information as to the Account into which a transfer is to occur; and

22 WHEREAS, one or more of each Eligible City and Eligible County
23 contemplate series of transactions (each such series a "Securitization Transaction") in
24 which each of them would sell its right to receive its MOU Proportional Allocable Shares
25 to a non-profit corporation or other transferee (each a "Buyer") which in turn would
26 borrow the money to purchase the same from joint powers authorities (each an
27 "Authority"), the members of which will be two or more of the Eligible Cities and Eligible
28 Counties, and each Authority would issue bonds (collectively, the "Bonds" and
individually the "Related Bonds") to generate the proceeds to loan to each Buyer which in

1
Exhibit A to Motion for Approval of Amendment to Agreement re Interpretation of MOU

EXHIBIT A

1 turn would use the proceeds to pay the purchase price to the Eligible City or Eligible
2 County selling the same; and

3 WHEREAS, in a Securitization Transaction, Related Bonds will be issued
4 under an indenture between the relevant Authority and a trustee (the "Indenture Trustee");
5 and

6 WHEREAS, in a Securitization Transaction, the MOU Proportional
7 Allocable Share of a participating Eligible City or Eligible County will be pledged to
8 secure repayment of the Related Bonds; and

9 WHEREAS, in a Securitization Transaction, each participating Eligible City
10 or Eligible County will wish to provide that, once the Related Bonds are issued as herein-
11 above described, and so long as the Related Bonds are outstanding, all amounts of its
12 MOU Proportional Allocable Share are to be transferred directly to the Indenture Trustee
13 for the Related Bonds, and that, so long as such Bonds are outstanding, no further transfer
14 instructions may be provided to the State for transmission to the Escrow Agent unless
15 countersigned by a representative of the Indenture Trustee and, after the Related Bonds are
16 repaid, unless countersigned by the relevant Buyer (or any successor transferee); and

17 WHEREAS, the State wishes to amend the ARIMOU as it relates to the
18 State on the one hand and each Eligible City and Eligible County contemplating a
19 Securitization Transaction so as to permit instructions to the Escrow Agent under Section
20 4 of the ARIMOU given by such Eligible City or Eligible County, as the case may be, to
21 limit modifications to transfer instructions only to modifications counter-signed or
22 otherwise approved by the relevant Indenture Trustee, the relevant Buyer, or any successor
23 in interest to either;

24 NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

25 **SECTION 1: DEFINITIONS**

26 All capitalized terms used herein which are not defined herein shall have the
27 meanings attributed to them in the ARIMOU.

28 ///

1 **SECTION 2: SUBSTANTIVE AMENDMENTS**

2 Effective upon execution and delivery hereof and following approval by the
3 J.C.C.P. 4041 Court, Section 4.A(2)(i)(bb), of the ARIMOU shall be amended by adding
4 the following at the end of the present text: "Modifications to instructions described in
5 Section 4.B.(2)(i)(aa) above may contain instructions that the same may not be further
6 modified without the counter signature of a third party designated in the instructions
7 including but not limited to, an indenture trustee for bonds secured by the MOU
8 Proportional Allocable Share of an Eligible City or Eligible County or a transferee to
9 which an MOU Proportional Allocable Share has been sold or otherwise assigned or
10 disposed of."

11 **SECTION 3: APPLICABILITY**

12 Subject to approval by the J.C.C.P. 4041 Court, the provisions of this
13 Amendment shall only apply to the State on the one hand and each Eligible City and
14 Eligible County executing the same, and shall be effective as to each such Eligible City
15 and Eligible County upon execution and delivery to the State of one or more counterparts
16 by the State and such Eligible City and Eligible County.

17 **SECTION 4: COUNTERPARTS**

18 This Amendment may be executed in two or more counterparts each of
19 which collectively shall comprise the original of this Amendment.

20 IN WITNESS WHEREOF, each of the State and each signatory Eligible
21 City and Eligible County has executed this Agreement as of the date set forth opposite the
22 name of each such signatory on the signature pages.

23 Dated: _____ [ELIGIBLE CITY/ELIGIBLE COUNTY]

24 By: _____

25 Dated: _____ STATE OF CALIFORNIA

26 By: _____

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COUNTY OF SAN DIEGO
CENTRAL

PEOPLE OF THE STATE OF CALIFORNIA
ex rel. DANIEL E. LUNGREN, ATTORNEY
GENERAL OF THE STATE OF CALIFORNIA;
S. KIMBERLY BELSHÉ, DIRECTOR OF
HEALTH SERVICES OF THE STATE OF
CALIFORNIA,

Plaintiffs,

v.

PHILIP MORRIS, INC.; R.J. REYNOLDS
TOBACCO COMPANY; BROWN &
WILLIAMSON TOBACCO CORPORATION;
B.A.T. INDUSTRIES, P.L.C.; BRITISH
AMERICAN TOBACCO COMPANY;
LORILLARD TOBACCO COMPANY, INC.;
AMERICAN STATES TOBACCO COMPANY, INC.;
UNITED STATES TOBACCO COMPANY;
HILL & KNOWLTON, INC.; THE COUNCIL
FOR TOBACCO RESEARCH-U.S.A., INC.;
TOBACCO INSTITUTE, INC.; SMOKELESS
TOBACCO COUNCIL, INC. and DOES 1-200,
inclusive,

Defendants.

J.C.C.P. 4041

(Sacramento Superior Court
Case No: 97AS03031)

(PROPOSED) ORDER
APPROVING AMENDMENT
TO AGREEMENT
REGARDING
INTERPRETATION OF MOU

Date: June 3, 2001
Time: 3:00 p.m.
Dept: 69
Judge: Ronald S. Prager

1 WHEREAS the Court has considered all the papers filed in regard to the Motion
2 for Approval of Amendment to the Agreement Regarding Interpretation of Memorandum
3 of Understanding Applicable only to the State of California and each Eligible City or
4 County that Executes Same;
5 WHEREAS there will continue to be payments from the National Escrow Account
6 for the benefit of the Eligible Cities and Eligible Counties which will be transferred to
7 accounts in accordance with transfer instructions executed in accordance with the ARIMOU;
8 WHEREAS one or more Eligible Cities or Eligible Counties contemplates
9 completing a Securitization Transaction;
10 WHEREAS in a Securitization Transaction, each participating Eligible City or
11 Eligible County will wish to provide that, once the related bonds are issued, and so long as
12 the related bonds are outstanding, all amounts of its MOU Proportional Allocable Share are
13 to be transferred directly to the Indenture Trustee for the related bonds, and that, so long as
14 such Bonds are outstanding, no further transfer instructions may be provided to the State for
15 transmission to the Escrow Agent unless countersigned by a representative of the Indenture
16 Trustee and, after the related bonds are repaid, unless countersigned by the relevant Buyer
17 (or any successor transferee); and
18 WHEREAS the proposed Amendment to the ARIMOU would provide the
19 mechanism to make such provisions in the transfer instructions as to the State on the one
20 hand and each Eligible City or County that executes the Amendment;
21 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
22 DECREED, AS FOLLOWS:
23 A. The Court has continuing jurisdiction over the subject matter of this action
24 pursuant to the Consent Decree and Final Judgment.
25 B. The Court finds that the Amendment to the Agreement Regarding Interpretation
26 of Memorandum of Understanding is reasonable and necessary to permit an Eligible City or
27 County, desiring to securitize its share of the tobacco settlement payments, to do so.
28 C. The proposed amendment to the ARIMOU is approved in all respects.

Order Approving Amendment to Agreement Regarding Interpretation of MOU
2

Order Approving Amendment to Agreement Regarding Interpretation of MOU
1

1 D. Upon execution of the proposed amendment by the Attorney General on behalf
2 of the People of the State of California and the authorized representative of any Eligible
3 County or Eligible City of the Amendment, that City or County may provide transfer
4 instructions to the State of California consistent with the terms of the amendment.

5 Dated: _____

6 **RONALD S. PRAGER**
7 Judge of the Superior Court

1 DECLARATION OF SERVICE BY U.S. MAIL

2 Case Name: **People of the State of California v. Philip Morris** No.: **J.C.C.P. 4041**

3 I declare:

4 I am employed in the Office of the Attorney General, which is the office of a member of the
5 California State Bar at which member's direction this service is made. I am 18 years of age or older
6 and not a party to this matter. I am familiar with the business practice at the Office of the Attorney
7 General for collection and processing of correspondence for mailing with the United States Postal
8 Service. In accordance with that practice, correspondence placed in the internal mail collection
9 system at the Office of the Attorney General is deposited with the United States Postal Service that
10 same day in the ordinary course of business.


11 On April 26, 2001, I served the attached **NOTICE OF MOTION AND MOTION FOR**
12 **APPROVAL OF AMENDMENT TO THE AGREEMENT REGARDING**
13 **INTERPRETATION OF MEMORANDUM OF UNDERSTANDING APPLICABLE ONLY**
14 **TO THE STATE OF CALIFORNIA AND EACH ELIGIBLE CITY OR COUNTY THAT**
15 **EXECUTES THE SAME; MEMORANDUM OF POINTS AND AUTHORITIES; AND**
16 **(PROPOSED) ORDER APPROVING AMENDMENT TO AGREEMENT REGARDING**
17 **INTERPRETATION OF MOU** by placing a true copy thereof enclosed in a sealed envelope with
18 postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney
19 General at 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550, addressed as
20 follows:

21 See Attached Service List

22 I declare under penalty of perjury under the laws of the State of California the foregoing is true and
23 correct and that this declaration was executed on April 26, 2001, at Sacramento, California.

24 Christina Micherone

25 Declarant

26 
27 Signature

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL

PEOPLE OF THE STATE OF CALIFORNIA
ex rel. DANIEL E. LUNGREN, ATTORNEY
GENERAL OF THE STATE OF CALIFORNIA;
S. KIMBERLY BELSHÉ, DIRECTOR OF
HEALTH SERVICES OF THE STATE OF
CALIFORNIA,

Plaintiffs,
v.

PHILIP MORRIS, INC.; R. J. REYNOLDS
TOBACCO COMPANY; BROWN &
WILLIAMSON TOBACCO CORPORATION;
B.A.T. INDUSTRIES, P.L.C.; BRITISH
AMERICAN TOBACCO COMPANY;
LORILLARD TOBACCO COMPANY, INC.;
AMERICAN TOBACCO COMPANY, INC.;
UNITED STATES TOBACCO COMPANY; HILL
& KNOWLTON, INC.; THE COUNCIL FOR
TOBACCO RESEARCH-U.S.A., INC.;
TOBACCO INSTITUTE, INC.; SMOKELESS
TOBACCO COUNCIL, INC. and DOES 1-200,
inclusive,

Defendants.

J.C.C.P. 4041
(Sacramento Superior Court
Case No: 97AS03031)

AMENDED NOTICE OF
MOTION AND MOTION FOR
APPROVAL OF
AGREEMENT TO THE
INTERPRETATION OF
MEMORANDUM OF
UNDERSTANDING
APPLICABLE ONLY TO THE
STATE OF CALIFORNIA
AND EACH ELIGIBLE CITY
OR COUNTY THAT
EXECUTES THE SAME;
MEMORANDUM OF POINTS
AND AUTHORITIES

Date: June 4, 2001
Time: 3:00 p.m.
Dep't: 69
Judge: Ronald S. Prager

1 PLEASE TAKE NOTICE that on June 4, 2001, at 3:00 p.m., the Honorable Ronald S.
2 Prager, will issue a telephonic ruling on the joint motion of the People of the State of California and
3 the Counties of Sacramento and San Diego for an order approving the "Amendment to Agreement
4 Regarding Interpretation of Memorandum of Understanding Affecting Only the State of California
5 and Each Eligible City and Eligible County Which Is a Signatory Hereto," (Exhibit A), which is
6 necessary to facilitate the Securitization Transactions contemplated by certain Eligible Cities and/or
7 Counties.

8 Plaintiff's motion will be based on this Amended Notice of Motion, Memorandum of
9 Points and Authorities, and all papers, pleadings and records on file in this action and on such other
10 and further argument and evidence as may be presented.


11 ///
12 ///
13 ///

1 Defendants may obtain a date for oral argument by calling the Tobacco Litigation Calendar
2 Clerk at (619) 531-3331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.

3
4 Dated: _____, 2001

5 Respectfully submitted,
6 BILL LOCKYER

7 Attorney General of the State of California
8 RICHARD M. FRANK
9 Chief Assistant Attorney General
10 DENNIS ECKHART
11 Senior Assistant Attorney General


12 CORINNE MURPHY
13 Deputy Attorney General
14 Attorneys for Plaintiffs

15 and

16 COUNTY OF SACRAMENTO
17 ROBERT A. RYAN, JR.
18 County Counsel

19 M. HOLLY GILCHRIST
20 Deputy County Counsel

21 and

22 COUNTY OF SAN DIEGO
23 JOHN J. SANSOME
24 County Counsel

25 WILLIAM SMITH
26 Deputy County Counsel

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2 Clerk at (619) 531-3331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.
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4 Dated: _____, 2001

5 Respectfully submitted,

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7 Attorney General of the State of California

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28

3
Attorney General of California and Justice for Approval of Appointment to Attorney Registering Jurisdiction of Jurisdiction

1 Defendants may obtain a date for oral argument by calling the Tobacco Litigation Calendar
2 Clerk at (619) 531-3331 by 4:00 p.m. on Friday of the same week as the telephonic ruling.
3

4 Dated: _____, 2001

5 Respectfully submitted,

6 BILL LOCKYER

7 Attorney General of the State of California

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3
Attorney General of California and Justice for Approval of Appointment to Attorney Registering Jurisdiction of Jurisdiction

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People of the State of California v. Philip Morris**

No.: **J.C.C.P. 4041**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 2, 2001, I served the attached **AMENDED NOTICE OF MOTION AND MOTION FOR APPROVAL OF AMENDMENT TO THE AGREEMENT REGARDING INTERPRETATION OF MEMORANDUM OF UNDERSTANDING APPLICABLE ONLY TO THE STATE OF CALIFORNIA AND EACH ELIGIBLE CITY OR COUNTY THAT EXECUTES THE SAME; MEMORANDUM OF POINTS AND AUTHORITIES; AND (PROPOSED) ORDER APPROVING AMENDMENT TO AGREEMENT REGARDING INTERPRETATION OF MOU** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, P.O. Box 944255, Sacramento, California 94244-2550, addressed as follows:

See Attached Service List

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 2, 2001, at Sacramento, California.

Christina Micherone
Declarant



Signature

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COUNTY OF LOS ANGELES; DAVIS/ELLIS

ESCROW AGREEMENT

between

The State of California, Depositor

and

CITIBANK, N.A., Escrow Agent

Dated as of April 12, 2000

This Escrow Agreement (the "Agreement" or the "Escrow Agreement") is entered into as of April 12, 2000 by the Attorney General of the State of California, on behalf of the State of California (the "Depositor" or the "State") and Citibank, N.A., as escrow agent (the "Escrow Agent").

WITNESSETH:

WHEREAS, the State and a number of California Cities and Counties, on August 3, 1998, entered into an agreement entitled "Memorandum of Understanding" (the "MOU"); and

WHEREAS, on December 9, 1998, the Honorable Ronald Prager, Judge of the San Diego County Superior Court, as the Coordination Trial Judge in *In re Tobacco Cases* 7, J.C.C.P. 4041, signed and entered a Consent Decree and Final Judgment as between the State of California and the Participating Manufacturers, which Final Judgment incorporated within it as Exhibit A thereto the settlement agreement entitled "Master Settlement Agreement" (the "MSA") which the Settling States, including the State of California, and the Participating Manufacturers entered into, and incorporates within it as Exhibit B thereto the MOU; and

WHEREAS, pursuant to the MSA, the State is entitled to funds distributed through the National Escrow Agreement which was entered into on December 23, 1998, between the Settling States, including the State of California, and the Participating Manufacturers and the Escrow Agent; and

WHEREAS, pursuant to the National Escrow Agreement, Citibank, N.A., was appointed by the Settling States, including the State of California, and the Participating Manufacturers to serve as the Escrow Agent under the terms and conditions set forth therein; and

WHEREAS, pursuant to the National Escrow Agreement, the Escrow Agent shall allocate the national tobacco settlement monies among accounts including State-Specific Accounts with respect to each Settling State, including the State of California, in which State-Specific Finality occurs, in accordance with written instructions from the National Independent Auditor, (the "Independent Auditor"); and

WHEREAS, pursuant to the MSA, upon the occurrence of State-Specific Finality in California, the California portion of the monies deposited by the Participating Manufacturers in the Subsection IX(b) Account (First), the Subsection IX(b) Account (Subsequent), the Subsection IX(c)(1) Account, and the Subsection IX(c)(2) Account (as such accounts are defined in the National Escrow Agreement) shall be transferred to a State-Specific Account designated by the MSA as the account for the State of California ("California Account"); and

WHEREAS, pursuant to the MSA, after final approval, the Independent Auditor shall instruct the Escrow Agent to disburse the funds held in the California Account to (or as directed by) the State; and

WHEREAS, pursuant to the MSA, to the extent that a payment is made to the California Account after the occurrence of all applicable conditions for the disbursement of such payment to the State, the Independent Auditor shall instruct the Escrow Agent to disburse such payment promptly following its deposit; and

WHEREAS, pursuant to the MOU, certain Cities and all Counties in California, upon meeting the conditions set forth in the MOU, are entitled to 50% of all funds transferred to the California Account, designated as the State-Specific account for the State of California distributed by virtue of the MSA; and

WHEREAS, the State of California entered into an Agreement Regarding Interpretation of MOU (the "ARIMOU") with certain Cities and all Counties in California which requires the State of California to enter into this Escrow Agreement; and

WHEREAS, the ARIMOU requires that 50% of the money disbursed from the California account be credited to the State of California and that these certain Cities and all Counties, upon attaining eligibility by meeting the conditions set forth in the MOU and the ARIMOU, are collectively entitled to 50% of all funds distributed by virtue of the MSA and disbursed from the California Account (State-Specific account for the State of California), unless the Escrow Agent receives different instructions from the State, and

WHEREAS, the Superior Court of the County of San Diego approved the ARIMOU by Order entered on January 18, 2009:

NOW, THEREFORE, the parties agree as follows:

SECTION 1. Appointment of Escrow Agent

The State of California hereby appoints Citibank, N.A. to serve as Escrow Agent under this Escrow Agreement according to the terms and conditions set forth herein, and the Escrow Agent, by its execution hereof, hereby accepts such appointment and agrees to perform the duties and obligations of the Escrow Agent set forth herein. The Escrow Agent appointed under the terms of this Escrow Agreement shall be the Escrow Agent as defined in, and for all purposes of, the Agreement.

SECTION 2. Definitions

1. Capitalized terms used in this Escrow Agreement and not otherwise defined herein shall have the meaning given to such terms in the MSA and/or the MOU and the ARIMOU.
2. "California Local Government Escrow Account" means a single, segregated account to be established by the Escrow Agent into which shall be transferred, consistent with instructions from the State, the MOU Proportional Allocable Share of each City and/or County from the funds disbursed from the California Account.
3. "City" or "Cities" means, individually or collectively, the City of Los Angeles, the City of San Diego, the City of San Francisco and the City of San Jose.
4. "City/County Account" means a single, segregated account to be established by the Escrow Agent into which shall be transferred the MOU Proportional Allocable Share of each City and/or County which has not been identified as an Eligible City or County by the State or each City and/or County about which the status as an Eligible City or County is in dispute as so identified in instructions from the State.
5. The term "City/County Steering Committee" means the City and County of San Francisco, the City of Los Angeles, the City of San Jose, the County of Santa Clara, the County of Santa Barbara and the County of Los Angeles.
6. "Claim Over" means a circumstance in which Section XII(a)(4)(A) of the MSA does not relieve an Original Participating Manufacturer of all liability and Section XII(a)(4)(B) of the MSA is invoked resulting in an Original Participating Manufacturer receiving a continuing dollar-for-dollar offset for any amounts paid by such Original Participating Manufacturer (or by any person or entity that is a Released Party by virtue of its relation to any Original Participating Manufacturer) on any liability against such Original Participating Manufacturer's share, determined as described in step E of Section IX(J)(7)(D) of the MSA, owing to the State (and by virtue of the MOU, to the Cities and Counties), up to the full amount of such Original Participating Manufacturer's share of such Allowed Payment each year, until all such amounts paid on such liability have been offset ("Claim Over Offset Amount").
7. "County" or "Counties" means, individually or collectively, the 58 counties of California.

8. "Disputed Claims Account" means a single, segregated account to be established by the Escrow Agent after being instructed in writing to do so by the State, to hold disputed amounts in the event that there is a dispute as to whether the State has identified the appropriate Claim Over Offset Amount or the correct Responsible Party in the event of a Claim Over. Such disputed amounts shall be held pending subsequent written notification by the State which directs the manner of disposition to be made of the disputed amount.

9. "Eligible City," "Eligible County," "Eligible Cities and/or Eligible Counties" and/or "Eligible Cities/Eligible Counties" mean, individually or collectively, those Cities and Counties who because they have satisfied all requirements under the MOU and the ARIMOU are entitled to receive a portion of tobacco settlement monies which are transferred to the California Account as provided by the MSA, the MOU and the ARIMOU. Eligible Cities and/or Eligible Counties will be identified by the State to the Escrow Agent for the purpose of this Escrow Agreement in Attachment B hereto.

10. "Escrow Court" means the court of the State of New York to which the Escrow Agreement is presented for approval, or such other court as agreed to by the Escrow Agent and the State of California.

11. "J.C.C.P. 4041 Court" means the San Diego County Superior Court that presided over *In Re Tobacco Cases 7*, Judicial Council Coordination Proceeding No. 4041.

12. "MOU Proportional Allocable Share" means that portion of the Tobacco Settlement Proceeds transferred to the California Account as provided for by the MSA and then received by the State and Cities and Counties, in the percentages set forth in Section 6 of the MOU.

13. "Responsible Entity" means the entity, whether the State or a City or County, that obtains a judgment or settlement which causes a claim-over as described in Section XII(a)(4) of the MSA. The State will advise the Escrow Agent in writing as to the identity of a Responsible Party.

14. "State" means the State of California but whenever this Escrow Agreement indicates that an action is to be taken by the State, "State" shall specifically mean the Attorney General of the State of California or a designee specified by the Attorney General in writing.

15. "State Escrow Account" means a single, segregated account to be established by the Escrow Agent into which shall be transferred, consistent with instructions from the State, the MOU Proportional Allocable Share of the State of California from the funds disbursed from the California Account.

SECTION 3. Escrow and Accounts

Depositor and Escrow Agent hereby agree that, in consideration of the mutual promises and covenants contained herein, Escrow Agent shall hold in escrow and shall distribute Escrow Property (as defined herein) in accordance with and subject to the following Instructions and Terms and Conditions:

INSTRUCTIONS:

1. Escrow Property

The property and/or funds deposited or to be deposited with Escrow Agent in the California Account as instructed by the Independent Auditor in accordance with the MSA.

All funds received by the Escrow Agent pursuant to the terms of this Escrow Agreement shall be held and disbursed in accordance with the terms of this Escrow Agreement. Such funds and any earnings thereon shall constitute the "Escrow" and shall be held by the Escrow Agent separate and apart from all other funds and accounts of the Escrow Agent.

The Escrow Agent shall allocate the funds received by it from the California Account among the accounts referenced in this Escrow agreement (each one an "Account" and collectively the "Accounts") including the State Escrow Account, California Local Government Escrow Account, the City/County Account and the Disputed Claims Account in accordance with written instructions from the State.

The foregoing property and/or funds, plus all interest, dividends and other distributions and payments thereon (collectively the "Distributions") received by the Escrow Agent, less any property and/or funds distributed or paid in accordance with this Escrow Agreement, are collectively referred to herein as "Escrow Property." The Escrow Agent shall have no duty to solicit the Escrow Property.

2. Investment of Escrow Property

The Escrow Agent shall invest or reinvest Escrow Property, without distinction between principal and income, in accordance with written instructions delivered to the Escrow Agent by the State specifying any one or more of the following investments from the Depositor designated herein.

A. Direct obligations of, or obligations the timely payment of principal and interest on which are fully and unconditionally guaranteed by, the United States of America or any agency thereof, maturing no more than one year after the date of acquisition thereof;

B. Interest-bearing time or demand deposits with, or certificates of deposit maturing within 30 days of the acquisition thereof and issued by, any bank or trust company organized under the laws of the United States of America or of any of the 50 states thereof and having combined capital, surplus and undistributed profits in excess of \$500,000,000 whose long-term unsecured debt is rated "AA" or higher by Standard & Poor's and "Aa" or higher by Moody's;

C. Commercial paper rated (on the date of acquisition thereof) at least A-1 and P-1 or equivalent by Standard & Poor's and Moody's, respectively, maturing not more than 180 days from the date of creation thereof; and

D. Other investments specified by written instructions from all of the Original Participating Manufacturers, Settling States having Allowable Shares aggregating at least 66 2/3%, and the State.

In the absence of written instructions the Escrow Agent will invest Escrow Property in the Citibank Nasdaq Time-Deposit Account so long as said account meets the criteria set forth in 2 B, above.

Each reference herein to a rating from Standard & Poor's or Moody's shall be construed as an equivalent rating by another nationally recognized credit rating agency and if one (but not both) of Standard & Poor's and Moody's is not then in the business of rating debt, the required rating from the corporation still in such business shall suffice for the purposes of this section 2.

The Escrow Agent shall have no obligation to invest or reinvest the Escrow Property if deposited with the Escrow Agent after 11:00 a.m. (E.S.T.) on such day of deposit. Instructions received after 11:00 a.m. (E.S.T.) will be treated as if received on the following business day.

The Escrow Agent shall have the power to sell or liquidate the foregoing investments whenever the Escrow Agent shall be required to release the Escrow Property pursuant to the terms thereof. Requests (or instructions) received after 11:00 a.m. (E.S.T.) by the Escrow Agent to liquidate the Escrow Property will be treated as if received on the following business day. The Escrow Agent shall have no responsibility for any investment losses resulting from the investment, reinvestment or liquidation of the Escrow Property. Any interest or other income received on such investment and reinvestment of the Escrow Property shall become part of the Escrow Property. If a selection is not made, the Escrow Property shall remain

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uninvested with no liability for interest therein. It is agreed and understood that the Escrow Agent may earn fees associated with the investments outlined above.

The Escrow Agent shall have no liability for any loss arising from or related to any such investment other than in accordance with paragraph 5 of the Terms and Conditions.

3. Distribution of Escrow Property

A. The Escrow Agent is directed to hold and distribute the Escrow Property in the amounts as are calculated and specified in writing by the State and in the following manner:

- (1) 50% of each dollar, or portion thereof, distributed from the California Account shall be credited to the State and placed in the State Escrow Account; and
- (2) 50% of each dollar, or portion thereof, shall be credited to the Cities and Counties and placed in the California Local Government Escrow Account.

B. Immediately upon receipt, each dollar, or portion thereof, credited to the State Escrow Account shall be distributed in the manner set forth in Attachment A unless the Escrow Agent receives different instructions in writing from the State three business days prior to deposit.

C. Immediately upon receipt, each dollar, or portion thereof, credited to the California Local Government Account shall be distributed in the manner set forth below as such amounts are calculated and specified in writing by the State unless the Escrow Agent receives different instructions in writing from the State three business days prior to deposit.

Ten percent (10%) of the funds is to be credited to the Cities. Each Eligible City shall be allocated two and one half percent (2.5%). The remaining ninety percent (90%) of the funds to be credited to the Cities and Counties shall be allocated among the Eligible Counties, on a per capita basis, calculated by using population data set forth for California Counties as reported in the most current Official United States Decennial Census.

The State shall make any necessary adjustments to the distribution percentages as they relate to this clause and the MOU promptly upon the issuance of each future Official United States Decennial Census. Until further notification the Eligible Cities and Counties shall receive MOU Proportional Allowable shares in the proportions set forth in Attachment B hereto.

D. On the third Business Day after a transfer into an Account, the Escrow Agent shall deliver to the State a statement showing the amount of such transfer, the source of the transfer, and the Account or Accounts to which such transfer has been credited. All amounts credited to an account shall be retained in such Account until disbursed therefrom in accordance with the provisions of this Escrow Agreement and/or pursuant to written instructions by the State. In the event of a conflict, instructions from the State shall govern over instructions contained in this Escrow agreement. The Escrow Agent shall be entitled to conclusively rely on the instructions provided by the State.

E. Distributions shall be by wire transfer and shall be made to the State, Eligible Cities and Eligible Counties as provided in Attachments A and C hereto no later than the next Business Day after the funds have been credited to the State Escrow Account and the California Local Government Account unless contrary instructions in writing actually have been received by the Escrow Agent from the State three business days prior to distribution. It is understood by the parties to this Escrow agreement that instructions received after 11:00 a.m. (E.S.T.) will be treated as if received on the following Business Day.

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amount due to the Responsible Entity, the State or those members of the City/County Steering Committee that are identified as liable.

K. If the Escrow Agent has not received written notification from the State that a City or County has attained the status of Eligible City and/or Eligible County, by the later of June 30, 2011, or the expiration of any grace period specified by the State, the Escrow Agent, upon written instruction by the State and after deducting the appropriate Escrow Agent's charges, shall do the following:

(1) All funds previously placed in the City/County account (including any proceeds generated therefrom) for such City or County shall be deducted from such account and 50% thereof shall be disbursed to the State Escrow Account and the remaining 50% shall be disbursed to the California Local Government Escrow Account for distribution consistent with subparagraphs B, C, D, E and F, above, unless contrary instructions have been provided by the State.

(2) The Escrow Agent, upon receipt of notification from the State that such City and/or County has subsequently attained the status of Eligible City and/or Eligible County, shall disburse all MOU Proportional Allocable Shares for such City and/or County which accrue after the date of notification that such City/County has obtained the status of Eligible City or Eligible County unless the State provides written instructions to the Escrow Agent that a specific lesser amount shall be paid because of a claim over.

L. In the event of a "Claim Over", it is the intent of the State and the Cities and Counties that, in accordance with the MOU, all benefits and burdens that affect the funds to be distributed to and from the California Account will be borne equally by the State on one hand, and the Eligible Cities and Eligible Counties on the other.

(1) The State shall notify the Escrow Agent, via Section XI(a)(4)(B) of the MSA, has been invoked, and provide the Escrow Agent with written instructions specifying amounts (including interest) and account information, stating the Claim Over Offset Amount and the identity of the Responsible Entity and instruct the Escrow Agent as follows:

(a) That the amounts otherwise allocable to the Responsible Entity shall thereafter be reduced dollar-for-dollar until the full Claim Over Offset Amount has been deducted from the MOU Proportional Allocable Share owed to the Responsible Entity.

(b) That the Responsible Entity shall be responsible for the interest on the Claim Over Offset Amount at the annual rate equal to the available daily rate of return earned by the California Pooled Money Investment Account from the actual date of disbursement of the reduced share to the State and to the Eligible Cities and Eligible Counties. Interest owed is determined from the date the funds are released to the date of actual disbursement to the State/Eligible Cities/Eligible Counties.

(2) If the Escrow Agent is not instructed in writing that action has been taken to contest the State's identification of the correct Responsible Entity or appropriate Claim Over Offset Amount, the following shall occur in accordance with written instructions from the State specifying the amounts referenced in this section 3(L) (2) (a) as calculated by the State, and account information:

(a) If the Claim Over Offset Amount is less than the MOU Proportional Allocable Share of the Responsible Entity, the Claim Over Offset Amount shall be deducted and credited as follows:

(i) If the Responsible Entity is the State, in the manner set forth in the mathematical example attached hereto as Attachment D, to wit:

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F. On the third Business Day after disbursing any funds from an Account, the Escrow Agent shall deliver to the State a written statement showing the amount disbursed to each Eligible City/Eligible County or the State and the date of such transfer.

G. No funds are to be disbursed to any City or County that has not been identified by the State as an Eligible City or County. If any city or county has not attained Eligibility, the MOU Proportional Allocable Share set forth in Attachment B plus interest thereon as specified by the State in writing for each such City and/or County shall be placed in a single segregated account, the "City/County Account," established by the Escrow Agent, and held (along with any earnings thereon), separate and apart from all other funds and accounts of the Escrow Agent, until the Escrow Agent receives further written instructions from the State. The Escrow Agent shall promptly provide to the State an accounting of the funds placed in the account, indicating the total amount placed therein and the amount placed therein which is being held for the benefit of each specific City or County. The Escrow Agent may charge each such City or County whose MOU Proportional Allocable Share is placed in such account, such City's or County's proportional share of the Escrow Agent's normal charges for establishing and maintaining such account (based on the percentage that such City's or County's MOU Proportional Allocable Share represents of the total amount in such account) through the date the Escrow Agent is notified by the State that such City and/or County has obtained the status of Eligible City or Eligible County and the Escrow Agent may deduct such charges from the amount such City and/or County is due when the Escrow Agent is notified by the State that such City and/or County has obtained the status of Eligible City or Eligible County. The Escrow Agent will charge each such City or County by notifying the State in writing of its fees and expenses in connection with establishing and maintaining such account. The State will then calculate how much of such fees and expenses are allocable to each City and County, and then notify the Escrow Agent in writing of the amounts allocated to each City and County. The Escrow Agent will then debit the specified charges from the appropriate account as directed by the State in writing.

H. When the Escrow Agent receives written notification from the State (including specific dollar amounts) that any City and/or County has attained the status of Eligible City and/or Eligible County, the Escrow Agent shall no later than one Business Day subsequent thereto disburse to such newly Eligible City and/or Eligible County all funds representing such newly Eligible City's and/or Eligible County's MOU Proportional Allocable Share which had previously been placed in the separate City/County Account pursuant to subparagraph G above including any interest generated therefrom, after deducting the appropriate Escrow Agent's charges in the specific amounts instructed in writing by the State.

I. In the event of a dispute as to whether a City and/or a County has attained the status of an Eligible City and/or Eligible County, the Escrow Agent, upon receiving written instructions from the State, shall deposit the MOU Proportional Allocable Share of any such City and/or County to which such dispute pertains into the City/County Account. The Escrow Agent shall promptly provide to the State an accounting of the funds placed in such account, indicating the total amount placed therein and the amount placed therein which is being held for the benefit of each specific City and/or County. Upon receipt from the State of an order or judgment of eligibility issued by the J.C.P. 4041 Court, the Escrow Agent shall disburse all funds including interest allocated to such newly Eligible City or newly Eligible County no later than one Business Day after actual receipt of such notice from the State. Escrow Agent charges may be calculated and deducted in the same manner as Subparagraph G above.

J. In the event that there is a dispute resulting from a "Claim Over", the Escrow Agent, as instructed in writing by the State, shall establish a segregated account, the "Disputed Claims Account", into which will be distributed funds in the amount that the State has identified as the Claim Over Offset Amount or such part of that amount that is the subject of dispute. Such account shall be established in the name of the Responsible Entity as identified by the State to the Escrow Agent in writing (i.e. "Disputed Claims Account of"). The Escrow Agent may charge each such Responsible Entity its normal charges for establishing and maintaining each such Disputed Claims Account. The Escrow Agent may, upon notice received from the State as to who is liable for the Escrow Agent's charges, deduct its charges from the

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- (aa) An amount equal to one-half of the offset shall be deducted from the State's Escrow Account share and shall be credited to the California Local Government Account.
- (bb) Any amounts credited to the California Local Government Account pursuant to this subparagraph shall be allocated among and disbursed to the Eligible Cities and Eligible Counties as provided in Section 3 of this Escrow agreement and as instructed by the State.
- (ii) If the Responsible Entity is a City or County, in the manner set forth in the mathematical example attached hereto as Attachment E, to wit:
- (aa) An amount equal to one-half of the offset shall be deducted from the Responsible Entity's MOU Proportional Allocable Share and shall be credited to the State's Escrow Account.
- (bb) After making the deduction described in paragraph (aa), the remaining one-half of the offset shall be deducted from the Responsible Entity's MOU Proportional Allocable Share, and shall be reallocated to each Eligible City and Eligible County (including the Responsible Entity) pursuant to its MOU Proportional Allocable Share in the manner provided in Section 3 of this Escrow agreement. The State will notify the Escrow Agent of distribution amounts to be made to the State and to each Eligible City and Eligible County.
- (b) If the Claim Over Offset Amount is equal to or greater than the MOU Proportional Allocable Share of the Responsible Entity, the State shall instruct the Escrow Agent that such Claim Over Offset Amount shall be deducted and credited as follows in accordance with written instructions from the State specifying the amounts referenced in this section 3(L)(2)(a) as calculated by the State, and account information:
- (i) If the Responsible Entity is the State, in the manner set forth in the mathematical example attached hereto as Attachment F, to wit:
- (aa) The entire MOU Proportional Allocable Share of the State shall be credited to the California Local Government Account until the Claim Over Offset Amount has been repaid in full, including interest as described in Section L(1)(b) of this Escrow agreement.
- (bb) Once any remaining Claim Over Offset Amount, including any interest as described in Section L(1)(c), is less than the Responsible Entity's MOU Proportional Allocable Share during any payment period, Section L(2)(a) shall govern distribution and allocation.
- (cc) Any amounts credited to the California Local Government Account pursuant to this Section L(2)(b) shall be disbursed among the Cities and Counties as provided in Section 3 of this Escrow agreement.
- (ii) If the Responsible Entity is a City or County, in the manner set forth in the mathematical example attached hereto as Attachment G, to wit:
- (aa) The entire MOU Proportional Allocable Share of the Responsible Entity shall be credited 50% to the State Escrow Account

and 50% to the California Local Government Account until the Claim Over Offset Amount has been repaid in full, including interest as described in Section L(1)(c) of this Escrow agreement. The Responsible Entity's MOU Proportional Allocable Share of any amounts reallocated to the California Local Government Account under this paragraph (aa) shall be credited 50% to the State Escrow Account and 50% pro rata to the remaining Cities and Counties (excluding the Responsible Entity) based on their MOU Proportional Allocable Shares.

(bb) At such time as any remaining Claim Over Offset Amount, including any interest as described in Section L(1)(c), is less than the Responsible Entity's MOU Proportional Allocable Share during any payment period then Section L(2)(a) shall govern distribution and allocation.

(cc) The State shall instruct the Escrow Agent as to the appropriate deductions and credits as set forth in this Section L(2)(b).

(3) If a petition is filed with the J.C.C.P. 4041 Court for a ruling regarding a dispute over the identification of the correct Responsible Entity or the amount of claim over offset, the State shall instruct the Escrow Agent to establish a Disputed Claims Account to hold such disputed amounts pending subsequent modification by the State which directs the manner of disposition to be made of the disputed amount. The State will instruct the Escrow Agent to distribute the disputed amount in accordance with any order or judgment entered by the Court. An appeal of such decision shall not delay distribution of the disputed amounts absent a court order to the contrary from the appropriate California Court which has been provided to the Escrow Agent by the State.

(4) The Escrow Agent shall be entitled to conclusively rely upon the State's identification of the Responsible Entity and the Claim Over Offset Amount in allocating and distributing funds.

4. Addresses and Account Information

Notices, instructions and other communications shall be sent to Escrow Agent as follows: Global Agency & Trust Services Department, Citibank, N.A., 111 Wall Street, 5th Floor, New York, New York, 10043, (telephone number: (212) 657-5035, facsimile number: (212) 657-3866 and to the State at the Office of the Attorney General, 1300 I Street, P.O. Box 944255, Sacramento, CA 94244-2550, telephone number: (916) 323-3770, facsimile number: (916) 323-0813 or 327-2319.

5. Distribution of Escrow Property Upon Termination

Upon termination of this Escrow Agreement, Escrow Property then held hereunder shall be distributed as set forth in Section 3, above, unless the State has provided instructions in writing to the contrary.

6. Compensation

(a) All fees and expenses due and owing the Escrow Agent shall be deducted equally, i.e. 50% from each, from the State Escrow Account and the California Local Government Escrow Account prior to the disbursement of any funds pursuant to this escrow agreement and/or transfer of any funds to

any other account, such as the City/County Account or the Disputed Claims Account. The following fees and expenses shall be paid:

- (i) At the time of execution of this Escrow Agreement, an acceptance fee of \$2500;
- (ii) An annual flat fee of \$50,000 including disbursement for the State Escrow Account and California Local Escrow Account until April 15, 2004, then \$16,000 flat annual fee including disbursement for the State Escrow Account and California Local Escrow Account beginning April 15, 2004 until termination of the escrow facility; and
- (iii) An annual flat fee of \$8000 and \$100 per disbursement per Disputed Claims Account; and
- (iv) An annual flat fee of \$8000 and \$100 per disbursement upon activation of the City/County Account; and
- (v) All reasonable expenses, disbursements and advances incurred or made by the Escrow Agent in performance of its duties hereunder (including reasonable fees, expenses and disbursements of its counsel).

It is understood that the Escrow Agent's fees may be adjusted from time to time to conform to its then current guidelines.

(b) Depositor shall pay an investment transaction fee of \$100.00 for each purchase or sale of a security made by Escrow Agent hereunder.

(c) Depositor shall be responsible for and shall reimburse Escrow Agent upon demand for all fees, expenses and disbursements incurred or made by Escrow Agent in connection with this Escrow Agreement.

SECTION 4 Terms and Conditions

1. The Escrow Agent shall have no duty or obligation hereunder other than to take such specific actions as are required of it from time to time under the provisions of this Escrow Agreement, and it shall incur no liability hereunder or in connection herewith for anything whatsoever other than any liability resulting from its own gross negligence or willful misconduct. The Escrow Agent shall not be bound in any way by any agreement or contract other than this Escrow Agreement, and the only duties and responsibilities of the Escrow Agent shall be the duties and obligations specifically set forth in this Escrow Agreement.

2. The duties, responsibilities and obligations of Escrow Agent shall be limited to those expressly set forth herein and no duties, responsibilities or obligations shall be inferred or implied. The Escrow Agent shall not be subject to, nor required to comply with, any other agreement to which Depositor is a party, even though reference thereto may be made herein, or to comply with any direction or instruction (other than those contained herein or delivered in accordance with this Escrow Agreement) from Depositor or an entity acting on its behalf. Escrow Agent shall not be required to expend or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties hereunder.

3. This Escrow Agreement is for the exclusive benefit of the parties hereto and their respective permitted successors hereunder, and shall not be deemed to give, either express or implied, any legal or equitable right, remedy, or claim to any other entity or person whatsoever except as provided in paragraph 14 hereof with respect to the resignation of the Escrow Agent.

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4. If at any time Escrow Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects the Escrow Property (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of the Escrow Property), Escrow Agent is authorized to comply therewith in any manner it or legal counsel of its own choosing deems appropriate; and if Escrow Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, Escrow Agent shall not be liable to any of the parties hereto or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.

5. (A) Escrow Agent shall not be liable for any action taken or omitted or for any loss or injury resulting from its actions or its performance or lack of performance of its duties hereunder in the absence of gross negligence or willful misconduct on its part. In no event shall Escrow Agent be liable (i) for acting in accordance with or relying upon any instruction, notice, demand, certificate or document from any Depositor or any entity acting on behalf of any Depositor, (ii) for any indirect, consequential, punitive or special damages, regardless of the form of action and whether or not any such damages were foreseeable or contemplated, (iii) for the acts or omissions of its nominees, correspondents, designees, agents, subagents or subcustodians, (iv) for the investment or reinvestment of any cash held by it hereunder, in each case in good faith, in accordance with the terms hereof, including without limitation any liability for any delays (not resulting from its gross negligence or willful misconduct) in the investment or reinvestment of the Escrow Property, or any loss of interest incident to any such delays, or (v) for an amount in excess of the value of the Escrow Property, valued as of the date of deposit, but only to the extent of direct money damages.

(B) If any fees, expenses or costs incurred by, or any obligations owed to, Escrow Agent or its counsel hereunder are not promptly paid when due, Escrow Agent may reimburse itself therefor from the Escrow Property and may sell, convey or otherwise dispose of any Escrow Property for such purpose. The Escrow Agent may in its sole discretion withhold from any distribution of Escrow Property an amount of Escrow Property it believes would, upon sale or liquidation, produce proceeds equal to any unpaid amounts to which Escrow Agent is entitled to hereunder.

(C) As security for the due and punctual performance of any and all of Depositor's obligations to Escrow Agent hereunder, now or hereafter arising, Depositor hereby pledges, assigns and grants to Escrow Agent a continuing security interest in, and a lien on, the Escrow Property and all Distributions thereon or additions thereto (whether such additions are the result of deposits by Depositors or the investment of Escrow Property). The security interest of Escrow Agent shall at all times be valid, perfected and enforceable by Escrow Agent against Depositor and all third parties in accordance with the terms of this Escrow Agreement.

(D) Escrow Agent may consult with legal counsel of its own choosing at the expense of the Depositor as to any matter relating to this Escrow Agreement, and Escrow Agent shall not incur any liability in acting in good faith in accordance with any advice from such counsel.

(E) Escrow Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of Escrow Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, or the unavailability of the Federal Reserve Bank wire or teletype or other wire or communication facility).

(F) The Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, notice, instrument or other writing delivered to it hereunder without being required to determine the authenticity or the correctness of any fact stated therein or the propriety or validity of the service thereof. The Escrow Agent may act in reliance upon any instrument or signature believed by it to be genuine and

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may assume that any person purporting to give receipt or advise to make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so.

6. Unless otherwise specifically set forth herein Escrow Agent shall proceed as soon as practicable to collect any checks or other collection items at any time deposited hereunder. Should Escrow Agent, in its sole discretion, or otherwise credit distributions before the same are finally collected, such credits shall be provisional and may be reversed by Escrow Agent without notice until such time as the same shall be finally collected. All such collections shall be subject to Escrow Agent's usual collections practices or terms regarding items received by Escrow Agent for deposit or collection. Escrow Agent shall not be required, or have any duty, to notify anyone of any payment or maturity under the terms of any instrument deposited hereunder, nor to take any legal action to enforce payment of any check, note or security deposited hereunder or to exercise any right or privilege which may be afforded to the holder of any such security.

7. Escrow Agent shall provide to Depositor monthly statements identifying transactions, transfers or holdings of Escrow Property and each such statement shall be deemed to be correct and final upon receipt thereof by the Depositor unless Escrow Agent is notified in writing, by the Depositor, to the contrary within thirty (30) business days of the date of such statement.

8. Escrow Agent shall not be responsible in any respect for the form, execution, validity, value or genuineness of documents or securities deposited hereunder, or for any description therein, or for the identity, authority or rights of persons executing or delivering or purporting to execute or deliver any such document, security or endorsement. The Escrow Agent shall not be called upon to advise any party as to the wisdom in selling or retaining or taking or refraining from any action with respect to any securities or other property deposited hereunder.

9. The Escrow Agent shall not be under any duty to give the Escrowed Property held by it hereunder any greater degree of care than it gives its own similar property and shall not be required to invest any funds held hereunder except as directed in this Escrow Agreement. Uninvested funds held hereunder shall not earn or accrue interest.

10. When the Escrow Agent is instructed in writing to deliver securities against payment, or to effect payment against delivery, delivery and receipt of payment may not be completed simultaneously, and the Depositor agrees that the Escrow Agent shall incur no liability for any credit risk involved, and that the Escrow Agent may deliver and receive securities, and arrange for payments to be made and received, in accordance with customs prevailing from time to time among brokers or dealers in such securities.

11. Notices, instructions or other communications shall be in writing in English and shall be given to the address set forth in the "Addresses" provision herein (or to such other address as may be substituted therefor by written notification to Escrow Agent or Depositor). Notices to Escrow Agent shall be deemed to be given when actually received by the Escrow Agent (Global Agency Trust). Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by Depositor or by a person or persons authorized by Depositor. Whenever under the terms hereof the time for giving a notice or performing an act falls upon a Saturday, Sunday, or a banking holiday in New York, such time shall be extended to the next day on which the Escrow Agent is open for business.

12. The Depositor shall indemnify, hold harmless and defend the Escrow Agent and its officers, director, employees and agents from and against any and all losses, claims, liabilities and reasonable expenses, including the reasonable fees of its counsel, which it may suffer or incur in connection with the performance of its duties and obligations under this Escrow Agreement, except for those losses, claims, liabilities and expenses resulting solely and directly from its own gross negligence or willful misconduct. Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including, but not

limited to lost profits). In addition, when the Escrow Agent acts on any information, instructions, communications, (including, but not limited to, communications with respect to the delivery of securities or the wire transfer of funds) sent by telephone, telex or facsimile, the Escrow Agent, absent gross negligence, shall not be responsible or liable in the event such communication is not an authorized or authentic communication of the Depositor or is not in the form the Depositor sent or intended to send (whether due to fraud, distortion or otherwise). The Depositor shall indemnify the Escrow Agent against any loss, liability, claim or expense (including legal fees and expenses) it may incur with its acting in accordance with any such communication. This paragraph shall survive the termination of this Escrow Agreement or the removal of the Escrow Agent.

13. (A) Depositor may remove Escrow Agent at any time by giving to Escrow Agent thirty (30) calendar days' prior notice in writing. Escrow Agent may resign at any time by giving the Depositor thirty (30) calendar days' prior written notice thereof.

(B) Within ten (10) calendar days after giving the foregoing notice of removal to Escrow Agent or receiving the foregoing notice of resignation from Escrow Agent, the Depositor shall agree on and appoint a successor Escrow Agent, and provide written notice of such to the resigning Escrow Agent. If a successor Escrow Agent has not accepted such appointment by the end of such 10-day period, Escrow Agent may, in its sole discretion, deliver the Escrow Property to the State for deposit in the "Tobacco Settlement Account Fund" at the address provided herein or may apply to a court of competent jurisdiction for the appointment of a successor Escrow Agent or for other appropriate relief. The costs and expenses (including reasonable attorneys' fees and expenses) incurred by Escrow Agent in connection with such proceeding shall be paid by, and be deemed a joint and several obligation of, the Depositor. In the event of any such resignation or removal, the Escrow Agent shall have no further obligation with respect to the Escrow Property.

(C) Upon receipt of the identity of the successor Escrow Agent, Escrow Agent shall either deliver the Escrow Property then held hereunder to the successor Escrow Agent, less Escrow Agent's fees, costs and expenses or other obligations owed to Escrow Agent, or hold such Escrow Property (or any portion thereof), pending distribution, until all such fees, costs and conclusively expenses or other obligations are paid.

(D) Upon delivery of the Escrow Property to the successor Escrow Agent, Escrow Agent shall have no further duties, responsibilities or obligations hereunder.

14. (A) In the event of any ambiguity or uncertainty hereunder or in any notice, instruction or other communication received by Escrow Agent hereunder, Escrow Agent may, in its sole discretion, refrain from taking any action other than retain possession of the Escrow Property, unless Escrow Agent receives written instructions, which eliminates such ambiguity or uncertainty.

(B) In the event of any dispute between or conflicting claims by or among the Depositor and/or any other person or entity with respect to any Escrow Property, Escrow Agent shall be entitled, in its sole discretion, to refuse to comply with any and all claims, demands or instructions with respect to such Escrow Property so long as such dispute or conflict shall continue, and Escrow Agent shall not be or become liable in any way to the Depositor for failure or refusal to comply with such conflicting claims, demands or instructions. Escrow Agent shall be entitled to refuse to act until, in its sole discretion, either (i) such conflicting or adverse claims or demands shall have been determined by a final order, judgment or decree of a court of competent jurisdiction, which order, judgment or decree is not subject to appeal, or sent by agreement between the conflicting parties as evidenced in a writing satisfactory to Escrow Agent or (ii) Escrow Agent shall have received security or an indemnity satisfactory to it sufficient to hold it harmless from and against any and all losses which it may incur by reason of so acting. Any court order, judgment or decree shall be accompanied by a legal opinion by counsel for the presenting party, satisfactory to the Escrow Agent, to the effect that said order, judgment or decree represents a final adjudication of the rights of the parties by a court of competent jurisdiction, and that the time for appeal

from such order, judgment or decree has expired without an appeal having been perfected. The Escrow Agent shall act on such court order and legal opinions without further question. Escrow Agent may, in addition, elect, in its sole discretion, to commence an interpleader action or seek other judicial relief for orders as it may deem, in its sole discretion, necessary. The costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with such proceeding shall be paid by, and shall be deemed a joint and several obligation of, the Depositor.

(C) The Escrow Agent shall have no responsibility for the contents of any writing of the arbitrators or any third party contemplated herein as a means to resolve disputes and may conclusively rely without any liability upon the contents thereof.

15. This Escrow Agreement shall be interpreted, construed, unforced and administered in accordance with the internal substantive laws (and not the choice of law rules) of the State of New York. The Depositor hereby submits to the personal jurisdiction of, and each agrees that all proceedings relating hereto shall be brought in, courts located within the City and State of New York Escrow Court. The Depositor hereby waives the right to trial by jury and to assert counterclaims in any such proceedings. To the extent that in any jurisdiction Depositor may be entitled to claim, for itself or its assets, immunity from suit, execution, attachment (whether before or after judgment) or other legal process, each hereby irrevocably agrees not to claim, and hereby waives, such immunity. Depositor waives personal service of process and consents to service of process by certified or registered mail, return receipt requested, directed to it at the address last specified for notices hereunder, and such service shall be deemed completed ten (10) calendar days after the same is so mailed. Any court order shall be accompanied by a legal opinion by counsel for the presenting party satisfactory to the Escrow Agent to the effect that said opinion is final and non-appealable. The Escrow Agent shall act on such court order and legal opinions without further question.

16. The Escrow Agent does not have any interest in the Escrow Property deposited hereunder but is serving as escrow holder only and having only possession thereof. The Depositor shall pay or reimburse the Escrow Agent upon request for any transfer taxes or other taxes relating to the Escrow Property incurred in connection herewith and shall indemnify and hold harmless the Escrow Agent from any amounts that it is obligated to pay in the way of such taxes. Any payments of income from the Escrow Property shall be subject to withholding regulations then in force with respect to United States taxes. The Depositor will provide the Escrow Agent with appropriate W-9 forms for tax I.D., number certifications, or W-8 forms for non-resident alien certifications. This paragraph shall survive notwithstanding any termination of this Escrow Agreement or the resignation or removal of the Escrow Agent.

18. Except as otherwise permitted herein, this Escrow Agreement may be modified only by a written amendment signed by all the parties hereto, and no waiver of any provision hereof shall be effective unless expressed in a writing signed by the party to be charged.

19. The rights and remedies conferred upon the parties hereto shall be cumulative, and the exercise or waiver of any such right or remedy shall not preclude or inhibit the exercise of any additional rights or remedies. The waiver of any right or remedy hereunder shall not preclude the subsequent exercise of such right or remedy.

20. Each Depositor hereby represents and warrants (a) that this Escrow Agreement has been duly authorized, executed and delivered on its behalf and constitutes its legal, valid and binding obligation and (b) that the execution, delivery and performance of this Escrow Agreement by the Depositor does not and will not violate any applicable law or regulation.

21. The invalidity, illegality or unenforceability of any provision of this Escrow Agreement shall in no way affect the validity, legality or enforceability of any other provision; and if any provision is held to be unenforceable as a matter of law, the other provisions shall not be affected thereby and shall remain in full force and effect.

22. This Escrow Agreement shall constitute the entire agreement of the parties with respect to the subject matter and supersede all prior oral or written agreements in regard thereto.

23. The provisions of these Terms and Conditions and paragraph 6 of Part I shall survive termination of this Escrow Agreement and/or the resignation or removal of the Escrow Agent.

24. No printed or other material in any language, including prospectuses, notices, reports, and promotional material which mentions "Citibank, N.A." by name or the rights, powers, or duties of the Escrow Agent under this Escrow Agreement shall be issued by any other parties hereto, or on such party's behalf, without the prior written consent of Escrow Agent.

25. The headings contained in this Escrow Agreement are for convenience of reference only and shall have no effect on the interpretation or operation hereof.

26. This Escrow Agreement may be executed by each of the parties hereto in any number of counterparts, each of which constitutes, when so executed and delivered, shall be deemed to be an original and all such counterparts shall together constitute one and the same agreement.

27. No party may assign any of its rights or obligations under this Escrow Agreement without the written consent of the other parties.

28. Any corporation into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any corporation succeeding to the business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

IN WITNESS WHEREOF, each of the parties have caused this Escrow Agreement to be executed by a duly authorized officer as of the day and year first written above.

Depositor, State of California



Name: Dennis Eckhart
Title: Senior Assistant Attorney General

By:

CITIBANK, N.A., as Escrow Agent

By: Name:
Title:

WIRING INSTRUCTIONS INFORMATION FORM
Final Approval Disbursement

Please complete this form and fax it to Brian Wycifft at PricewaterhouseCoopers (fax nr: 212-596-7969) and Mary Schaefer at NAAG (fax nr: 202-408-8064) by Monday, October 11, 1999.

State: California
 Attorney General: Bill Lockyer
 (signature)

Date: October 12, 1999

BANK ROUTING INFORMATION

Bank Name: Bank of America, San Francisco, California

Bank ABA Routing Number: 121000358

Bank Account Number: 01482 - 80003

Bank Account Name: Department of Justice - Tobacco Litigation

Primary Bank Contact Person, Title, Telephone #, E-mail address: Maxilyn Goodridge / Northern California Government Banking Unit 1436 / (916) 321-4803

Secondary Bank Contact Person, Title, Telephone #: Lena Sgheiza, Northern California Government Banking Unit 1436 / (916) 321-4806

Bank address: 555 Capitol Mall, Suite 1436, Sacramento, California 95814

Bank Telephone #: (916) 321-4803 Bank Fax #: (916) 321-4822

STATE GOVERNMENT CONTACT INFORMATION

Primary Contact Person, Title, Telephone #: Visky Archer / Treasurer's Office / (916) 653-3340

Address: State Treasurer's Office, 915 Capitol Mall, Room 319, Sacramento, California 95814

Fax #: (916) 653-3135

Secondary Contact Person, Title, Telephone #, E-mail address: Janie Apodaca / Manager, Cashiering/Revolving Fund / (916) 327-4159 / APODACJ@HDCDOJNET.STATE.CA.US

Address: Department of Justice, 1300 I Street, Suite 125, Sacramento, California 95814, P.O. Box 944255, Sacramento, California 94241-2550

Fax #: (916) 321-0708

ATTACHMENT B

Eligible Cities and Counties

<u>City/County</u>	<u>MOU Proportional Allocable Share</u>
County of Alameda	0.038684912
County of Alpine	0.00033659
County of Amador	0.000908437
County of Butte	0.005507657
County of Calaveras	0.000967681
County of Colusa	0.000492187
County of Contra Costa	0.024306394
County of Del Norte	0.000709475
County of El Dorado	0.003810130
County of Fresno	0.020186175
County of Glenn	0.000748939
County of Humboldt	0.005602156
County of Imperial	0.003304532
County of Inyo	0.000552852
County of Kern	0.016435785
County of Kings	0.003068617
County of Lake	0.001531178
County of Lassen	0.000834616
County of Los Angeles	0.268039045
City of Los Angeles	0.025000000
County of Madera	0.002664010
County of Marin	0.006958543
County of Mariposa	0.000432520
County of Mendocino	0.002429787
County of Merced	0.005395248
County of Modoc	0.000292681
County of Mono	0.000301088
County of Monterey	0.010755859
County of Nevada	0.005340746
County of Napa	0.002374293
County of Orange	0.072899228
County of Placer	0.005226682
County of Plumas	0.000506945
County of Riverside	0.005359539
County of Sacramento	0.031488456
County of San Benito	0.001109788
County of San Bernardino	0.042894526
County of San Diego	0.07534785
City of San Diego	0.020000000
City and County of San Francisco	0.046893906
County of San Joaquin	0.014535111
County of San Luis Obispo	0.006567395

ATTACHMENT C

The wiring instructions for the following eligible cities and counties have been provided to Citibank under separate cover:

County of San Mateo 0.019648843
 County of Santa Barbara 0.011177653
 County of Santa Clara 0.045289595
 City of San Jose 0.025000000
 County of Santa Cruz 0.006947596
 County of Shasta 0.004446650
 County of Sierra 0.000100343
 County of Siskiyou 0.001516461
 County of Solano 0.010294983
 County of Stanislaus 0.011740576
 County of Sutter 0.001948033
 County of Tehama 0.001900735
 County of Trinity 0.000392030
 County of Tulare 0.009433088
 County of Tuolumne 0.001465402
 County of Ventura 0.020232324
 County of Yolo 0.004266892
 County of Yuba 0.001760926

 1.0000000

Alameda County
 Alpine County
 Amador County
 Butte County
 Calaveras County
 Colusa County
 Contra Costa County
 Del Norte County
 El Dorado County
 Fresno County
 Glenn County
 Humboldt County
 Imperial County
 Inyo County
 Kern County
 Kings County
 Lake County
 Lassen County
 Los Angeles County
 City of Los Angeles
 Madera County
 Marin County
 Mariposa County
 Mendocino County
 Merced County
 Modoc County
 Mono County
 Monterey County
 Napa County
 Nevada County
 Oranges County
 Placer County
 Plumas County
 Riverside County
 Sacramento County
 San Benito County
 San Bernardino County
 San Diego County
 City of San Diego
 San Francisco County
 City of San Francisco
 San Joaquin County
 San Luis Obispo County
 San Mateo County
 Santa Barbara County
 Santa Clara County
 City of San Jose

Santa Cruz County
Shasta County
Sierra County
Siskiyou County
Solano County
Sonoma County
Stanislaus County
Sutter County
Tehama County
Trinity County
Tulare County
Tulame County
Ventura County
Yolo County
Yuba County

APPENDIX E

FORM OF OPINION OF BOND COUNSEL

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APPENDIX E

FORM OF OPINION OF BOND COUNSEL

Upon the delivery of the Series 2019 Bonds, Orrick, Herrington & Sutcliffe LLP, Bond Counsel to the Issuer, proposes to deliver its final approving opinion with respect to the Series 2019 Bonds in substantially the following form. As described elsewhere in this Preliminary Offering Circular, if the Required Minimum Appropriation Amount is determined to be zero and the County therefor does not enter into the Support Agreement, all references to the Support Agreement will be deleted from the final Offering Circular and the final approving opinion with respect to the Series 2019 Bonds.

[Date of Delivery]

Inland Empire Tobacco Securitization Authority
Riverside, California

Inland Empire Tobacco Securitization Authority
Tobacco Settlement Asset-Backed Refunding Bonds
(Inland Empire Tobacco Securitization Corporation)
Series 2019 Turbo Current Interest Bonds (Federally Taxable)
(Final Opinion)

Ladies and Gentlemen:

We have acted as bond counsel to the Inland Empire Tobacco Securitization Authority (the “Issuer”) in connection with the issuance of \$100,000,000 aggregate principal amount of Inland Empire Tobacco Securitization Authority Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation), Series 2019 Turbo Current Interest Bonds (Federally Taxable) (the “Series 2019 Bonds”). The Series 2019 Bonds are issued pursuant to an Indenture, dated as of August 1, 2007, between the Issuer and Wells Fargo Bank, National Association, as trustee (the “Trustee”), as supplemented by the Series 2007 Supplement, dated as of August 1, 2007, between the Issuer and the Trustee and the Series 2019 Supplement, dated as of May 1, 2019, between the Issuer and the Trustee (as so supplemented, the “Indenture”). Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

In such connection, we have reviewed the Indenture, the Loan Agreement, opinions of counsel to the Issuer, the Trustee, the County and the Corporation, certificates of the Issuer, the Trustee, the County, the Corporation and others, and such other documents, opinions and matters to the extent we deemed necessary to render the opinions set forth herein.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Accordingly, this letter speaks only as of its date and is not intended to, and may not, be relied upon or otherwise used in connection with any such actions, events or matters. Our engagement with respect to the Series 2019 Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties other than the Issuer (and for purposes of the opinion numbered 3 below, the Corporation). We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents, and of the legal conclusions contained in the opinions, referred to in the second paragraph hereof. Furthermore, we have assumed compliance with all covenants and agreements contained in the Indenture and the Loan Agreement. We

call attention to the fact that the rights and obligations under the Series 2019 Bonds, the Indenture and the Loan Agreement and their enforceability may be subject to bankruptcy, insolvency, receivership, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against joint powers authorities in the State of California. We express no opinion with respect to any indemnification, contribution, liquidated damages, penalty (including any remedy deemed to constitute a penalty), right of set-off, arbitration, judicial reference, choice of law, choice of forum, choice of venue, non-exclusivity of remedies, waiver or severability provisions contained in the foregoing documents, nor do we express any opinion with respect to the state or quality of title to or interest in any of the assets described in or subject to the lien of the Indenture or the Loan Agreement, or the accuracy or sufficiency of the description contained therein of, or the remedies available to enforce liens on, any such assets. In rendering opinion numbered 5 below, we are not aware of any authorities directly addressing securities, such as the Series 2019 Bonds, secured and payable by collateral similar to the Collateral where the Issuer has little or no remaining economic interest in such collateral, and, although the matter is not free from doubt, Bond Counsel believes it is reasonable to treat the Series 2019 Bonds as debt of the Issuer for United States federal and State of California income tax purposes, rather than an ownership interest in the Collateral itself. Our services did not include financial or other non-legal advice. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Offering Circular or other offering material relating to the Series 2019 Bonds and express no opinion with respect thereto.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Series 2019 Bonds constitute the valid and binding limited obligations of the Issuer.
2. The Indenture has been duly executed and delivered by, and constitutes the valid and binding obligation of, the Issuer. The Indenture creates, as security for the Series 2019 Bonds, a valid pledge of the Collateral, subject to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture.
3. The Loan Agreement has been duly executed and delivered by the Issuer and constitutes the valid and binding agreement of the Issuer and the Corporation.
4. Interest on the Series 2019 Bonds is not excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986. Interest on the Series 2019 Bonds is exempt from State of California personal income taxes. We express no opinion regarding other tax consequences related to the ownership or disposition of, or the amount, accrual or receipt of interest on, the Series 2019 Bonds.

Faithfully yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

per

APPENDIX F

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

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APPENDIX F

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

The following is a summary of certain provisions of the Indenture, the Loan Agreement and the Purchase and Sale Agreement which are not described elsewhere in this Preliminary Offering Circular. These summaries do not purport to be to be complete or definitive and reference should be made to such documents for a full and complete statement of their provisions. See “THE SERIES 2019 BONDS” and “SECURITY FOR THE SERIES 2019 BONDS” for further descriptions of certain terms and provisions of the Series 2019 Bonds. All capitalized terms not defined in this Offering Circular have the meanings set forth in the Indenture.

DEFINITIONS

The following are definitions of certain terms used in this Offering Circular.

“Accounts” means the accounts established and maintained by the Indenture Trustee.

“Accreted Value” means, with respect to any Capital Appreciation Bond, an amount equal to the initial principal amount of such Bond, plus interest accrued thereon from its date, compounded on each June 1 and December 1 after its issuance (through and including the Maturity Date or earlier redemption date of such Bond, or in the case of a Convertible Bond, through and excluding the applicable Conversion Date or earlier redemption date of such Bond) at the interest rate for such Bond, as set forth in the applicable Series Supplement and in accordance with the Accreted Value Table attached thereto; provided, however, that the Issuer shall calculate or cause to be calculated the Accreted Value on any date other than a Distribution Date set forth in the applicable Series Supplement or in an exhibit thereto by straight line interpolation of the Accreted Values as of the immediately preceding and succeeding Distribution Dates. In performing such calculation, the Issuer shall be entitled to engage and rely upon a firm of accountants, consultants or financial advisors with appropriate knowledge and experience (which may include BondLogistix LLC). The Indenture Trustee may conclusively rely upon such calculations.

“Accreted Value Table” means a table of accreted values with respect to Capital Appreciation Bonds as set forth in the related Series Supplement for such Bonds.

“Accretion Interest Rate” means the applicable rate for Capital Appreciation Bonds or Convertible Bonds corresponding to the increases in Accreted Values shown on the Accreted Value Tables set forth in the related Series Supplement for such Bonds.

“Additional Bonds” has the meaning given to that term in the Indenture.

“ARIMOU” means the Agreement Regarding the Interpretation of the Memorandum of Understanding, among the State of California and certain other signatories thereto, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Authority” means the Issuer.

“Authorized Officer” means: (i) in the case of the Issuer, the Chair, the Vice-Chair, the Treasurer/Controller of the Issuer and any other person authorized to act under the Indenture by appropriate Written Notice to the Indenture Trustee, and (ii) in the case of the Indenture Trustee, any officer assigned to the Corporate Trust Office, including any managing director, vice president, assistant vice president, assistant treasurer, assistant secretary or any other officer of the Indenture Trustee customarily performing functions similar to those performed by any of the above designated officers and having direct responsibility for the administration of the Indenture, and also, with respect to a particular matter, any other officer, to whom such matter is referred because of such officer’s knowledge of and familiarity with the particular subject.

“Basic Documents” means the Indenture, the Loan Agreement, the Purchase and Sale Agreement, the Issuer Tax Certificate, the Corporation Tax Certificate and the County Tax Certificate, or any similar documents relating to Additional Bonds or bonds issued by the Issuer to refund the Bonds.

“Bondholders,” “Holders” and similar terms mean the registered owners of the Bonds from time to time as shown on the books of the Indenture Trustee.

“Bond Obligation” means, as of any given date of calculation, (a) with respect to any Outstanding Current Interest Bond, the principal amount of such Current Interest Bond, and (b) with respect to any Outstanding Capital Appreciation Bond, the Accreted Value thereof as of such date.

“Bonds” means collectively, the Series 2007 Bonds and the Series 2019 Bonds issued under the Indenture, and any Additional Bonds.

“Business Day” means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in New York, New York, or Riverside, California or where the Corporate Trust Office is otherwise located, are required or authorized by law to be closed.

“California Escrow Agent” means Citibank, N.A., acting in its capacity as escrow agent under the California Escrow Agreement, or its successor in such capacity, as provided in the California Escrow Agreement.

“California Escrow Agreement” means that certain escrow agreement, dated April 12, 2000, as amended by the first amendment to escrow agreement, dated July 19, 2001, between the Attorney General of the State of California, on behalf of the State and the California Escrow Agent, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Capital Appreciation Bond” means a Bond (including, as the context requires, a Convertible Bond prior to the applicable Conversion Date), the interest on which is compounded on each Distribution Date, commencing on the first Distribution Date after its issuance through (1) and including the Maturity Date or earlier redemption date of such Bond in the case of a Capital Appreciation Bond which is not a Convertible Bond, or (2) and excluding the Conversion Date in the case of a Convertible Bond.

“Closing Date” means August 16, 2007.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” shall have the meaning ascribed thereto in the Indenture.

“Collection Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Consent Decree” means that certain consent decree and final judgment entered by the Superior Court of the State of California, County of San Diego on December 9, 1998 in Case No. J.C.C.P. 4041.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the Issuer and the Indenture Trustee, as dissemination agent thereunder, dated the date of issuance and delivery of the bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Conversion Date” means the date set forth in the applicable Series Supplement on and after which a Convertible Bond is deemed a Current Interest Bond and after which the Owners shall be entitled to current payments of interest on each Distribution Date after the Conversion Date.

“Convertible Bond” or “Convertible Capital Appreciation Bond” means a Capital Appreciation Bond that is deemed to be a Current Interest Bond after the applicable Conversion Date.

“Corporate Trust Office” means the office of the Indenture Trustee at which the corporate trust business of the Indenture Trustee related to the Indenture shall, at any particular time, be principally administered, which office is, at the date of the Indenture, located at 333 S. Grand Avenue, Fifth Floor, Suite 5A, MAC E2064-05A, Los Angeles, CA 90071.

“Corporation” means the Inland Empire Tobacco Securitization Corporation, a nonprofit public benefit corporation created under the California Nonprofit Public Benefit Corporation Law.

“Corporation Tax Certificate” means the Corporation Tax Certificate executed by the Corporation at the time of the issuance of the Series 2007 Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Corporation Tobacco Assets” has the meaning given to that term in the Loan Agreement.

“Counsel” means nationally recognized bond counsel or such other counsel as may be selected by the Issuer for a specific purpose under the Indenture.

“County” means the County of Riverside, a political subdivision of the State of California.

“County Tax Certificate” means the County Tax Certificate executed by the County at the time of issuance of the Series 2007 Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“County Tobacco Assets” has the meaning given to that term in the Purchase and Sale Agreement and consists of, collectively, all right, title and interest of the County in, to and under the MOU, the ARIMOU, the MSA and the Consent Decree including, without limitation, the rights of the County to be paid the money due to it under the MOU, the ARIMOU, the MSA and the Consent Decree.

“Current Interest Bond” means a Bond (including, as the context requires, a Convertible Bond on and after the applicable Conversion Date), the interest on which is payable currently on each Distribution Date after the applicable Conversion Date.

“Debt Service Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Debt Service Reserve Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Debt Service Reserve Requirement” means an amount equal to \$10,500,000 with respect to the Series 2019 Bonds and means an amount equal to \$0 for the Series 2007C Bonds, the Series 2007D Bonds, the Series 2007E Bonds and the Series 2007F Bonds which requirement may be changed in connection with the issuance of Additional Bonds.

“Default” means an Event of Default without regard to any declaration, notice or lapse of time.

“Default Rate” means the rate per annum set forth in the Series Supplement at which the Bonds will accrue or accrete on and during the continuance of a Default due to failure to pay the due interest or principal or Accreted Value at maturity on any Bonds.

“Defeasance Collateral” means money and (i) non-callable obligations of, or obligations guaranteed as to principal and interest by, the United States or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States, including, but not limited to, all direct or fully guaranteed U.S. Treasury obligations, Farmers Home Administration certificates of beneficial ownership, General Services Administration participation certificates, U.S. Maritime Administration guaranteed Title XI financing, Small Business Administration - guaranteed participation certificates and guaranteed pool certificates, Government National Mortgage Association (“GNMA”) - GNMA guaranteed mortgage-backed securities and GNMA guaranteed participation certificates, U.S. Department of Housing and Urban Development local authority bonds, Washington Metropolitan Area Transit Authority guaranteed transit bonds, and U.S. Treasury State and Local Government Series; (ii) non-callable obligations of government-sponsored agencies that are not backed by the full faith and credit of the U.S. Government, including, but not limited to, Federal Home Loan Mortgage Corp. (FHLMC) Debt Obligations, Farm Credit System (formerly Federal Land Banks, Intermediate Credit Banks, and Banks for Cooperatives) consolidated systemwide bonds and notes, Federal Home Loan Banks (FHL Banks) consolidated debt obligations, Federal National Mortgage

Association (FNMA) debt obligations, and Resolution Funding Corp. (REFCORP) debt obligations; and (iii) stripped securities where the principal-only and interest-only strips are derived from non-callable obligations issued by the U. S. Treasury and REFCORP securities stripped by the Federal Reserve Bank of New York, excluding custodial receipts, i.e. CATs, TIGERS, unit investment trusts and mutual funds;

(iv) obligations timely maturing and bearing interest (but only to the extent that the full faith and credit of the United States of America are pledged to the timely payment thereof);

(v) certificates evidencing ownership of the right to the payment of the principal of and interest on obligations described in clause (ii), provided, that such obligations are held in the custody of a bank or trust company satisfactory to the Indenture Trustee in a segregated trust account in the trust department separate from the general assets of such custodian;

(vi) bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (y) which are not callable at the option of the obligor or otherwise prior to maturity or as to which irrevocable notice has been given by the obligor to call such bonds or obligations on the date specified in the notice, and (z) timely payment of which is fully secured by a fund consisting only of cash or obligations of the character described in clause (i), (ii) or (iii) which fund may be applied only to the payment when due of such bonds or other obligations; and

(vii) any other obligations approved by each Rating Agency then rating any of the Bonds as acceptable for defeasance purposes;

provided, that Defeasance Collateral shall not include obligations of the County.

“Defeasance Turbo Schedule” means, for a Series of Bonds that includes Turbo Term Bonds, the schedule of projected Outstanding balances of such Turbo Term Bonds set forth in the related Series Supplement or in an exhibit thereto.

“Defeased Bonds” means Bonds that remain in the hands of their Holders but are no longer deemed Outstanding.

“Deposit Date” means the date of actual receipt by the Indenture Trustee of any Revenues, provided that any payment received prior to January 1 of the year in which due, will be deemed to have been received on January 1 of such year.

“Distribution Date” means each June 1 and December 1, commencing on December 1, 2007 with respect to the Series 2007 Bonds and December 1, 2019 with respect to the Series 2019 Bonds.

“DTC” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and includes any nominee of DTC in whose name any Bonds are then registered.

“Eligible Investments” means:

(i) Obligations, participations, or other instruments, issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises which are rated by each Rating Agency in one of the two highest rating categories assigned by such agency;

(ii) demand and time deposits in or certificates of deposit of, or bankers’ acceptances issued by, any bank or trust company (including the institution acting as the Indenture Trustee and its affiliates), savings and loan association or savings bank, payable on demand or on a specified date no more than twelve months after the date of purchase, if such deposits or instruments are rated by each Rating Agency in the highest rating category assigned by such agency;

(iii) certificates, notes, warrants, bonds, obligations or other evidences of indebtedness of a state or a political subdivision thereof rated (without regard to rating subcategories) by each Rating Agency in one of the two highest rating categories assigned by such agency;

(iv) commercial or finance company paper (including both non-interest-bearing discount obligations and interest bearing obligations payable on demand or on a specified date not more than 270 days after the date of issue) that is rated by each Rating Agency in the highest short term rating category assigned by such agency;

(v) repurchase agreements with respect to any security described in clause (i) or (ii) above entered into with a primary dealer, domestic depository institution or trust company (acting as principal) rated by each Rating Agency in the highest short term rating category assigned by such agency and collateralized by securities described in clause (i) or (ii) provided, that (1) a specific written agreement governs the transaction, (2) the securities are held, free and clear of any lien, by the Indenture Trustee or an independent third party acting solely as agent for the Indenture Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined surplus and undivided profits of not less than \$25 million, and the Indenture Trustee has received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Indenture Trustee, (3) the repurchase agreement has a term of twelve months or less, and the Indenture Trustee will value the collateral securities no less frequently than weekly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within one Business Day of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 102%;

(vi) securities bearing interest that are issued by any corporation incorporated under the laws of the United States of America or any state thereof and rated by each Rating Agency in one of the two highest rating categories assigned by such agency and payable on demand or on a specified date no more than 24 months from the date of purchase;

(vii) shares of beneficial interest issued by diversified management companies, that invest only in securities and obligations as authorized by the Indenture and that are rated by each Rating Agency in one of the two highest rating categories assigned by such agency. To be eligible for investment these companies shall have net assets in excess of \$500,000,000. The purchase of shares in any one mutual fund may not exceed ten percent (10%) of the aggregate principal amount of all Eligible Investments then held and the total invested may not exceed twenty percent (20%) of the aggregate principal amount of all Eligible Investments then held and may include, if so rated, any such fund which the Indenture Trustee serves as an investment advisor, administrator, shareholder or servicing agent and/or custodian or sub-custodian, notwithstanding that (x) the Indenture Trustee or an affiliate of the Indenture Trustee charges and collects fees and expenses (not exceeding current income) from such fund for services rendered, (y) the Indenture Trustee charges and collects fees and expenses for services for services rendered pursuant to the Indenture, and (z) services performed for such funds and pursuant to the Indenture may converge at any time (the Issuer specifically authorizes the Indenture Trustee to charge and collect all fees and expenses from such funds for services rendered to such funds, in addition to any fees and expenses the Indenture Trustee may charge and collect for services rendered pursuant to the Indenture.

(viii) shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California which invests exclusively in investments permitted by Section 53601 of Title 5, Division 2, Chapter 4 of the Government Code of the State of California, as it may be amended, provided such trust is rated by each Rating Agency in one of the two highest rating categories assigned by such agency.

(ix) investment agreements or guaranteed investment contracts rated, or with any financial institution or corporation whose senior long-term debt obligations are rated, or guaranteed by a financial institution whose senior long-term debt obligations are rated, at the time such agreement or contract is entered into, by each Rating Agency in one of the two highest rating categories assigned by such agency, if the Issuer has an option to terminate such agreement in the event that either such rating is downgraded below the rating on the Bonds, or if not so rated, then collateralized by securities described in clause (i) or (ii) above with any registered broker-dealer or with any domestic commercial bank whose long-term debt obligations are rated "investment grade" by each Rating Agency; provided, that (1) a specific written agreement governs the transaction, (2) the securities are held, free and clear of any lien, by the Indenture Trustee or an independent third party acting solely as agent for the Indenture Trustee, and such third party is (a) a Federal Reserve Bank, or (b) a member of the Federal Deposit Insurance Corporation that has combined

surplus and undivided profits of not less than \$25 million, and the Indenture Trustee has received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the Indenture Trustee, (3) the agreement has a term of thirty days or less, or the Indenture Trustee will value the collateral securities no less frequently than monthly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored with five Business Days of such valuation, and (4) the fair market value of the collateral securities in relation to the amount of the obligation, including principal and interest, is equal to at least 102%;

(x) forward purchase agreements by a financial institution or corporation whose long-term debt rating, or whose parent's long-term debt rating, is at least rated A by each Rating Agency. Securities eligible for delivery under such forward delivery agreement will include those described in (i), (ii), (iii) or (iv) above. Any forward purchase agreement must be accompanied by a bankruptcy opinion that the securities delivered will not be considered a part of the bankruptcy estate in the event of a declaration of bankruptcy or insolvency by the provider;

(xi) other obligations or securities that are acceptable to each Rating Agency; and

(xii) Defeasance Collateral;

(xiii) any other obligations permitted under the Government Code of the State of California Section 53601 et. seq. for investments of public agencies of the State;

provided, that no Eligible Investment may (a) except for Defeasance Collateral, evidence the right to receive only interest with respect to the obligations underlying such instrument or (b) be purchased at a price greater than par if such instrument may be prepaid or called at a price less than its purchase price prior to its stated maturity, and provided further, that Eligible Investments shall not include any obligations of the County.

“Escrow Agent” means Wells Fargo Bank, National Association, acting in its capacity as escrow agent under the Escrow Agreement, or its successor in such capacity, as provided in the Escrow Agreement.

“Escrow Agreement” means that certain escrow agreement, dated as of May 1, 2019, with respect to the Refunded Bonds, between the Issuer and the Escrow Agent, as originally executed and as it may be amended or supplemented from time to time.

“Event of Default” means an event specified in the Indenture.

“Extraordinary Prepayment” means payment of Bonds pursuant to the provisions of the Indenture relating to extraordinary prepayment upon Event of Default.

“Extraordinary Prepayment Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the provisions of the Indenture.

“Fiduciary” means the Indenture Trustee and each Paying Agent, if any.

“Fiscal Year” means each 12-month period ending each June 30.

“Fully Paid” means, with respect to any Bond: (i) such Bond has been canceled by the Indenture Trustee or delivered to the Indenture Trustee for cancellation, including but not limited to under the circumstances described in the Indenture; or (ii) such Bond shall have matured or been called for redemption and, on such Maturity Date or redemption date, money for the payment of the principal or Accreted Value of, redemption premium, if any, and interest on such Bond is held by the Indenture Trustee in trust for the benefit of the person entitled thereto; or (iii) such Bond is alleged to have been lost, stolen, destroyed, partially destroyed, or defaced and has been replaced as provided in the Indenture; or (iv) such Bond has been defeased as provided in the Indenture.

“Indenture” means the Indenture, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms of the Indenture.

“Indenture Trustee” means Wells Fargo Bank, National Association, a national banking association organized and existing under the laws of the United States, acting in its capacity as trustee under the Indenture, or its successor, as provided in the Indenture.

“Issuer” means Inland Empire Tobacco Securitization Authority, a public entity of the State created pursuant to the JPA Agreement, its successors or assigns.

“Issuer Tax Certificate” means the Issuer Tax Certificate executed by the Issuer at the time of issuance of the Series 2007 Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Issuer Continuing Disclosure Undertaking” means that certain Issuer Continuing Disclosure Undertaking (Series 2019 Bonds) executed by the Issuer and the Indenture Trustee, as dissemination agent thereunder, dated as of the date of issuance and delivery of the Series 2019 Bonds, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“JPA Agreement” means the Joint Exercise of Powers Agreement, dated as of July 18, 2007, creating the Issuer, between the County and the County of San Bernardino, as originally executed and as heretofore amended, and as it may be further supplemented from time to time in accordance with the terms thereof.

“Lender” means the Issuer in its capacity as lender under the Loan Agreement.

“Loan” has the meaning ascribed thereto in the Loan Agreement.

“Loan Agreement” means the Secured Loan Agreement, dated as of August 1, 2007, between the Issuer, as Lender, and the Corporation, as Corporation, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Loan Payments” has the meaning ascribed thereto in the Loan Agreement.

“Lump Sum Payment” means a lump sum payment received by the Indenture Trustee as a final payment from a PM which results in a release of that PM from all or any portion of its future obligations under the MSA.

“Lump Sum Prepayment Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Master Settlement Agreement” or “MSA” means the Master Settlement Agreement entered into on November 23, 1998, among the attorneys general of 46 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Commonwealth of the Northern Mariana Islands and the OPMs, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Maturity Amount” means, with respect to any Bond, the amount set forth therein as the Maturity Amount thereof, as reduced in accordance with the terms thereof to reflect any partial redemption or partial prepayment.

“Maturity Date” means, with respect to any Bond, as set forth therein and in the Series Supplement, the final date on which all remaining principal or Accreted Value of such Bond is due and payable; notwithstanding any other provision of the Indenture or the Bonds, no Bond shall have a Maturity Date that is more than 50 years from its date of issuance.

“MOU” means the Memorandum of Understanding, dated August 5, 1998, among the Attorney General’s Office of the State of California and certain other signatories thereto, as originally executed and as it may be amended or supplemented from time to time.

“Officer’s Certificate” means a certificate signed by an Authorized Officer of the Issuer.

“Operating Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Operating Cap” means \$200,000 in 2007 dollars, inflated in each Fiscal Year following 2007 by the Inflation Adjustment Percentage as defined in the MSA, plus arbitrage payments, rebate and penalties specified in an Officer’s Certificate relating to the Bonds.

“Operating Expenses” means operating and administrative expenses of each of the Issuer and the Corporation (including, without limitation, the cost of preparation of accounting and other reports, costs of maintenance of the ratings on the Bonds, arbitrage payments and rebate penalties, insurance premiums and costs of annual meetings or other required activities of the Issuer or the Corporation), fees and expenses incurred for the Indenture Trustee, any Paying Agents (including expenses and disbursements of their agents and counsel), professional consultants and fiduciaries, termination payments on swap contracts, investment contracts or investment agreements for Accounts or on forward purchase contracts for investments in Accounts, enforcement related costs with federal and state agencies incurred, as determined by the County or the Issuer, in order to preserve the tax-exempt status of any Bonds intended by the Issuer to be Tax-Exempt Bonds at the time of issuance thereof, and the costs related to enforcement of the County’s rights under the MOU or the ARIMOU, or the Corporation’s, the Issuer’s or the Indenture Trustee’s enforcement rights with respect to the Basic Documents or the Bonds, and all other expenses so identified as Operating Expenses in the Indenture.

“OPM” means an Original Participating Manufacturer, as defined in the MSA.

“Outstanding,” when used as to Bonds, means Bonds issued under the Indenture, excluding: (i) Bonds that have been exchanged or replaced, or delivered to the Indenture Trustee for credit against a principal or Accreted Value payment; (ii) Bonds that have been paid in full; (iii) Bonds the payment of which shall have been provided for pursuant to the Indenture; and (iv) for purposes of any consent or other action to be taken by a specified percentage of Bondholders under the Indenture, Bonds held by or for the account of the Issuer, or any Person controlling, controlled by or under common control with the Issuer. For the purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Owners” and similar terms mean the registered owners of the Bonds from time to time as shown on the books of the Indenture Trustee. Unless and until Bonds have been issued to Owners other than the Depository, all references to “Owners” of the Bonds are qualified by reference to the Indenture.

“Payment Priorities” means, subject to the issuance of Additional Bonds which may be payable on a parity or subordinate basis to one or more series of the Series 2007 Bonds and/or Series 2019 Bonds described below, payment of Bonds in the following order of priority:

- (1) first, the Series 2019 Bonds until they are Fully Paid, subject to \$5,000 minimum denominations;
- (2) second, the Series 2007C-1 Bonds and the Series 2007C-2 Bonds until they are Fully Paid in chronological order of maturities and by lot within a maturity, except for the purpose of Extraordinary Prepayments, in which case they are paid Pro Rata among maturities and by lot within a maturity;
- (3) third, the Series 2007D Bonds until they are Fully Paid, by lot within a maturity;
- (4) fourth, the Series 2007E Bonds until they are Fully Paid, by lot within a maturity; and
- (5) fifth, the Series 2007F Bonds until they are Fully Paid, by lot within a maturity.

“Person” means any individual, corporation, estate, partnership, joint venture, association, joint stock company, limited liability company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other organization or entity of any type, whether or not a legal entity.

“PM” means a Participating Manufacturer, as defined in the MSA.

“Pre 2027 Lump Sum Sold Tobacco Assets” has the meaning given to that term in the Purchase and Sale Agreement and consists of the County Tobacco Assets to the extent consisting of or relating to the applicable percentage set forth in the table below on a *pari passu pro rata* basis of any Lump Sum Payments made during the period from and after the Closing Date and before January 1, 2027 (the remaining years set forth below).

Calendar Year	Percentage to County	Percentage to Indenture Trustee	Total
2019	10.77%	89.23%	100.00%
2020	9.61	90.39	100.00
2021	8.14	91.86	100.00
2022	6.67	93.33	100.00
2023	5.13	94.87	100.00
2024	3.51	96.49	100.00
2025	1.80	98.20	100.00

“Post 2026 Sold Tobacco Assets” has the meaning given to that term in the Purchase and Sale Agreement and consists of the County Tobacco Assets to the extent consisting of or relating to amounts due to the County from and after January 1, 2027.

“Pro Rata” means, for an allocation of available amounts to any payment of interest, Accreted Value or principal to be made under the Indenture, the application of a fraction to such available amounts (a) the numerator of which is equal to the amount due to the respective Owners, and (b) the denominator of which is equal to the total amount due to all Owners to whom such payment is owing.

“Projected Turbo Redemption” means, for a Series of Bonds, each respective Turbo Redemption projected to be made pursuant to the Indenture, as such projections are set forth in the Series Supplement with respect to such Series of Bonds.

“Purchase and Sale Agreement” means the Purchase and Sale Agreement dated as of August 1, 2007, between the County and the Corporation, as originally executed and as it may be amended or supplemented from time to time in accordance with the terms thereof.

“Purchase Price” has the meaning given to that term in the Purchase and Sale Agreement.

“Qualified Institutional Buyer” has the meaning given to that term in the Indenture.

“Rating Agency” means, with respect to the Series 2007 Bonds and the Series 2019 Bonds, each nationally recognized securities rating service that has, at the request of the Issuer, a rating then in effect for one or more Series of Bonds.

“Rating Confirmation” means with respect to any Series of Bonds, written evidence from a Rating Agency that no Bond rating then in effect from such Rating Agency will be withdrawn, reduced or suspended solely as a result of an action to be taken under the Indenture. If no rating is in effect with respect to any Series of Bonds, references to “Rating Confirmation” in the Indenture shall be considered deleted and none shall be required with respect to such Series.

“Rebate Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Rebate Requirement” shall have the meaning ascribed thereto in the Issuer Tax Certificate.

“Revenues” means the Tobacco Settlement Revenues and all fees, charges, payments, proceeds, collections, investment earnings and other income and receipts (including Bond proceeds but only to the extent deposited in an

Account) derived from the Collateral and paid or payable to the Issuer or the Indenture Trustee for the account of the Issuer or the Bondholders.

“Serial Bonds” means those Bonds identified as Serial Bonds in a Series Supplement.

“Serial Maturity” means the principal amount or Accreted Value of Serial Bonds due in any year as set forth in a Series Supplement.

“Series” means all Bonds so identified in a Series Supplement, regardless of variations in class, Maturity Date, interest rate or other provisions, and any Bonds thereafter delivered in exchange or replacement therefore, including the Series 2007A Bonds, the Series 2007B Bonds, the Series 2007C Bonds, the Series 2007D Bonds, the Series 2007E Bonds and the Series 2007F Bonds.

“Series 2007 Bonds” means, collectively, the Series 2007A Bonds, the Series 2007B Bonds, the Series 2007C Bonds, the Series 2007D Bonds, the Series 2007E Bonds and the Series 2007F Bonds.

“Series 2007A Bonds” means the Issuer’s \$87,650,000.00 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007A Turbo Current Interest Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007B Bonds” means the Issuer’s \$53,757,702.60 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007B Turbo Convertible Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007C Bonds” means collectively, the Series 2007C-1 Bonds and the Series 2007C-2 Bonds.

“Series 2007C-1 Bonds” means the Issuer’s \$53,541,801.45 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007C-1 Turbo Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007C-2 Bonds” means the Issuer’s \$29,652,581.40 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007C-2 Turbo Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007D Bonds” means the Issuer’s \$23,457,163.80 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007D Turbo Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007E Bonds” means the Issuer’s \$18,948,552.00 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007E Turbo Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007F Bonds” means the Issuer’s \$27,076,490.00 Tobacco Settlement Asset-Backed Bonds (Inland Empire Tobacco Securitization Corporation), Series 2007F Turbo Capital Appreciation Bonds, dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series 2007A Capitalized Interest Subaccount” means the subaccount of that name established within the Debt Service Account and maintained by the Indenture Trustee pursuant to the Indenture.

“Series 2007 Supplement” means the Series Supplement authorizing the Series 2007 Bonds.

“Series 2019 Supplement” means the Series Supplement authorizing the Series 2019 Bonds.

“Series 2019 Bonds” means the Issuer’s Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation), Series 2019 Turbo Current Interest Bonds (Federally Taxable), dated the date of issuance thereof, including any Bonds issued in exchange or replacement therefor.

“Series Supplement” means the Series 2007 Supplement, the Series 2019 Supplement and any other Supplemental Indenture providing for the issuance of Additional Bonds.

“Sold County Tobacco Assets” has the meaning given to that term in Section 2 of the Purchase and Sale Agreement and consists of the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets, the Post 2026 Sold Tobacco Assets and the Pre 2027 Lump Sum Sold Tobacco Assets.

“Starting Date” means January 1, 2027.

“State” means the State of California.

“Supplemental Indenture” means a Series Supplement or supplement to the Indenture executed and delivered in accordance with the terms of the Indenture. Any provision that may be included in a Series Supplement or Supplemental Indenture is also eligible for inclusion in the other subject to the provisions of the Indenture.

“2019 Closing Date” means May 30, 2019.

“Tax-Exempt Bonds” means any obligation the interest on which is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code.

“Term Bond Maturity” means the payment of principal or Accreted Value required to be made upon the Maturity Date of any Term Bond, as such schedule is set forth in a Series Supplement.

“Term Bonds” means those Bonds identified as Term Bonds in a Series Supplement.

“Tobacco Settlement Revenues” means, without duplication, the portion of the Collateral consisting of payments received pursuant to the MOU, the ARIMOU, the MSA and the Consent Decree.

“Turbo Redemption Account” means the Account of that name established and maintained by the Indenture Trustee pursuant to the Indenture.

“Turbo Redemption Payments” means the payments to redeem Turbo Bonds from amounts on deposit in the Turbo Redemption Account pursuant to the Indenture.

“Turbo Term Bonds” means the Term Bonds identified as Turbo Term Bonds in a Series Supplement.

“Turbo Term Bond Maturity” means the payment of principal or Accreted Value required to be made upon the Maturity Date of any Turbo Term Bond, as such schedule is set forth in a Series Supplement.

“Written Notice”, “written notice” or “notice in writing” means notice in writing which may be delivered by hand or first class mail and also means facsimile transmission.

“2008-2020 Sold Tobacco Assets” has the meaning given that term in the Purchase and Sale Agreement and consists of the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$10,000,000 has been paid to the County in each year beginning on January 1, 2008 and ending on December 31, 2020.

“2021-2026 Sold Tobacco Assets” has the meaning given that term in the Purchase and Sale Agreement and consists of the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$11,537,000 has been paid to the County in each year beginning on January 1, 2021 and ending on December 31, 2026.

THE INDENTURE

The Indenture sets forth the terms of the Bonds, the nature and extent of the security, various rights of the Bondholders, rights, duties and immunities of the Indenture Trustee and the rights and obligations of the Issuer. Certain

provisions of the Indenture are summarized below. This summary does not purport to be complete or definitive and is qualified in its entirety by reference to the full terms of the Indenture.

Directors and State Not Liable on Bonds; Limited Obligation of Issuer

No member, director, officer or employee of the Issuer shall be individually or personally liable for the payment of the principal, interest or Accreted Value of the Bonds, but nothing contained in the Indenture shall relieve any director, officer or employee of the Issuer from the performance of any official duty provided by any applicable provisions of law or by the Indenture.

The Bonds are limited obligations of the Issuer, payable from and secured solely by Revenues and the other Collateral pledged under the Indenture. The Bondholders have no recourse to other assets of the Issuer, including, but not limited to, any assets pledged to secure payment of any other debt obligation of the Issuer. If, notwithstanding the limitation on recourse described in the preceding sentence, any Bondholders are deemed to have an interest in any asset of the Issuer pledged to the payment of other debt obligations of the Issuer, the Bondholders' interest in such asset shall be subordinate to the claims and rights of the holders of such other debt obligations and the Indenture will constitute a subordination agreement for purposes of Section 510(a) of the U.S. Bankruptcy Code. In the event the Collateral has been exhausted and the Bonds have not been paid in full, then any and all amounts remaining due on the Bonds shall be extinguished and shall not revive, and the Bonds shall be cancelled.

The Bonds do not constitute a charge against the general credit of the Issuer or any of its members, including the County, and under no circumstances shall the Issuer or any member, including the County, be obligated to pay the principal of or redemption premiums, if any, or interest on the Bonds, except from the Collateral pledged therefor under the Indenture.

Security Interest and Pledge

In order to secure payment of the Bonds, all with the respective priorities specified in the Indenture, the Issuer pledges to the Indenture Trustee, and grants to the Indenture Trustee a lien and security interest in, all of the Issuer's right, title and interest, whether now owned or hereafter acquired, in, to and under: (a) the Loan Agreement, including but not limited to the right to receive Loan Payments and to enforce the obligations of the Corporation pursuant to the Loan Agreement; (b) the Corporation Tobacco Assets; (c) the Accounts, all money, instruments, investment property and other property credited to or on deposit in the Accounts, and all investment earnings on amounts on deposit in or credited to the Accounts; (d) all present and future claims, demands, causes and things in action in respect of any or all of the foregoing and all payments on or under and all proceeds of every kind and nature whatsoever in respect of any or all of the foregoing, including all proceeds of the conversion, voluntary or involuntary, into cash or other liquid property, all cash proceeds, accounts, general intangibles, notes, drafts, acceptances, chattel paper, checks, deposit accounts, insurance proceeds, condemnation awards, rights to payment of any and every kind, and other forms of obligations and receivables, instruments and other property which at any time constitute all or part of or are included in the proceeds of any of the foregoing, and (e) all proceeds of the foregoing. The property described in the preceding sentence is referred to in the Indenture as the "Collateral." The Collateral does not include (i) the rights of the Issuer pursuant to provisions for consent or other action by the Issuer, notice to the Issuer, indemnity or the filing of documents with the Issuer, or otherwise for its benefit and not for that of the Bondholders or (ii) the Rebate Account or the Operating Account, and all money, instruments, investment property and other property credited to or on deposit in the Rebate Account or the Operating Account. The Issuer will implement, protect and defend this grant of a security interest and pledge by all appropriate legal action, the cost thereof to be an Operating Expense.

Defeasance

When (a) there is held by or for the account of the Indenture Trustee Defeasance Collateral in such principal amounts, bearing fixed interest at such rates and with such maturities, including any applicable redemption or prepayment premiums as will provide sufficient funds to pay or redeem or prepay all obligations on Bonds of any Series or a portion thereof in full (to be verified by a nationally recognized firm of independent certified public accountants), (b) any required notice of redemption or prepayment shall have been duly given in accordance with the Indenture or irrevocable instructions to give notice shall have been given to the Indenture Trustee, and (c) all the rights under the Indenture of the Fiduciaries have been provided for, then upon written notice from the Issuer to the Indenture Trustee, the Holders of such Bonds shall cease to be entitled to any benefit or security under the Indenture except the

right to receive payment of the funds so held and other rights which by their nature cannot be satisfied prior to or simultaneously with termination of the lien under the Indenture, the security interests created by the Indenture (except in such funds and investments) shall terminate, as to such Bonds and if all Bonds are so defeased, the Issuer and the Indenture Trustee shall execute and deliver such instruments as may be necessary to discharge the Indenture Trustee's lien and security interests created under the Indenture and to make the Tobacco Settlement Revenues and other Collateral payable to the order of the Issuer. Upon such defeasance, the funds and investments required to pay or redeem or prepay the Bonds to such Bondholders shall be irrevocably set aside for that purpose, subject, however, to the provisions regarding unclaimed money in the Indenture, and money held for defeasance shall be invested only as provided in the provisions of the Indenture described under this heading and applied by the Indenture Trustee and other Paying Agents, if any, to the retirement of the Bonds. Any funds or property held by the Indenture Trustee and not required for payment or redemption or prepayment of the Bonds to Bondholders and such other obligations to the Fiduciaries shall be distributed pursuant to the order of the Issuer. Upon the discharge of the Indenture Trustee's lien and security interests created under the Indenture, the Indenture Trustee shall cooperate in delivering instructions to the Attorney General of the State to instruct the California Escrow Agent to transfer the Tobacco Settlement Revenues to or upon the order of the Corporation.

Subject to the requirements of federal tax law and to the right of the Issuer to redeem the Bonds in accordance with the optional redemption provisions of the Indenture, when Bonds are to be defeased, they are to be defeased pursuant to the Defeasance Turbo Schedule, and the Issuer shall provide for Turbo Redemption Payments of the principal or Accreted Value of the Bonds, based on the assumption that the Outstanding principal or Accreted Value on the Distribution Dates (taking such Turbo Redemption Payments into account) for the Bonds shall equal the outstanding amounts shown in the applicable Defeasance Turbo Schedule. If on the date of defeasance the principal or Accreted Value of Bonds Outstanding is greater than the Outstanding amount of principal or Accreted Value shown in the Defeasance Turbo Schedule for such date, such excess balance must be redeemed within not more than 30 days of the date of defeasance. If on the date of defeasance the principal or Accreted Value of Bonds Outstanding is less than the Outstanding amount of principal or Accreted Value shown in the Defeasance Turbo Schedule on such date (constituting a "Deficiency"), no redemption of the Bonds shall occur until the Distribution Date on which the Outstanding amount of principal or Accreted Value shown in the Defeasance Turbo Schedule is attained, and after such date the Turbo Redemptions shall occur in the amounts and on the dates shown in the Series Supplement.

Payment Priorities

Owners of the Series 2007C Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2019 Bonds and any other Bonds senior to the Series 2007C Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default. Owners of the Series 2007D Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2007C Bonds and any other Bonds senior to the Series 2007D Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default. Owners of the Series 2007E Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2007D Bonds and any other Bonds senior to the Series 2007E Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default. Owners of the Series 2007F Bonds are not entitled to receive any payment, including any Extraordinary Prepayment, until Owners of all Series 2007E Bonds and any other Bonds senior to the Series 2007F Bonds issued under the Indenture have been fully paid, regardless of the occurrence of an Event of Default.

Establishment of Accounts

The Indenture Trustee shall establish and maintain the following segregated trust accounts in the Indenture Trustee's name:

- (a) the Collection Account;
- (b) the Operating Account;
- (c) the Debt Service Account and the Series 2007A Capitalized Interest Subaccount;
- (d) the Debt Service Reserve Account;

- (e) the Extraordinary Prepayment Account;
- (f) the Turbo Redemption Account;
- (g) the Lump Sum Prepayment Account; and
- (h) the Costs of Issuance Account.

Application of Revenues

Any Sold County Tobacco Assets shall be promptly (and in no event later than two Business Days after receipt by the Indenture Trustee) deposited by the Indenture Trustee in the Collection Account. In the event that a Lump Sum Payment is made prior to the Starting Date, the Purchase and Sale Agreement provides that the County shall divide such Lump Sum Payment in accordance with the applicable percentage set forth in the definition of Pre 2027 Lump Sum Sold Tobacco Assets and transfer the Pre 2027 Lump Sum Sold Tobacco Assets to the Indenture Trustee clearly identifying such amounts as Pre 2027 Lump Sum Sold Tobacco Assets. The Indenture Trustee shall deposit such amount into the Lump Sum Prepayment Account. If a Lump Sum Payment is made after the Starting Date, the Issuer shall provide or cause to be provided to the Indenture Trustee a notice indicating the amount of Lump Sum Payment that the Indenture Trustee will receive and deposit in the Lump Sum Prepayment Account. Unless otherwise specified in the Indenture, the Indenture Trustee will deposit all Revenues received by it in the Collection Account. For a description of the flow of revenues, see “SECURITY FOR THE SERIES 2019 BONDS - Flow of Funds” in the forepart of this Offering Circular.

(a) As soon as possible following each deposit of Revenues to the Collection Account pursuant to the Indenture, the Indenture Trustee will withdraw Revenues on deposit in the Collection Account and transfer such amounts as follows:

(1) to the Operating Account, an amount specified in an Officer’s Certificate (or certificate of an authorized officer of the Corporation, as appropriate), but not exceeding, when taken together with other applicable transfers, the Operating Cap for the then current calendar year;

(2) to the Debt Service Account, an amount sufficient to cause the amount therein, together with any investment earnings transferred from the Debt Service Reserve Account, to equal interest (including (i) interest on any Outstanding Bonds, (ii) overdue interest on any Outstanding Bonds and (iii) interest on overdue interest on any Outstanding Bonds (to the extent legally permissible)) due on the next two succeeding Distribution Dates, taking into account amortization of Bonds on the next succeeding Distribution Date;

(3) unless an Event of Default has occurred and is continuing, to the Debt Service Account, an amount sufficient to cause the amount therein (without regard to amounts on deposit therein pursuant to the Indenture as set forth in subsection (a)(2) above) to equal the principal or Accreted Value of Outstanding Bonds scheduled to be due on the next succeeding Distribution Date;

(4) unless an Event of Default has occurred and is continuing, to the Debt Service Reserve Account, an amount sufficient to cause the amounts therein to equal the Debt Service Reserve Requirement;

(5) if an Event of Default has occurred and is continuing, to the Extraordinary Prepayment Account all amounts remaining in the Collection Account;

(6) to the Lump Sum Prepayment Account, the amount of any Pre 2027 Lump Sum Sold Tobacco Assets prior to the Starting Date and any Lump Sum Payment on or after the Starting Date;

(7) to the Operating Account, an amount specified by an Officer’s Certificate (or certificate of an authorized officer of the Corporation, as appropriate) to pay for any Operating Expenses in excess of the Operating Cap for the then current calendar year; and

(8) to the Turbo Redemption Account, the amount remaining in the Collection Account.

Except as otherwise provided in the Indenture, investment earnings on the Accounts shall be deposited in the Collection Account.

(b) On each Distribution Date, the Indenture Trustee will apply amounts in the various Accounts in the following order of priority:

(1) from the Debt Service Account and the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), in that order, to pay interest (including (i) interest on any Outstanding Bonds, (ii) overdue interest on any Outstanding Bonds and (iii) interest on overdue interest on any Outstanding Bonds (to the extent legally permissible)) due on such Distribution Date;

(2) unless an Event of Default has occurred and is continuing, from the Debt Service Account and the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), in that order, to pay the principal of Outstanding Bonds scheduled to be due on such Distribution Date;

(3) unless an Event of Default has occurred and is continuing, from the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds), any amount remaining in excess of the Debt Service Reserve Requirement, to the Debt Service Account;

(4) if an Event of Default has occurred and is continuing, from the Extraordinary Prepayment Account, the Debt Service Account and the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds) to pay Extraordinary Prepayments on Bonds pursuant to the Indenture;

(5) from the Lump Sum Prepayment Account, to redeem or prepay Bonds pursuant to a Lump Sum Payment pursuant to the Indenture; and

(6) from the Turbo Redemption Account, to redeem Term Bonds pursuant to the Indenture.

For the avoidance of doubt, amounts in the Debt Service Reserve Account shall not be available to make Turbo Redemption Payments on the Series 2019 unless such amounts together with all available Revenues are sufficient to retire all Bonds secured by the Debt Service Reserve Account still outstanding, in which event all amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be so utilized.

(c) The Issuer covenants in the Indenture to pay its Operating Expenses to the parties entitled thereto, but only to the extent that funds are available for such purpose as provided in the Indenture. The Indenture Trustee shall deposit into the Costs of Issuance Account all amounts designated in the applicable Series Supplement authorizing the issuance of Bonds as available for the payment of Costs of Issuance. The Indenture Trustee shall pay Costs of Issuance as directed by an Officer's Certificate. Any amounts remaining in the Costs of Issuance Account six months after the related deposit thereof shall be paid to the Corporation as additional Loan proceeds.

Rebate

The Indenture Trustee shall establish and maintain when required an account separate from any other account established and maintained under the Indenture designated as the Rebate Account. Subject to the transfer provisions provided below, all money at any time deposited in the Rebate Account shall be held by the Indenture Trustee in trust, to the extent required to satisfy the Rebate Requirement (as defined, computed and provided to the Indenture Trustee in accordance with the Issuer Tax Certificate), for payment to the federal government of the United States of America. Neither the Issuer nor any Bondholder shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Account shall be governed pursuant to the provisions of the Indenture relating to rebate and tax covenants and by the Issuer Tax Certificate. The Indenture Trustee shall be deemed conclusively to have complied with such provisions if it follows such directions of the Issuer, including supplying all necessary information specified in the Issuer Tax Certificate to the extent the Indenture Trustee possesses such information, in the manner provided in the Issuer Tax Certificate, and shall have no liability or responsibility to calculate any rebate obligation or to enforce compliance by the Issuer with the terms of the Issuer Tax Certificate.

Upon the Issuer's written direction, an amount shall be deposited to the Rebate Account by the Indenture Trustee from amounts on deposit in the Operating Account so that the balance in the Rebate Account shall equal the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of the Issuer in accordance with the Issuer Tax Certificate. The Indenture Trustee shall supply to the Issuer all information required to be provided by the Issuer Tax Certificate to the extent such information is reasonably available to the Indenture Trustee.

The Indenture Trustee shall have no obligation to rebate any amounts required to be rebated described under this heading, other than from moneys held in the Operating Account or the Rebate Account created under the Indenture or earnings on the Debt Service Reserve Account that the Issuer instructs to be deposited to the Rebate Account.

At the written direction of the Issuer, the Indenture Trustee shall invest all amounts held in the Rebate Account in Eligible Investments, subject to the restrictions set forth in the Issuer Tax Certificate. Moneys shall not be transferred from the Rebate Account except as provided in the provisions of the Indenture described in the next paragraph. The Indenture Trustee shall not be liable for any consequences arising from such investment.

Upon receipt of the Issuer's written directions, the Indenture Trustee shall remit part or all of the balances in the Rebate Account to the United States, as directed in writing by the Issuer. In addition, if the Issuer so directs, the Indenture Trustee will deposit money into or transfer money out of the Rebate Account from or into such accounts or funds as directed by the Issuer's written directions and as permitted by the terms of the Indenture; provided, that only moneys in excess of the Rebate Requirement may, at the written direction of the Issuer, be transferred out of the Rebate Account to such other accounts or funds or to anyone other than the United States in satisfaction of the arbitrage rebate obligation. Any funds remaining in the Rebate Account after each five year remittance to the United States, redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Requirement, or provision made therefor satisfactory to the Indenture Trustee, shall be withdrawn and deposited in the Collection Account.

Notwithstanding any other provision of the Indenture, the obligation to remit the Rebate Requirement to the United States and to comply with all other requirements of the Indenture and the Issuer Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Redemption of the Bonds

The Issuer may redeem Bonds at its option in accordance with their terms and the terms of the Indenture and shall redeem Bonds as provided in the Indenture and the Bonds. The terms of redemption of a Series of Bonds may be set out in the Series Supplement with respect thereto and may differ from the terms set forth in the Indenture. When Bonds are called for redemption, the Accreted Value thereof shall become due on the redemption date. To the extent not otherwise provided, the Issuer shall deposit with the Indenture Trustee on or prior to the redemption date a sufficient sum to pay the Accreted Value of the Bonds to be redeemed on such redemption date.

There shall be applied to or credited against Accreted Value of Outstanding Bonds the Accreted Value of any such Bonds that have been purchased, prepaid or redeemed and not previously so applied or credited.

When a Bond is to be redeemed prior to its stated maturity date, the Indenture Trustee shall give notice in the name of the Issuer, which notice shall identify the Bonds to be redeemed or prepaid, state the date fixed for redemption and state that such Bonds will be redeemed at the Corporate Trust Office of the Indenture Trustee or a Paying Agent. The notice shall further state that on such date there shall become due and payable upon each Bond to be redeemed at the redemption price thereof, and that money therefor having been deposited with the Indenture Trustee or Paying Agent, from and after such date, interest thereon shall cease to accrue or accrete. The Indenture Trustee shall give at least 15 days' notice by mail, or otherwise transmit the redemption notice in accordance with any appropriate provisions of the Indenture, to the registered owners of any Bonds which are to be redeemed, at their addresses shown on the registration books of the Issuer. Such notice may be waived by any Bondholders holding Bonds to be redeemed. Failure by a particular Bondholder to receive notice, or any defect in the notice to such Bondholder, shall not affect the redemption of any Bond. Any notice of redemption given pursuant to the Indenture may be rescinded by written notice to the Indenture Trustee by the Issuer no later than two (2) days prior to the date specified for redemption. The Indenture Trustee shall give notice of such rescission as soon as thereafter as practicable in the same manner and to the same persons, as notice of such redemption was given as described in this paragraph.

The Bonds are subject to mandatory redemption prior to their stated maturity dates, in whole or in part, from amounts on deposit in the Lump Sum Prepayment Account on any date for which notice can be given pursuant to the Indenture at the redemption price of 100% of the principal and interest or Accreted Value thereof, as applicable, without premium. Any redemption of Bonds as described in this paragraph shall be made in accordance with the Payment Priorities.

The Bonds are subject to mandatory redemption, in whole or in part, prior to their stated maturity dates from amounts on deposit in the Turbo Redemption Account on any Distribution Date for which notice can be given pursuant to the Indenture, at the redemption price of 100% of the principal or Accreted Value thereof on the date of redemption, together with interest accrued to the date of redemption, if applicable, without premium; provided, however, that any such redemption shall be in a minimum maturity value of \$5,000. Amounts in the Turbo Redemption Account may not be applied to the purchase of Bonds on the open market. Amounts in the Debt Service Reserve Account shall not be available to make Turbo Redemption Payments on the Bonds secured by the Debt Service Reserve Account; unless such amounts together with all available Revenues are sufficient to retire all Bonds secured by the Debt Service Reserve Account still outstanding, in which event all amounts on deposit in the Debt Service Reserve Account shall be transferred to the Turbo Redemption Account and such amounts shall be so utilized. Any redemption of Bonds as described in this paragraph shall be made in accordance with the Payment Priorities. For purpose of defeasance, Bonds shall have the related assumed redemption schedules of Projected Turbo Redemption payments set forth in the Series Supplement.

The Issuer shall give the Indenture Trustee written notice at least 30 days before any date fixed for the redemption of the Bonds to be redeemed pursuant to the Indenture, designating the Series and portions thereof to be redeemed, such designation to include the Maturity Date of such portions then to be redeemed, and the fact and date of such redemption.

If less than all the Outstanding Bonds are to be redeemed or prepaid, the particular Bonds to be redeemed or prepaid shall, except as otherwise specified in the Indenture, be selected by the Indenture Trustee by such method as it shall deem fair and appropriate, including by lot, and the Indenture Trustee may provide for the selection for redemption or prepayment of portions (equal to any authorized denominations) of the principal or Accreted Value of Bonds of a denomination larger than the minimum authorized denomination.

Additional Bonds

Additional Bonds may be issued under the Indenture on a parity or subordinate basis to one or more Series of the Series 2007 Bonds or the Series 2019 Bonds for any lawful purpose including refunding of Outstanding Bonds only upon receipt by the Trustee of (i) a Rating Confirmation from each Rating Agency then rating the Outstanding Bonds, (ii) an opinion of a firm of nationally-recognized attorneys-at-law experienced in legal work related to the issuance of Tax-Exempt Bonds selected by the Issuer to the effect that the issuance of the Additional Bonds will not, in and of itself, cause interest on any Tax-Exempt Bonds to be included in gross income for federal income tax purposes, and (iii) a certificate of the Issuer that (x) no Event of Default has occurred under the Indenture, (y) the Debt Service Reserve Account is, after giving effect to the issuance of such Additional Bonds and the application of the proceeds thereof, funded at the Debt Service Reserve Requirement, and (z) as a result of the issuance of such Additional Bonds, the weighted average life of each Bond then Outstanding, projected in years from its date of issuance, will not exceed the sum of (A) the weighted average life of each such Outstanding Bond as projected at the time such Bond was issued and set forth in the Series Supplement relating thereto and (B) one. In calculating the weighted average life of each of the Outstanding Bonds for the purpose of the certificate required by clause (z) of the preceding sentence, the Issuer shall take into consideration (1) the amount of Turbo Redemptions of such Bonds that have been paid prior to and including to the date of issuance of the Additional Bonds and (2) the amount of Turbo Redemptions projected by the Issuer to be paid on each Distribution Date subsequent to the issuance of such Additional Bonds based upon the amount of Tobacco Settlement Revenues then expected to be received by the Issuer and available for payment of Turbo Redemptions of each Outstanding Bonds. In determining compliance with clause (iii)(z) of this paragraph, the Issuer may rely conclusively on a certification of a financial advisor, who may rely on a report of a nationally recognized firm of econometric experts on matters related to projected or forecasted cigarette consumption.

Investments

Pending its use under the Indenture, money in the Accounts may be invested by the Indenture Trustee in Eligible Investments and shall be so invested pursuant to written direction of the Issuer if there is not then an Event of Default actually known to an Authorized Officer of the Indenture Trustee. The proceeds of the Series 2007 Bonds were loaned to the Corporation under the Loan Agreement and used by the Corporation to purchase the Sold County Tobacco Assets under the Sale and Purchase Agreement continue to be proceeds of the Series 2007 Bonds in the hands of the County and the County has agreed to certain covenants with respect thereto in the Purchase and Sale Agreement and the County Tax Certificate. Eligible Investments shall mature or be redeemable at the option of the Issuer on or before the Business Day preceding each next succeeding Distribution Date, except to the extent that other Eligible Investments timely mature or are so redeemable in an amount sufficient to make payments pursuant to the Indenture on each such next succeeding Distribution Date. Investments shall be held by the Indenture Trustee in the respective Accounts and shall be sold or redeemed to the extent necessary to make payments or transfers from each Account. The Indenture Trustee shall not be liable for any losses on investments made at the direction of the Issuer.

In computing the amount in any Account, the value of Eligible Investments shall be determined as of each Deposit Date and shall be calculated as follows:

- (1) As to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;
- (2) As to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Indenture Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;
- (3) As to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and
- (4) As to any investment not specified above: the value thereof established by prior agreement between the Issuer and the Indenture Trustee (with written notice to each Rating Agency of such agreement).

The Indenture Trustee may hold undivided interests in Eligible Investments for more than one Account (for which they are eligible, but not including the Rebate Account) and may make interfund transfers in kind. The Indenture Trustee may act as principal or agent in the acquisition or disposition of Eligible Investments.

In respect of Defeasance Collateral held for Defeased Bonds, the provisions of the Indenture described under this heading shall be effective only to the extent they are consistent with other applicable provisions of the Indenture or any separate escrow agreement.

The Indenture Trustee shall not in any way be held liable for any loss on any investment made in accordance with the Indenture.

If the Issuer shall have failed to give investment directions to the Indenture Trustee, then the Indenture Trustee shall invest the funds in the Accounts in commercial paper or money-market accounts that qualify as Eligible Investments and that mature on or prior to the next Distribution Date.

All income or other gain calculated in the purchase price of an investment in the Accounts held by the Indenture Trustee shall be deposited in such Account immediately on receipt, and any loss resulting from such investments shall be charged to such Account.

Unclaimed Money

Except as may otherwise be required by applicable law, in case any money deposited with the Indenture Trustee or escrow agent for the payment of the principal of, or interest or premium, if any, on any Bond remains

unclaimed for one year after such principal, interest or premium has become due and payable, the Indenture Trustee or escrow agent shall pay over to the Issuer the amount so deposited and thereupon the Indenture Trustee or escrow agent shall be released from any further liability under the Indenture with respect to the payment of principal, interest or premium, and the owner of such Bond shall be entitled (subject to any applicable statute of limitations) to look only to the Issuer as an unsecured creditor for the payment thereof.

Debt Service Reserve Account

Notwithstanding any other provision of the Indenture, amounts in the Debt Service Reserve Account constitute security for the Series 2019 Bonds and do not constitute security for the Series 2007 Bonds, and amounts in such account will not be available to pay when due, the principal of and interest on, or, upon an Event of Default, Extraordinary Prepayments of the Series 2007 Bonds. The Debt Service Reserve Account may constitute security for Additional Bonds if the proceeds of such Additional Bonds are used to fund the Debt Service Reserve Account. Notwithstanding any other provision of the Indenture, amounts in the Debt Service Reserve Account shall never be used to pay principal of and interest on any Series of Bonds if the Debt Service Reserve Account was not funded by such Series of Bonds. If the Bonds secured by the Debt Service Reserve Account are no longer Outstanding, then the Debt Service Reserve Requirement shall be zero (0), and all remaining funds in the Debt Service Reserve Account will be transferred to the Debt Service Account.

Contract; Obligations to Bondholders

In consideration of the purchase and acceptance by those who hold the same of any or all of the Bonds from time to time, the provisions of the Indenture shall be a part of the contract of the Issuer with the Bondholders. The pledge and grant of a security interest made in the Indenture and the covenants in the Indenture set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Bondholders of the same priority. All of the Bonds of the same priority, regardless of the time or times of their maturity, shall be of equal rank without preference, priority or distinction of any thereof over any other except as expressly provided pursuant in the Indenture.

The Issuer covenants to pay when due all sums payable on the Bonds, but only from the Revenues and money designated in the Indenture, subject only to the Indenture. The obligation of the Issuer to pay the principal, interest and premium, if any, on the Bonds to the Bondholders shall be absolute and unconditional, shall be binding and enforceable in all circumstances whatsoever, and shall not be subject to setoff, recoupment or counterclaim.

The Issuer represents that it is duly authorized pursuant to law to issue the Bonds, to enter into the Indenture and to pledge and grant a security interest in the Revenues and other Collateral as provided in the Indenture. The Revenues and other Collateral are and will be free and clear of any pledge, lien, security interest, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and security interest created by the Indenture, and all action on the part of the Issuer to that end has been duly and validly taken. The Bonds and the provisions of the Indenture are and will be the valid and binding obligations of the Issuer enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases.

Operating Expenses

The Issuer shall pay the Operating Expenses to the parties entitled thereto, but only to the extent that funds are available for such purpose as provided in the Indenture.

Tax Covenants

The Issuer shall at all times do and perform all acts and things permitted by law and the Indenture which are necessary or desirable in order to assure that interest paid on the Bonds intended by the Issuer to be Tax-Exempt Bonds at the time of issuance thereof will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Issuer agrees that it will comply with the provisions of the Issuer Tax Certificate. This covenant shall survive defeasance or redemption or prepayment of the Bonds.

Accounts and Reports

The Issuer shall:

- (a) cause to be kept books of account in which complete and accurate entries shall be made of its transactions relating to all Accounts under the Indenture, which books shall at all reasonable times be subject to the inspection of the Indenture Trustee and the Holders of an aggregate of not less than 25% in Bond Obligation of Bonds then Outstanding or their representatives duly authorized in writing;
- (b) annually, within 240 days after the close of each Fiscal Year, deliver to the Indenture Trustee and each Rating Agency, a copy of its financial statements for such Fiscal Year, as audited by an independent certified public accountant or accountants;
- (c) cause the Indenture Trustee to keep in effect (which the Indenture Trustee agrees under the Indenture to keep in effect) at all times an accurate and current schedule of all Bond Obligation paid or to be payable during the life of then Outstanding Bonds; and
- (d) at least one Business Day prior to each Distribution Date and in any year in which there is a Lump Sum Payment cause the Indenture Trustee to provide (which the Indenture Trustee agrees to provide under the Indenture) to each Rating Agency and the Issuer a statement indicating:
 - (1) Bonds Obligation of the Outstanding Bonds, on such Distribution Date, prior to any payments of principal, interest or Accreted Value on such Distribution Date;
 - (2) the principal or Accreted Value due with respect to the Bonds to be redeemed from amounts on deposit in the Turbo Redemption Account on such Distribution Date; and
 - (3) the amount on deposit in each Account as of such Distribution Date, prior to any payments of principal, interest or Accreted Value on such Distribution Date.

Continuing Disclosure

The Issuer and the Indenture Trustee, as dissemination agent under the Continuing Disclosure Certificate, covenant and agree by the Indenture that they will comply with and carry out all of the provisions of the Continuing Disclosure Certificate applicable to each party. Notwithstanding any other provision of the Indenture, failure of the Issuer or the Indenture Trustee to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Indenture Trustee, at the written request of the Underwriter (as defined in the Continuing Disclosure Certificate) or the Holders of at least 25% of the aggregate Bond Obligation of Outstanding Bonds upon providing the Indenture Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby) shall, or any Holder or Beneficial Owner (as defined in the Continuing Disclosure Certificate) of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer or the Indenture Trustee, as the case may be, to comply with its obligations under this heading.

The Issuer and BLX Group LLC, as dissemination agent are parties to the Issuer Continuing Disclosure Undertaking. The Issuer will comply with and carry out all of the provisions of the Issuer Continuing Disclosure Undertaking. Notwithstanding any other provision of this Indenture, failure of the Issuer or the Indenture Trustee to comply with the Issuer Continuing Disclosure Undertaking shall not be considered an Event of Default; however, the Indenture Trustee, at the written request of the Underwriter (as defined in the Issuer Continuing Disclosure Undertaking) or the Holders of at least 25% of the Series 2019 Bonds upon providing the Indenture Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby shall, or any Holder or Beneficial Owner (as defined in the Issuer Continuing Disclosure Undertaking) of the Series 2019 Bonds may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer or the Dissemination Agent, as the case may be, to comply with its obligations under this Section.

Ratings

The Issuer shall pay such reasonable fees and provide such available information as may be necessary to obtain and keep in effect ratings on the Bonds (other than the Series 2007F Bonds as to which no request for a rating has been made and no rating has been assigned) from at least one Rating Agency.

Affirmative Covenants

Punctual Payment. The Issuer shall duly and punctually pay principal or Accreted Value of and interest on the Bonds in accordance with the terms of the Bonds and the Indenture.

Maintenance of Existence. The Issuer shall keep in full effect its existence, rights and franchises as a public entity under the laws of the State.

Protection of Collateral. The Issuer shall from time to time authorize, execute and deliver all documents and instruments, and will take such other action, as is necessary or advisable to: (1) maintain or preserve the lien and security interest (and the priority thereof) of the Indenture; (2) perfect or protect the validity of any grant made or to be made by the Indenture; (3) preserve and defend title to the Revenues and the Collateral and the rights of the Indenture Trustee, in the Collateral against the claims of all Persons and parties, including the challenge by any party to the validity or enforceability of the MOU and the ARIMOU, the Basic Documents or the performance by any party thereunder; (4) enforce the Loan Agreement and the Purchase and Sale Agreement; (5) pay any and all taxes levied or assessed upon all or any part of the Collateral; or (6) carry out more effectively the purposes of the Indenture.

Performance of Obligations. The Issuer (1) shall diligently pursue any and all actions to enforce its rights under each instrument or agreement included in the Collateral and (2) shall not take any action and will use its best efforts not to permit any action to be taken by others that would release any Person from any of such Person's covenants or obligations under any such instrument or agreement or that would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, any such instrument or agreement, except, in each case, as expressly provided in the Basic Documents, the MOU or the ARIMOU.

Notice of Events of Default. The Issuer shall give the Indenture Trustee and the Rating Agencies prompt written notice of any Event of Default under the Indenture.

Other. The Issuer shall:

(i) conduct its own business in its own name and not in the name of any other Person and correct any known misunderstandings regarding its separate identity;

(ii) maintain or contract for a sufficient number of employees and compensate all employees, consultants and agents directly, from the Issuer's bank accounts, for services provided to the Issuer by such employees, consultants and agents and, to the extent any employee, consultant or agent of the Issuer is also an employee, consultant or agent of another Person, allocate the compensation of such employee, consultant or agent between the Issuer and such Person on a basis that reflects the services rendered to the Issuer and such Person;

(iii) have a separate telephone number, which will be answered only in its name and separate stationery, invoices and checks in its own name;

(iv) conduct all transactions with any other Person strictly on an arm's-length basis, allocate all overhead expenses (including, without limitation, telephone and other utility charges) for items shared between the Issuer and such Person on the basis of actual use to the extent practicable and, to the extent such allocation is not practicable, on a basis reasonably related to actual use;

(v) observe all formalities as a distinct entity, and ensure that all actions relating to the initiation of, participation in, acquiescence in or consent to any bankruptcy, insolvency, reorganization or similar proceeding involving the Issuer, are duly authorized by unanimous vote of its Board of Directors;

(vi) maintain its books and records separate from those of any other Person and maintain its assets readily identifiable as its own assets rather than assets of any other Person and not commingle its assets with those of any other Person;

(vii) prepare its financial statements separately from those of any other Person; to the extent it is included in consolidated financial statements or consolidated tax returns, such financial statements and tax returns will make clear the separateness of the respective entities and make clear that the assets of the Issuer are not assets of any other Person and are not available to satisfy the debts of any other Person;

(viii) except as provided in the Indenture, only maintain bank accounts or other depository accounts to which the Issuer alone is the account party, and from which only the Issuer has the power to make withdrawals;

(ix) pay all of the Issuer's operating expenses related to the Bonds pursuant to the Indenture (except for expenses incurred prior to the date of issuance of the Bonds);

(x) operate its business and activities such that: it does not engage in any business or activity of any kind, or enter into any transaction or indenture, mortgage, instrument, agreement, contract, lease or other undertaking, other than the transactions contemplated and authorized by its organizational documents; and does not create, incur, guarantee, assume or suffer to exist any indebtedness or other liabilities, whether direct or contingent, other than (1) as a result of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, (2) the incurrence of obligations under the Basic Documents, including but not limited to the issuance of Additional Bonds under the Indenture, (3) the incurrence of operating expenses in the ordinary course of business of the type otherwise contemplated by the Basic Documents, and (4) the incurrence of obligations payable solely from specified assets of the Issuer not subject to the lien of the Indenture and the holders of which expressly have no recourse to any other assets of the Issuer in the event of non-payment;

(xi) maintain its organization in conformity with the Indenture and shall not allow any parties to the JPA Agreement to amend, restate, supplement or otherwise modify the JPA Agreement in any respect that would impair its ability to comply with the terms or provisions of any of the Basic Documents, including, without limitation, the provisions of the Indenture described under this heading; and

(xii) object in any relevant bankruptcy case to the consolidation of the assets of the Corporation or the Issuer with those of the County.

Negative Covenants

Sale of Assets. Except as expressly permitted by the Indenture, the Issuer shall not sell, transfer, exchange or otherwise dispose of the Collateral.

No Setoff. The Issuer shall not claim any credit on, or make any deduction from the Accreted Value of the Bonds or assert any claim against any present or former Bondholder by reason of payment of taxes levied or assessed upon any part of the Collateral.

Liquidation. The Issuer shall not terminate its existence or dissolve or liquidate in whole or in part.

Limitation of Liens. The Issuer shall not (1) permit the validity or effectiveness of the Indenture to be impaired, or permit the lien of the Indenture to be amended, hypothecated, subordinated, terminated or discharged, or permit any Person to be released from any covenants or obligations with respect to the Bonds under the Indenture except as may be expressly permitted by the Indenture, (2) permit any lien, charge, excise, claim, security interest, mortgage or other encumbrance (except for the liens of the Indenture and liens securing Additional Bonds issued under the Indenture) to be created on or extend to or otherwise arise upon or burden the Collateral or any part thereof or any interest therein or the proceeds thereof or (3) permit the lien of the Indenture not to constitute a valid first priority security interest in the Collateral.

Limitations on Consolidation, Merger, Sale of Assets, Etc. The Issuer shall not consolidate or merge with or into any other Person, or convey or transfer all or substantially all of its properties or assets.

Restricted Payments. The Issuer shall not, directly or indirectly, make distributions from the Collection Account except in accordance with the Indenture.

Prior Notice

The Indenture Trustee shall give each Rating Agency 30 days' prior written notice of any amendment to the Indenture, the Loan Agreement or the Purchase and Sale Agreement or of the defeasance or optional redemption or prepayment of Bonds.

Indenture Trustee's Organization, Authorization, Capacity and Responsibility

The Indenture Trustee represents and warrants that it is duly organized and validly existing under the laws of the United States of America, having the authority to engage in the trust business within the State, including the capacity to exercise the powers and duties of the Indenture Trustee under the Indenture, and that by proper corporate action it has duly authorized the execution and delivery of the Indenture.

The duties and responsibilities of the Indenture Trustee shall be as set forth in the Indenture. Notwithstanding the foregoing, no provision of the Indenture shall require the Indenture Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under the Indenture, or in the exercise of any of its rights or powers; provided, that the Indenture Trustee shall make the payments and distributions required by the terms of the Indenture without requiring that any further direction, evidence or indemnity be provided to it. Whether or not therein expressly so provided, every provision of the Indenture relating to the conduct or affecting the liability of or affording protection to the Indenture Trustee shall be subject to the provisions of the Indenture.

As Indenture Trustee under the Indenture:

(1) the Indenture Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any Officer's Certificate, opinion of Counsel (or both), resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, facsimile transmission, electronic mail, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper person or persons. The Indenture Trustee need not investigate any fact or matter stated in the document, but the Indenture Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit;

(2) before the Indenture Trustee acts or refrains from acting, it may require an Officers' Certificate and/or an opinion of Counsel. The Indenture Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion. Whenever in the administration of the trusts of the Indenture the Indenture Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering or omitting to take any action under the Indenture, such matter (unless other evidence in respect thereof be specifically prescribed in the Indenture) may, in the absence of negligence or bad faith on the part of the Indenture Trustee, be deemed to be conclusively proved and established by an Officers' Certificate delivered to the Indenture Trustee, and such certificate, in the absence of negligence or bad faith on the part of the Indenture Trustee, shall be full warrant to the Indenture Trustee for any action taken, suffered or omitted to be taken by it under the provisions of the Indenture upon the faith thereof;

(3) any request, direction, order or demand of the Issuer mentioned in the Indenture shall be sufficiently evidenced by an Officers' Certificate (unless other evidence in respect thereof be specifically prescribed in the Indenture); and any Issuer resolution may be evidenced to the Indenture Trustee by a copy thereof certified by the secretary or an assistant secretary of the Issuer;

(4) prior to the occurrence of an Event of Default under the Indenture and after the curing or waiving of all Events of Default, the Indenture Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, Officers' Certificate, opinion of Counsel, Issuer resolution, statement, instrument, opinion, report, notice, request, consent, order, facsimile transmission, electronic mail, approval, appraisal, bond, debenture, note, coupon, security, or other paper or document unless requested in writing so to do by a majority of the Holders of the Bond Obligation affected and then Outstanding; and if the payment within a reasonable time to the Indenture Trustee of the costs, expenses or liabilities likely to be incurred by it in the making of such investigation is,

in the opinion of the Indenture Trustee, not reasonably assured to the Indenture Trustee by the security afforded to it by the terms of the Indenture, the Indenture Trustee may require indemnity satisfactory to it against such expenses or liabilities as a condition to proceeding;

(5) the Indenture Trustee shall be under no obligation to exercise any of the rights or powers vested in it by the Indenture at the request or direction of the Issuer or Holders, unless the Issuer or Holders shall have offered to the Indenture Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction; provided, that the Indenture Trustee shall make the payments and distributions required by the Indenture without requiring any indemnity be provided to it;

(6) the Indenture Trustee may execute any of the trusts or powers under the Indenture or perform any duties under the Indenture either directly or by or through agents or attorneys;

(7) the recitals contained in the Indenture, except any such recitals relating to the Indenture Trustee, shall be taken as the statements of the Issuer, and the Indenture Trustee assumes no responsibility for their correctness. The Indenture Trustee makes no representation as to the validity or sufficiency of the Indenture;

(8) money held by the Indenture Trustee in trust under the Indenture shall be segregated from other trust funds to the extent required in the Indenture or if required by law;

(9) Prior to the occurrence of an Event of Default under the Indenture and after the curing or waiving of all Events of Default, the Indenture Trustee shall undertake to perform such duties and only such duties as are specifically set forth in the Indenture, and no implied covenants or obligations shall be read into the Indenture against the Indenture Trustee; and

(10) During the occurrence of an Event of Default, the Indenture Trustee shall exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

Rights and Duties of the Fiduciaries

All money and investments received by the Fiduciaries under the Indenture shall be held in trust, in a segregated trust account in the trust department of such Fiduciary, not commingled with any other funds, and applied solely pursuant to the provisions of the Indenture.

The Fiduciaries shall keep proper accounts of their transactions pursuant to the Indenture (separate from their other accounts), which shall be open to inspection on reasonable notice by the Issuer and its representatives duly authorized in writing.

The Fiduciaries shall not be required to monitor the financial condition of the Issuer and, unless otherwise expressly provided, shall not have any responsibility with respect to reports, notices, certificates or other documents filed with them pursuant to the Indenture, except to make them available for inspection by Bondholders.

Each Fiduciary shall be entitled to the advice of counsel (who may be counsel for any party) and shall not be liable for any action taken in good faith in reliance on such advice. Each Fiduciary may rely conclusively on any notice, certificate or other document furnished to it under the Indenture and reasonably believed by it to be genuine. A Fiduciary shall not be liable for any action taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed under the Indenture or omitted to be taken by it by reason of the lack of direction or instruction required for such action, or be responsible for the consequences of any error of judgment reasonably made by it. When any payment or consent or other action by a Fiduciary is called for by the Indenture, the Fiduciary may defer such action pending receipt of such evidence, if any, as it may reasonably require in support thereof; except that the Indenture Trustee and any Paying Agent shall make the payments and distributions required by the Indenture without requiring that any further evidence be provided to it. A permissive right or power to act shall not be construed as a requirement to act.

The Fiduciaries shall in no event be liable for the application or misapplication of funds, or for other acts or failures to act, by any person, firm or corporation except by their respective directors, officers, agents, and employees. No recourse shall be had for any claim based on the Indenture or the Bonds against any director, officer, agent or employee of any Fiduciary unless such claim is based upon the negligence or willful misconduct of such person.

Nothing in the Indenture shall obligate any Fiduciary to pay any debt or meet any financial obligations to any Person in relation to the Bonds except from money received for such purposes under the provisions of the Indenture or from the exercise of the Indenture Trustee's rights under the Indenture.

The Issuer shall, as and only as an Operating Expense, indemnify and save each Fiduciary and its directors, officers, agents or employees, harmless against any expenses and liabilities (including reasonable legal fees and expenses) that it may incur in the exercise of its duties under the Indenture and that are not due to its negligence or willful misconduct. These indemnifications shall survive the discharge of the Indenture or the earlier resignation or removal of such Fiduciary.

Nothing in the Indenture shall relieve any Fiduciary of responsibility for its negligence or willful misconduct.

The Fiduciaries may be or become the owner of or trade in the Bonds with the same rights as if they were not the Fiduciaries.

The Indenture Trustee shall not be considered in breach of or in default in its obligations under the Indenture or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Indenture Trustee.

The Indenture Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to the Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Indenture Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Indenture Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person.

Paying Agents

The Issuer designates the Indenture Trustee as Paying Agent. The Issuer may appoint additional Paying Agents, generally or for specific purposes, may discharge a Paying Agent from time to time and may appoint a successor, in each case with written notice to each Rating Agency. The Issuer shall designate a successor if the Indenture Trustee ceases to serve as Paying Agent. Each successor to the Indenture Trustee and Paying Agent shall be a bank or trust company eligible under the laws of the United States of America or the State, and shall have (together with its corporate parent, if applicable) a capital and surplus of not less than \$50,000,000 and be registered as a transfer agent with the Securities and Exchange Commission. The Issuer shall give notice of the appointment of a successor to the Indenture Trustee as Paying Agent in writing to each Bondholder shown on the books of the Indenture Trustee. A Paying Agent may but need not be the same Person as the Indenture Trustee. Unless otherwise provided by the Issuer, the Indenture Trustee as Paying Agent shall act as registrar and transfer agent, in accordance with the Indenture.

Resignation or Removal of the Indenture Trustee

The Indenture Trustee may resign on not less than 30 days' written notice to the Issuer, the Bondholders and each Rating Agency. The Indenture Trustee will promptly certify to the Issuer that it has given written notice to all Bondholders and such certificate will be conclusive evidence that such notice was given as required by the Indenture. The Indenture Trustee shall be removed by the Issuer if its rating is withdrawn by any Rating Agency, other than by

request of the Indenture Trustee, or if it is rated below investment grade by any Rating Agency each successor Indenture Trustee shall have an investment grade rating from each Rating Agency. The Indenture Trustee may be removed by written notice from the Issuer (if not in Default) or the Owners of a majority of the Bond Obligation of the Outstanding Bonds to the Indenture Trustee and the Issuer. Such resignation or removal shall not take effect until a successor has been appointed and has accepted the duties of Indenture Trustee.

Successor Fiduciaries

Any corporation or association into which the Indenture Trustee may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Indenture Trustee shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Indenture Trustee, by sale or otherwise, shall be the successor of the Indenture Trustee under the Indenture, without the execution or filing of any paper or any further act on the part of any of the parties to the Indenture.

In case a Fiduciary resigns or is removed or becomes incapable of acting, or becomes bankrupt or insolvent, or if a receiver, liquidator or conservator of a Fiduciary or of its property is appointed, or if a public officer takes charge or control of a Fiduciary or of its property or affairs, then such Fiduciary shall with due care terminate its activities under the Indenture and a successor may, or in the case of the Indenture Trustee shall, be appointed by the Issuer. The Issuer shall notify the Bondholders and each Rating Agency of the appointment of a successor Indenture Trustee in writing within 20 days from the appointment. The Issuer will promptly certify to the successor Indenture Trustee that it has given such notice to all Bondholders and such certificate will be conclusive evidence that such notice was given as required by the Indenture. If no appointment of a successor Indenture Trustee is made within 45 days after the giving of written notice in accordance with the provisions of the Indenture or after the occurrence of any other event requiring or authorizing such appointment, the outgoing Trustee or any Beneficiary may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor Indenture Trustee appointed as described under this heading shall be a trust company or a bank having the trust powers, having (together with its corporate parent, if applicable) a capital and surplus of not less than \$50,000,000. Any such successor Indenture Trustee shall notify the Issuer of its acceptance of the appointment and, upon giving such notice, shall become the Indenture Trustee, vested with all the property, rights, powers and duties of the Indenture Trustee under the Indenture, without any further act or conveyance. Such successor Indenture Trustee shall execute, deliver, record and file such instruments as are required to confirm or perfect its succession under the Indenture and any predecessor Indenture Trustee shall from time to time execute, deliver, record and file such instruments as the incumbent Indenture Trustee may reasonably require to confirm or perfect any succession under the Indenture.

Reports by Indenture Trustee to Issuer and Rating Agencies

The Indenture Trustee shall deliver to the Issuer and each Rating Agency, on or prior to each Distribution Date therefor, a statement prepared by the Indenture Trustee containing the information required pursuant to the Indenture.

Nonpetition Covenant

Notwithstanding any prior termination of the Indenture, no Fiduciary or Bondholder or beneficial owner of Bonds shall, prior to the date which is one year and one day after the payment in full of all bonds issued by the Issuer, acquiesce, petition or otherwise invoke or cause the Issuer or the Corporation to invoke the process of any court or government authority for the purpose of commencing or sustaining a case against the Issuer or the Borrower under any federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or the Corporation or any substantial part of its property, or ordering the winding up or liquidation of the affairs of the Issuer or the Corporation.

Action by Bondholders

Any request, authorization, direction, notice, consent, waiver or other action provided by the Indenture to be given or taken by Bondholders may be contained in and evidenced by one or more writings of substantially the same tenor signed by the requisite number of Bondholders or their attorneys duly appointed in writing. Proof of the

execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of the Indenture (except as otherwise expressly provided in the Indenture) if made in the following manner, but the Issuer or the Indenture Trustee may nevertheless in its discretion require further or other proof in cases where it deems the same desirable. The fact and date of the execution by any Bondholder or its attorney of such instrument may be proved by the certificate or signature guarantee by a guarantor institution participating in a guarantee program acceptable to the Indenture Trustee; or of any notary public or other officer authorized to take acknowledgements of deeds to be recorded in the jurisdiction in which such notary public or other officer purports to act, that the person signing such request or other instrument acknowledged to such notary public or other officer the execution thereof; or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Bondholder may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its clerk or secretary or an assistant clerk or secretary. Any action of the Bondholder shall be irrevocable and bind all future record and beneficial owners of such Bond. The Indenture Trustee shall not be liable for any action or inaction taken at the request or direction, as provided for in the Indenture, of the Bondholders.

Registered Owners

The enumeration in the Indenture of certain provisions applicable to DTC as Holder of immobilized Bonds shall not be construed in limitation of the rights of the Issuer and each Fiduciary to rely upon the registration books in all circumstances and to treat the registered owners of Bonds as the owners thereof for all purposes not otherwise specifically provided for by law or in the Indenture. Notwithstanding any other provisions of the Indenture, any payment to the registered owner of a Bond shall satisfy the Issuer's obligations thereon to the extent of such payment.

Events of Default

"Event of Default" in the Indenture means any one of the events set forth below:

- (a) failure to pay the current interest on any Bond when due, or the principal or the Accreted Value of any Bond when due at maturity or upon prior redemption in accordance with the terms of the Indenture;
- (b) failure of the Issuer to observe or perform any other provision of the Indenture which is not remedied within 60 days after written notice thereof is given to the Issuer by the Indenture Trustee or to the Issuer and the Indenture Trustee by the Holders of at least 25% in Bond Obligation then Outstanding;
- (c) bankruptcy, reorganization, arrangement or insolvency proceedings, or other proceedings for relief under any bankruptcy or similar law or laws for the relief of debtors, are instituted by or against the Issuer, and if instituted against the Issuer, are not dismissed within 60 days after such institution; or
- (d) an event of default has occurred and is continuing under the Loan Agreement.

Except as specified in paragraph (a) above, failure to make any Turbo Redemption Payment does not constitute an Event of Default to the extent that such failure results from the insufficiency of available Collateral to make such payment or provision therefor.

Remedies

Remedies of the Indenture Trustee. If an Event of Default occurs and is continuing:

- (1) The Indenture Trustee may, and upon written request of the Holders of at least 25% of the Bond Obligation Outstanding shall, in its own name by action or proceeding in accordance with law:
 - (a) enforce all rights of the Bondholders and require the Issuer to carry out its agreements with the Bondholders;
 - (b) sue upon such Bonds;

(c) require the Issuer to account as if it were the trustee of an express trust for such Bondholders; and

(d) enjoin any acts or things which may be unlawful or in violation of the rights of such Bondholders.

(2) The Indenture Trustee shall, in addition to the other provisions of the Indenture described under this heading, have and possess all of the powers necessary or appropriate for the exercise of any functions incident to the general representation of Bondholders in the enforcement and protection of their rights.

(3) Upon a Default of the Issuer under the Indenture or a failure actually known to an Authorized Officer of the Indenture Trustee to make any other payment required by the Indenture within 7 days after the same becomes due and payable, the Indenture Trustee shall give written notice thereof to the Issuer. The Indenture Trustee shall give Default notices pursuant to the provisions of the Indenture if it has knowledge of such Default or when instructed to do so by the written direction of another Fiduciary, if any, or the Holders of at least 25% of the Bond Obligation of the Outstanding Bonds. The Indenture Trustee shall proceed under the provisions relating to remedies pursuant to the Indenture for the benefit of the Bondholders in accordance with the written direction of Holders of at least 25% in Bond Obligation of the Outstanding Bonds. The Indenture Trustee shall not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred therein. Upon receipt from such Holders of written notice, direction and indemnity, and after making such investigation, if any, as it deems appropriate to verify the occurrence of any event of which it is notified as aforesaid, the Indenture Trustee shall promptly pursue the remedies provided by the Indenture or any such remedies (not contrary to any such direction) as it deems appropriate for the protection of the Bondholders, and shall act for the protection of the Bondholders with the same promptness and prudence as would be expected of a prudent person in the conduct of such person's own affairs. The Indenture Trustee shall not be deemed to have knowledge of any Default or Event of Default described in paragraphs (b), (c) or (d) under "Events of Default" above unless an Authorized Officer of the Indenture Trustee has actual knowledge thereof or the Indenture Trustee has received written notice thereof from the Issuer, any Rating Agency, or any Holder.

(4) The Holders of at least 25% of the Bond Obligation of the Outstanding Bonds may direct the time, method and place of conducting any proceeding for any remedy available to the Indenture Trustee with respect to the Indenture, provided that (i) such direction shall not be in conflict with any rule of law or with the Indenture, (ii) the Indenture Trustee shall have been provided with indemnity satisfactory to it, and (iii) the Indenture Trustee may take any other action deemed proper by it which is not inconsistent with such direction.

Extraordinary Prepayment. If an Event of Default has occurred and is continuing, amounts on deposit in the Extraordinary Prepayment Account, the Debt Service Account, the Debt Service Reserve Account (but only if the Debt Service Reserve Account was funded with respect to such Series of Bonds) and the Lump Sum Prepayment Account will be applied on each Distribution Date to prepay the Bonds in accordance with the Payment Priorities, at a price of the principal and accrued interest or Accreted Value thereof, as applicable, without premium, but to the extent legally permissible, with interest on overdue interest.

Individual Remedies. No one or more Bondholders shall by its or their action affect, disturb or prejudice the pledge created by the Indenture, or enforce any right under the Indenture, except in the manner provided in the Indenture; and all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the manner provided in the Indenture and for the equal benefit of all Bondholders of the same class; but nothing in the Indenture shall affect or impair the right of any Bondholder to enforce payment of the principal, interest and Accreted Value thereof at and after the same comes due pursuant to the Indenture, or the obligation of the Issuer to pay such principal, interest and Accreted Value on each of the Bonds to the respective Bondholders thereof at the time, place, from the source and in the manner expressed in the Indenture and in the Bonds.

Venue. To the extent permitted by law, the venue of every action, suit or special proceeding against the Issuer with respect to the Bonds or the Indenture shall be laid in the state courts located in Riverside County or the federal courts located in the Eastern Division of the Central District of California.

Waiver. If the Indenture Trustee determines that a Default has been cured before becoming an Event of Default and before the entry of any final judgment or decree with respect to it, the Indenture Trustee may waive the

Default and its consequences, by written notice to the Issuer, and shall do so upon written instruction of the Holders of at least 25% of the Bond Obligation then Outstanding.

Payment of Enforcement Expenses. Any money collected by the Indenture Trustee pursuant to the Indenture shall be applied to the payment of all moneys due the Indenture Trustee and any predecessor Indenture Trustee for its extraordinary fees and expenses for actions taken under the Indenture prior to its deposit to the Extraordinary Prepayment Account.

Remedies Cumulative

The rights and remedies under the Indenture shall be cumulative and shall not exclude any other rights and remedies allowed by law, provided there is no duplication of recovery. The failure to insist upon a strict performance of any of the obligations of the Issuer or to exercise any remedy for any violation thereof shall not be taken as a waiver for the future of the right to insist upon strict performance by the Issuer or of the right to exercise any remedy for the violation.

Delay or Omission Not Waiver

No delay or omission of the Indenture Trustee or of any Bondholder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by the Indenture or by law to the Indenture Trustee or to the Bondholders may be exercised from time to time, and as often as may be deemed expedient, by the Indenture Trustee or by the Bondholders, as the case may be.

Any request, demand, authorization, direction, notice, consent, waiver or other action by the Issuer shall bind any successors or assigns of the Issuer in respect of anything done, omitted or suffered to be done by the Indenture Trustee in reliance thereon.

Where the Indenture provides for notice in any manner, such notice may be waived in writing by any Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

Supplements and Amendments to the Indenture

The Indenture may be:

(1) supplemented or amended in writing by the Issuer and the Indenture Trustee to (a) add to the covenants and agreements of the Issuer or surrender or limit any right or power of the Issuer, (b) identify particular Bonds for purposes not inconsistent with the Indenture, including remarketing, serialization and defeasance, (c) cure any ambiguity or defect, (d) protect the exclusion of interest on the Bonds intended by the Issuer to be Tax-Exempt Bonds at the time of issuance thereof from gross income for federal income tax purposes, or the exemption from registration of the Bonds under the Securities Act of 1933, as amended, or of the Indenture under the Trust Indenture Act of 1939, as amended, (e) make any other changes to the Indenture that, as evidenced by a Rating Confirmation with respect to any Outstanding Bonds which are then rated by a Rating Agency, are not materially adverse to the Owners of Outstanding Bonds, or (f) provide for the issuance of the Additional Bonds in compliance with the Indenture; or

(2) amended in writing by the Issuer and the Indenture Trustee, (a) in any manner that is not materially adverse to the Bondholders, (b) to adopt amendments that do not take effect unless and until (i) no Bonds Outstanding prior to the adoption of such amendment remain Outstanding or (ii) such amendment is consented to by such Bondholders in accordance with the further provisions of the Indenture, (c) to amend such provisions of the Indenture as may be necessary to permit the issuance of Additional Bonds in accordance with the provisions of the Indenture, or (d) pursuant to the following paragraph.

Except as provided in the foregoing paragraph, the Indenture may be amended in writing by the Issuer and the Indenture Trustee:

(1) only with written notice to the Rating Agencies and the written consent of Bondholders of a majority of the Bond Obligation of the Bonds to be Outstanding at the effective date thereof and affected thereby; but

(2) only with the unanimous written consent of the affected Bondholders for any of the following purposes: (a) to extend the stated Maturity Date of any Bond, (b) to reduce the Bond Obligation of any Bond, (c) to make any Bond redeemable or prepayable other than in accordance with its terms, or (d) to reduce the percentage of the Bonds required to be represented by the Bondholders giving their consent to any amendment.

Any amendment of the Indenture shall be accompanied by an opinion of Counsel to the effect that the amendment is permitted by the terms of the Indenture and does not, in and of itself, result in the inclusion of interest on the Bonds intended by the Issuer to be Tax-Exempt Bonds at the time of issuance thereof in gross income for federal income tax purposes.

When the Issuer determines that the requisite number of consents have been obtained for an amendment to the Indenture or to the Purchase and Sale Agreement or the Loan Agreement which requires consents, it shall file a certificate to that effect in its records and give notice to the Indenture Trustee. The Indenture Trustee shall give notice thereof to the Bondholders. The Indenture Trustee will promptly certify to the Issuer that it has given such notice to all Bondholders and such certificate will be conclusive evidence that such notice was given in the manner required by the Indenture. It shall not be necessary for the consent of Bondholders pursuant to the Indenture to approve the particular form of any proposed amendment, but it shall be sufficient if such consent shall approve the substance thereof.

Supplements and Amendments to the Purchase and Sale Agreement and the Loan Agreement

The Purchase and Sale Agreement and the Loan Agreement provide that such documents shall not be amended under certain circumstances without the written consent of the Indenture Trustee. The Indenture Trustee shall give such written consent only if: (1) in the opinion of nationally-recognized bond counsel, such amendment is necessary to preserve the exclusion of interest on the Bonds intended by the Issuer to be Tax-Exempt Bonds at the time of issuance thereof from gross income for purposes of federal income taxation or the exemption of interest on the Bonds from State income taxation; (2) in the opinion of Counsel, such amendment, modification or termination will not materially adversely affect the interests of the Bondholders or result in any material impairment of the security given under the Indenture for the payment of the Bonds; or (3) the Holders of a majority in Bond Obligation of the Bonds then Outstanding consent in writing to such amendment, modification or termination. No amendment, modification or termination of the Loan Agreement or the Purchase and Sale Agreement shall reduce the amount of Loan Payments to be made to the Issuer or the Indenture Trustee by the Corporation pursuant to the Loan Agreement, or extend the time for making such payments, without the written consent of all of the Bondholders then Outstanding. It shall not be necessary for the consent of Bondholders pursuant to the provisions of the Indenture described under this heading to approve the particular form of any proposed amendment, but it shall be sufficient if such consent shall approve the substance thereof.

Rating Confirmation

The Purchase and Sale Agreement and the Loan Agreement and the Indenture require delivery to the Indenture Trustee of a Rating Confirmation prior to certain actions being undertaken thereunder.

THE LOAN AGREEMENT

This summary does not purport to be complete or definitive and is qualified in its entirety by reference to the full terms of the Loan Agreement.

The Loan Agreement provides the terms of the loan of the Bond proceeds to the Corporation by the Issuer and the repayment and security for the loan by the Corporation. Certain of the provisions of the Loan Agreement are summarized below. Terms used in the Loan Agreement that are defined in the California Commercial Code and not otherwise defined in the Loan Agreement shall have the meanings set forth in the California Commercial Code unless the context requires otherwise.

Issuance of Bonds; Deposit of Proceeds

Pursuant to the Indenture, the Issuer authorized the issuance of the Series 2007 Bonds in the aggregate principal amount of \$294,084,291.25. Pursuant to the Loan Agreement, the Issuer loans and advances to the Corporation, and the Corporation borrows and accepts from the Issuer a loan of the proceeds of the Bonds to the Corporation (the "Loan") to be applied under the terms and conditions of the Loan Agreement. Pursuant to the Loan Agreement, the Corporation approves the Indenture and the assignment under the Indenture to the Indenture Trustee of the right, title and interest of the Issuer in the Loan Agreement. For purposes of the Loan Agreement, the amount of any proceeds of the Series 2007 Bonds deposited in the Operating Account or the Costs of Issuance Account, and the amount of any underwriters' discount and any discount to investors on the Series 2007 Bonds shall also be deemed to have been loaned to the Corporation.

Pursuant to the Indenture, the Issuer authorized the issuance of the Series 2019 Bonds in the aggregate principal amount of \$100,000,000. Pursuant to the Indenture, the Issuer authorized the transfer of proceeds to the Escrow Agent for deposit in the Escrow Fund established under the Escrow Agreement, and the deposit of the remainder of such proceeds to the Costs of Issuance Account, the Debt Service Account, and the Debt Service Reserve Account.

Amounts Payable

In consideration of the Loan to the Corporation, the Corporation agrees that, as long as any of the Bonds remain Outstanding under the Indenture, it shall pay or cause to be paid to the Indenture Trustee for deposit in the Collection Account established under the Indenture all payments receivable with respect to Sold County Tobacco Assets when and as such are received. Each payment by, or caused to be made by, the Corporation to the Indenture Trustee under the Loan Agreement (the "Loan Payments") shall be in lawful money of the United States of America and paid to the Indenture Trustee at its Corporate Trust Office and held, invested, disbursed and applied as provided in the Indenture. Except as otherwise expressly provided in the Loan Agreement, all amounts payable under the Loan Agreement by the Corporation to the Issuer shall be paid to the Indenture Trustee as assignee of the Issuer.

The Corporation will also pay (from amounts deposited by the Indenture Trustee in the Operating Account under the Indenture) all fees and expenses of the Indenture Trustee and the Issuer in connection with the Loan and the Bonds, including, without limitation, legal fees and expenses incurred in connection with any redemption of the Bonds or in connection with the interpretation, enforcement or amendment of any documents relating to the Loan, the Corporation Tobacco Assets or the Bonds and all other Operating Expenses, as and when such amounts become due and payable; provided, that in each case, to the extent amounts in the Operating Account under the Indenture are insufficient to make any such payments, the Corporation shall not be required to make such payments until such time as amounts are available for such purpose in the Operating Account under the Indenture.

In order to ensure payment of the amounts set forth in the Loan Agreement and described above under this heading, the Corporation shall cause the County to give to the Attorney General of the State the instructions required in the Loan Agreement and described below under the heading "Conditions Precedent to Borrowing."

In the event the Corporation fails to make any of the payments required in the Loan Agreement, the item or installment not so paid shall continue as an obligation of the Corporation until the amount not so paid shall have been fully paid.

Obligations Unconditional; Limited Recourse

The obligations of the Corporation to make the payments required in the Loan Agreement and to perform and observe the other agreements contained in the Loan Agreement shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach by the Issuer or the Indenture Trustee of any obligation to the Corporation whether under the Loan Agreement or otherwise, or out of any indebtedness or liability at any time owing to the Corporation by the Issuer or the Indenture Trustee, and until such time as the principal of, redemption premiums, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, the Corporation (a) will not suspend or discontinue any payments provided for in the Loan Agreement, (b) will perform and observe all other agreements contained in the Loan Agreement, and (c) will not terminate the Loan Agreement for any cause, including,

without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either or any failure of the Issuer or the Indenture Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Loan Agreement. Nothing contained in the Loan Agreement and described under this heading shall be construed to release the Issuer or the Indenture Trustee from the performance of any of the agreements on its part contained in the Loan Agreement, and in the event the Issuer or the Indenture Trustee fails to perform any such agreement on its part, the Corporation may institute such action against the Issuer or the Indenture Trustee as the Corporation may deem necessary to compel performance so long as such action does not abrogate the obligations of the Corporation contained in the Loan Agreement and described in the first sentence of this paragraph.

Notwithstanding the foregoing or any other provision or obligation to the contrary contained in the Loan Agreement or any other Basic Document, the liability of the Corporation under the Loan Agreement and the other Basic Documents to any Person, including, but not limited to, the Indenture Trustee or the Issuer and their successors and assigns, is limited to the Corporation's interest in the Corporation Tobacco Assets, and the amounts held in the funds and accounts created under the Indenture, and such Persons shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of the Loan Agreement or any other agreement securing the obligations of the Corporation under the Loan Agreement.

Grant of Security Interest

As security for the Loan and the other obligations of the Corporation set forth in the Loan Agreement, the Corporation pledges and assigns to the Issuer and grants to the Issuer a first priority perfected security interest in all right, title and interest of the Corporation, whether now owned or hereafter acquired, in, to and under the following property (collectively and severally, the "Corporation Tobacco Assets"):

- (a) the Sold County Tobacco Assets purchased from the County;
- (b) to the extent permitted by law (as to which no representation is made), corresponding present or future rights, if any, of the Corporation to enforce or cause the enforcement of payment of such purchased Sold County Tobacco Assets pursuant to the MOU and the ARIMOU;
- (c) the corresponding rights of the Corporation under the Purchase and Sale Agreement; and
- (d) all proceeds of any and all of the foregoing.

Conditions Precedent to Borrowing

The obligation of the Issuer to make the Loan on the Closing Date was subject to the conditions that:

- (a) The representations and warranties of the Corporation set forth in the Loan Agreement are true and correct in all material respects;
- (b) All agreements relating to the transactions contemplated by the Loan Agreement are in form and substance satisfactory to the Issuer and the Corporation; and
- (c) The Corporation shall have given or caused to be given instructions to the Attorney General of the State pursuant to Sections 4.B.(2)(i)(aa) and 4.B.(2)(i)(bb) of the ARIMOU to cause the California Escrow Agent to disburse all payments receivable on account of the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets and the Post 2026 Sold Tobacco Assets (each such term as defined in the Purchase and Sale Agreement) from the California Escrow to the Indenture Trustee, together with an acknowledgement that such instructions shall only be further modified with the countersignature of a designated representative of the Indenture Trustee until the Indenture Trustee gives notice to the Attorney General of the State that there are no longer any Bonds Outstanding under the Indenture, after which any further modification must be countersigned by a representative of the Corporation.

Waiver and Satisfaction of Conditions Precedent

The Issuer, by making the Loan under the Loan Agreement, either waives or acknowledges satisfaction of the conditions precedent set forth in the Loan Agreement.

Representations and Warranties of the Corporation

In order to induce the Issuer to enter into the Loan Agreement, the Corporation by the Loan Agreement represents and warrants to the Issuer as of the Closing Date as follows:

(a) The Corporation is validly existing as a nonprofit public benefit corporation under the laws of the State, with full power and authority to execute and deliver the Loan Agreement and the Purchase and Sale Agreement and to carry out their terms.

(b) The Corporation has full power, authority and legal right to grant a security interest in the Corporation Tobacco Assets to the Issuer and has duly authorized such grant of security interest to the Issuer by all necessary action; and the execution, delivery and performance by the Corporation of the Loan Agreement and the Purchase and Sale Agreement have been duly authorized by the Corporation by all necessary action.

(c) The Loan Agreement and the Purchase and Sale Agreement have been duly executed and delivered by the Corporation and, assuming the due authorization, execution and delivery of each such agreement by the other parties thereto, constitute legal, valid and binding obligations of the Corporation enforceable against the Corporation in accordance with their terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws relating to or affecting creditors rights generally or the application of equitable principles in any proceeding, whether at law or in equity.

(d) No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the consummation by the Corporation of the transactions contemplated by the Loan Agreement and the Purchase and Sale Agreement, except for those which have been obtained and are in full force and effect.

(e) The consummation by the Corporation of the transactions contemplated by the Loan Agreement and the Purchase and Sale Agreement and the fulfillment by the Corporation of the terms thereof do not in any material way conflict with, result in any breach by the Corporation of any of the material terms and provisions of, nor constitute (with or without notice or lapse of time) a default by the Corporation under any indenture, agreement or other instrument to which the Corporation is a party or by which it is bound; nor violate any law, order, rule or regulation applicable to the Corporation of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Corporation.

(f) To the best of its knowledge, there are no proceedings or investigations pending against the Corporation, before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the Corporation: (i) asserting the invalidity of the Loan Agreement or the Purchase and Sale Agreement or the Bonds, (ii) seeking to prevent the consummation of any of the transactions contemplated by the Loan Agreement or the Purchase and Sale Agreement, or, to the best of its knowledge, the Indenture or the Bonds, or (iii) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of the Loan Agreement or the Purchase and Sale Agreement, or, to the best of its knowledge, the Indenture or the Bonds.

(g) Based on the representations and warranties of the County set forth in the Purchase and Sale Agreement, except to the extent that the State has the right to reallocate moneys paid under the MOU and the ARIMOU, as provided in the MOU and the ARIMOU, the Corporation owns and has good and marketable title to the Corporation Tobacco Assets free and clear and without liens thereon, other than the lien of the Loan Agreement and the lien of the Indenture. The Corporation has not sold, transferred, assigned, pledged, granted a security interest in, set over or otherwise conveyed any right, title or interest of any kind whatsoever in all or any portion of the Corporation Tobacco Assets, nor has the Corporation created or permitted the creation of, any Lien thereon, other than the lien of the Loan Agreement and the lien of the Indenture.

(h) The Loan Agreement creates a valid and continuing security interest (as defined in the applicable Uniform Commercial Code (“UCC”)) in the Corporation Tobacco Assets in favor of the Issuer, which security interest is prior to all other liens, and is enforceable as such as against creditors of and purchasers from the Corporation.

(i) The Corporation Tobacco Assets constitute “accounts” or “general intangibles” within the meaning of the applicable UCC.

(j) The Corporation has caused or will have caused, within ten days, the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under applicable law in order to perfect the security interest in the Corporation Tobacco Assets granted to the Issuer under the Loan Agreement.

(k) Other than the security interest granted to the Issuer pursuant to the Loan Agreement, the Corporation has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Corporation Tobacco Assets. The Corporation has not authorized the filing of and is not aware of any financing statements against the Corporation that include a description of collateral covering the Corporation Tobacco Assets other than any financing statement relating to the security interest granted to the Issuer under the Loan Agreement or that has been terminated. The Corporation is not aware of any judgment or tax lien filings against the Corporation.

(l) The Corporation has received all consents and approvals required by the terms of the Corporation Tobacco Assets to the grant of security interest in the Corporation Tobacco Assets under the Loan Agreement to the Issuer.

Representations and Warranties of the Issuer

In order to induce the Corporation to enter into the Loan Agreement, the Issuer by the Loan Agreement represents and warrants to the Corporation as follows:

(a) The Issuer is a joint exercise of powers authority duly organized and validly existing under the laws of the State. Pursuant to a resolution duly adopted by the governing board of the Issuer, the Issuer has authorized the execution and delivery by the Issuer of the Loan Agreement and the other Basic Documents to which it is a party, and the performance by the Issuer of all of its obligations under the Loan Agreement and under the other Basic Documents to which it is a party.

(b) The Issuer has complied with all of the provisions of the laws of the State relating to the Basic Documents, and has full power and authority to consummate all transactions contemplated by the Bonds, the Basic Documents and any and all other agreements relating thereto, and to perform all of its obligations under the Loan Agreement, the Bonds and the Basic Documents.

(c) The Issuer has not pledged and covenants that it will not pledge the amounts derived from the Loan Agreement and the Corporation Tobacco Assets other than to secure the Bonds or obligations that are subordinate to the Loan as permitted by the Loan Agreement.

(d) The Issuer will duly file Internal Revenue Form 8038-G with respect to the Bonds, which shall contain the information required to be filed pursuant to Section 149 of the Code.

Covenants

Until the termination of the Loan Agreement and the satisfaction in full by the Corporation of all obligations under the Loan Agreement, the Corporation shall comply, and shall cause compliance, with the following affirmative covenants:

Preservation of Rights. The Corporation shall take all actions as may be required by law to fully preserve, maintain, defend, protect and confirm the interests of the Issuer and the interests of the Indenture Trustee in the Corporation Tobacco Assets. The Corporation shall not take any action that shall adversely affect the Issuer’s or the Indenture Trustee’s ability to receive payments made under the MOU, the ARIMOU, the MSA and the Consent Decree.

No Impairment. The Corporation shall not limit or alter the rights of the Issuer to fulfill the terms of its agreements with the Holders of the Bonds, or in any way impair the rights and remedies of such Holders or the security for the Bonds and shall enforce all of its rights under the Purchase and Sale Agreement, until the Bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such Holders, are fully paid and discharged.

No Amendments to Collateral Documents. The Corporation shall not amend the Purchase and Sale Agreement, except as provided therein. The Corporation shall not take any action and shall use its best efforts not to permit any action to be taken by others that would release any Person from any of such Person's covenants or obligations under the MOU or the ARIMOU or that would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, the MOU or the ARIMOU, nor, without the prior written consent of the Issuer and the Indenture Trustee, amend, modify, terminate, waive or surrender, or agree to any amendment, modification, termination, waiver or surrender of, the terms of the MOU or the ARIMOU, or waive timely performance or observance under such documents, in each case if the effect thereof would be materially adverse to the Bondholders.

Further Acts. Upon request of the Issuer or the Indenture Trustee, the Corporation shall authorize, execute and deliver all such further agreements, instruments, financing statements or other assurances as may be reasonably necessary to carry out the intention or to facilitate the performance of the Loan Agreement, including, without limitation, to perfect and maintain the perfection and priority of the security interests in the Loan Agreement intended to be created.

Tax Covenant. The Corporation shall at all times do and perform all acts and things permitted by law which are necessary or desirable in order to assure that interest paid on the Bonds intended by the Issuer to be Tax-Exempt Bonds (or any of them) will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes.

Books and Records. The Corporation shall at all times keep proper books of record and account in which full, true and correct entries shall be made of its transactions in accordance with generally accepted accounting principles.

Change of Name, Type or Jurisdiction of Incorporation. The Corporation shall not change its name or its type or jurisdiction of organization without the consent of the Indenture Trustee.

Inspections. The Corporation shall permit any Person designated by the Issuer, upon reasonable notice and during normal business hours, to visit and inspect any of the properties and offices of the Corporation, to examine the books and records of the Corporation and make copies thereof and to discuss the affairs, finances and business of the Corporation with, and to be advised as to the same by, its officers, auditors and accountants, all at such times and intervals as the Issuer may reasonably request.

Use of Proceeds. The Corporation shall use the proceeds of the Loan only for the authorized corporate purposes of the Corporation.

Status as Special Purpose Entity. The Corporation shall: (1) conduct its own business in its own name and not in the name of any other Person; (2) compensate all employees, consultants and agents directly, from the Corporation's bank accounts, for services provided to the Corporation by such employees, consultants and agents and, to the extent any employee, consultant or agent of Corporation is also an employee, consultant or agent of any other Person, allocate the compensation of such employee, consultant or agent between the Corporation and such Person on a basis that reflects the services rendered to the Corporation and such Person; (3) have a separate telephone number, which will be answered only in its name and separate stationery, invoices and checks in its own name; (4) conduct all transactions with any other Person strictly on an arm's-length basis, allocate all overhead expenses (including, without limitation, telephone and other utility charges) for items shared between the Corporation and such Person on the basis of actual use to the extent practicable and, to the extent such allocation is not practicable, on a basis reasonably related to actual use; (5) at all times have a Board of Directors consisting of at least five members (including one Independent Director, as defined in the Corporation's articles of incorporation); (6) observe all corporate formalities as a distinct entity, and ensure that all corporate actions relating to (i) the dissolution or liquidation of the Corporation or (ii) the initiation of, participation in, acquiescence in or consent to any bankruptcy, insolvency,

reorganization or similar proceeding involving the Corporation, are duly authorized by unanimous vote of its Board of Directors; (7) maintain the Corporation's books and records separate from those of any other Person and maintain its assets readily identifiable as its own assets rather than assets of any other person; (8) prepare its financial statements separately from those of any other Person; to the extent it is included in consolidated financial statements or consolidated tax returns, such financial statements and tax returns will make clear the separateness of the respective entities and make clear that the assets of the Corporation are not assets of any other Person and are not available to satisfy the debts of any other Person; (9) only maintain bank accounts or other depository accounts to which the Corporation alone is the account party, and from which only the Corporation has the power to make withdrawals; (10) pay all of the Corporation's operating expenses from the Corporation's own assets or pursuant to the Indenture (except for expenses incurred prior to the Closing Date); (11) operate its business and activities such that: it does not engage in any business or activity of any kind, or enter into any transaction or indenture, mortgage, instrument, agreement, contract, lease or other undertaking, other than the transactions contemplated and authorized by the Basic Documents, including but not limited to additional loan obligations related to the issuance of Additional Bonds under the Indenture, or obligations subordinate in all respects to the Loan; and does not create, incur, guarantee, assume or suffer to exist any indebtedness or other liabilities, whether direct or contingent, other than (i) as a result of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, (ii) the incurrence of obligations under the Basic Documents, (iii) the incurrence of obligations secured by the Corporation Tobacco Assets that are subordinate in all respects to the Loan and are governed by documents substantially similar to the Loan Agreement, and (iv) the incurrence of operating expenses in the ordinary course of business of the type otherwise contemplated by the Basic Documents; (12) maintain its corporate organization in conformity with the Loan Agreement, such that it does not amend, restate, supplement or otherwise modify its articles of incorporation or bylaws in any respect that would impair its ability to comply with the terms or provisions of any of the Basic Documents, including, without limitation, those described under this heading; and (13) maintain its corporate separateness such that it does not merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions, and except as otherwise contemplated in the Loan Agreement) all or substantially all of its assets (whether now owned or hereafter acquired) to, or acquire all or substantially all of the assets of, any Person.

Filings. The Corporation, at the Corporation's expense, shall promptly authorize, procure, execute and deliver to the Issuer all documents, instruments and agreements and perform all acts which are necessary or desirable, or which the Issuer may reasonably request, to establish, maintain, continue, preserve, protect and perfect the grant of security interest in the Corporation Tobacco Assets, the lien granted to the Issuer pursuant to the Loan Agreement and the first priority of such lien or to enable the Issuer to exercise and enforce its rights and remedies under the Loan Agreement with respect to the grant of a security interest in the Corporation Tobacco Assets. Without limiting the generality of the preceding sentence, the Corporation shall (i) authorize, procure, execute and deliver to the Issuer all endorsements, assignments, financing statements and other instruments of transfer requested by the Issuer, (ii) deliver to the Issuer promptly upon receipt all originals of Corporation Tobacco Assets consisting of instruments, documents, chattel paper, letters of credit and certificated securities and (iii) take or cause to be taken such actions as may be necessary to perfect the lien of the Issuer in any Corporation Tobacco Assets consisting of investment property.

No Modification of Escrow Instruction. So long as any Bonds of any Series are Outstanding under the Indenture, the Corporation shall not rescind, amend or modify the instruction described in the Loan Agreement without the consent of the Indenture Trustee.

Nonpetition Covenant By Corporation. The Corporation by the Loan Agreement covenants and agrees that it will not at any time institute against the Issuer, or join in instituting against the Issuer, any bankruptcy, reorganization, arrangement, insolvency, liquidation, or similar proceeding under any United States federal or state bankruptcy or similar law.

Bankruptcy. The Corporation shall object in any relevant bankruptcy case to the consolidation of the assets of the Corporation or the Issuer with those of the County.

Lump Sum Payments. The Corporation shall monitor and notify the Issuer of any Lump Sum Payments and the amount thereof.

Nonpetition Covenant By Issuer

The Issuer by the Loan Agreement covenants and agrees that it will not at any time institute against the Corporation, or join in instituting against the Corporation, any bankruptcy, reorganization, arrangement, insolvency, liquidation, or similar proceeding under any United States federal or state bankruptcy or similar law.

Events of Default

The occurrence or existence of any one or more of the following shall constitute an “Event of Default” under the Loan Agreement:

Failure to Pay or Cause to be Paid All Payments Relating to Sold County Tobacco Assets to Trustee. The Corporation shall fail to pay or cause to be paid to the Indenture Trustee for deposit in the Collection Account established under the Indenture all payments receivable with respect to Sold County Tobacco Assets as required pursuant to the Loan Agreement; or

Other Defaults. The Corporation shall fail to observe or perform any other covenant, obligation, condition or agreement contained in the Loan Agreement and such failure shall continue for 30 days from the date of written notice from the Issuer or the Indenture Trustee of such failure; or

Representations and Warranties. Any representation, warranty, certificate, information or other statement (financial or otherwise) made or furnished by or on behalf of the Corporation to the Issuer in or in connection with the Loan Agreement shall be false, incorrect, incomplete or misleading in any material respect when made or furnished; or

Insolvency, Voluntary Proceedings. The Corporation shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) be unable, or admit in writing its inability, to pay its debts generally as they mature, (iii) make a general assignment for the benefit of its or any of its creditors, (iv) be dissolved or liquidated in full or in part, (v) become insolvent (as such term may be defined or interpreted under any applicable statute), (vi) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it, or (vii) take any action for the purpose of effecting any of the foregoing; or

Involuntary Proceedings. Proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Corporation or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Corporation or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be dismissed or discharged within 60 days of commencement; or

Agreement. The Loan Agreement or any material term of the Loan Agreement shall cease to be, or be asserted by the Corporation not to be, a legal, valid and binding obligation of the Corporation enforceable in accordance with its terms; or

Revocation of Instructions to Attorney General. The instructions to the Attorney General of the State regarding disbursing the Corporation Tobacco Assets to the Indenture Trustee as provided pursuant to the provisions of the Loan Agreement shall be revoked or cease to be complied with.

Remedies

At any time after the occurrence and during the continuance of any Event of Default, the Issuer may, by written notice to the Corporation exercise any other right, power or remedy available to it by law, either by suit in equity or by action at law, or both.

No remedy in the Loan Agreement conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedies, but each and every such remedy shall be cumulative and shall be in addition to every

other remedy given under the Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in the Loan Agreement, it shall not be necessary to give any notice, other than such notice as may be required in the provisions of the Loan Agreement described under this heading. Such rights and remedies as are given the Issuer under the Loan Agreement shall also extend to the Indenture Trustee, and the Indenture Trustee and the Bondholders, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements contained in the Loan Agreement. Notwithstanding any other provision of the Loan Agreement, the Issuer and the Indenture Trustee shall not sell or foreclose on the Corporation Tobacco Assets, even if an Event of Default has occurred.

Amendments; Amendment of Indenture

The Loan Agreement may be amended by the Corporation and the Issuer, with the consent of the Indenture Trustee: (a) to cure any ambiguity; (b) to correct or supplement any provisions in the Loan Agreement; (c) to correct or amplify the description of the Corporation Tobacco Assets; (d) to add additional covenants for the benefit of the Issuer; or (e) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions in the Loan Agreement that shall not, as evidenced by a Rating Confirmation delivered to the Indenture Trustee, adversely affect in any material respect payment of the Bonds. Promptly after the execution of any such amendment, the Corporation shall furnish written notification of the substance of such amendment to each Rating Agencies.

As long as the Corporation is not in default under the Loan Agreement, the Issuer will not amend the Indenture in any respect that would have a material adverse effect on the Corporation without obtaining the Corporation's written consent, which consent shall not be unreasonably withheld.

THE PURCHASE AND SALE AGREEMENT

The Purchase and Sale Agreement provides the terms of the sale by the County and the purchase by the Corporation of the Sold County Tobacco Assets. Certain of the provisions of the Purchase and Sale Agreement are summarized below. This summary does not purport to be complete or definitive and is qualified in its entirety by reference to the full terms of the Purchase and Sale Agreement.

Agreement to Sell and Purchase

The County sold, and the Corporation purchased, on the Closing Date, for consideration paid by the Corporation the amount specified in the Purchase and Sale Agreement in cash (the "Purchase Price") (i) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$10,000,000 has been paid to the County in each year beginning on January 1, 2008 and ending on December 31, 2020 (the "2008-2020 Sold Tobacco Assets"); (ii) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County after the first \$11,537,208 has been paid to the County in each year beginning on January 1, 2021 and ending on December 31, 2026 (the "2021-2026 Sold Tobacco Assets"); (iii) the County Tobacco Assets to the extent consisting of or relating to amounts due to the County from and after January 1, 2027 (the "Post 2026 Sold Tobacco Assets"); and (iv) the County Tobacco Assets to the extent consisting of or relating to the applicable percentage set forth in the Purchase and Sale Agreement on a *pari passu pro rata* basis of any Lump Sum Payments made during the period from and after the Closing Date and before January 1, 2027 (the "Pre 2027 Lump Sum Sold Tobacco Assets"). Collectively, the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets, the Post 2026 Sold Tobacco Assets and the Pre 2027 Lump Sum Sold Tobacco Assets constitute the "Sold County Tobacco Assets." Nothing contained in the Purchase and Sale Agreement shall be deemed to prevent the County from selling or otherwise transferring all or a portion of the County Tobacco Assets that do not constitute Sold County Tobacco Assets.

Conveyance of Sold County Tobacco Assets and Payment of Purchase Price

In consideration of the payment and delivery by the Corporation to the County of the Purchase Price, pursuant to the Purchase and Sale Agreement, the County does (a) transfer, grant, bargain, sell, assign, convey, set over and deliver to the Corporation, absolutely and not as collateral security, without recourse except as expressly provided therein, and the Corporation does purchase, accept and receive, all of the County's right, title and interest in, to and

under the Sold County Tobacco Assets, and (b) assign to the Corporation, to the extent permitted by law (as to which no representation is made), all present or future rights, if any, of the County to enforce or cause the enforcement of payment of the Sold County Tobacco Assets pursuant to the MOU and the ARIMOU.

Representations and Warranties of the Corporation

The Corporation represents and warrants to the County that, as of the Closing Date and the 2019 Closing Date, (a) it is duly organized, validly existing and in good standing in the jurisdiction of its organization, (b) it has full power and authority to enter into the Purchase and Sale Agreement and to perform its obligations under the Purchase and Sale Agreement, (c) neither the execution and delivery by it of the Purchase and Sale Agreement, nor the performance by it of its obligations under the Purchase and Sale Agreement, shall conflict with or result in a breach or default by it under any of its organizational documents, or any law, rule, regulation, judgment, order or decree to which it is subject or any agreement or instrument to which it is a party, and (d) the Purchase and Sale Agreement, and its execution, delivery and performance of the Purchase and Sale Agreement have been duly authorized by it, and the Purchase and Sale Agreement has been duly executed and delivered by it and constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms of the Purchase and Sale Agreement, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws relating to or affecting creditors rights generally and the application of equitable principles in any proceeding, whether at law or in equity.

Representations and Warranties of the County

The County by the Purchase and Sale Agreement represents and warrants to the Corporation, as of the Closing Date, as follows:

(a) The County is validly existing as a political subdivision under the laws of the State, with full power and authority to execute and deliver the Purchase and Sale Agreement and to carry out its terms.

(b) The County has full power, authority and legal right to sell and assign the County Tobacco Assets to the Corporation and has duly authorized such sale and assignment to the Corporation by all necessary action; and the execution, delivery and performance by the County of the Purchase and Sale Agreement has been duly authorized by the County by all necessary action.

(c) The Purchase and Sale Agreement has been duly executed and delivered by the County and, assuming the due authorization, execution and delivery of the Purchase and Sale Agreement by the Corporation, constitutes a legal, valid and binding obligation of the County enforceable against the County in accordance with its terms, subject to the effect of bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws relating to or affecting creditors rights generally and the application of equitable principles in any proceeding, whether at law or in equity and the limitations on remedies against counties in the State.

(d) No consent, approval, authorization, order, registration or qualification of or with any court or governmental agency or body is required for the consummation by the County of the transactions contemplated by the Purchase and Sale Agreement, except for those which have been obtained and are in full force and effect.

(e) The consummation by the County of the transactions contemplated by the Purchase and Sale Agreement and the fulfillment of the terms thereof do not in any material way conflict with, result in any material breach by the County of any of the material terms and provisions of, nor constitute (with or without notice or lapse of time) a material default by the County under any indenture, agreement or other instrument to which the County is a party or by which it is bound; nor violate any law, order, rule or regulation applicable to the County of any court or of any federal or state regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the County.

(f) There are no material proceedings or investigations pending against the County before any court, regulatory body, administrative agency or other governmental instrumentality having jurisdiction over the County: (i) asserting the invalidity of the Purchase and Sale Agreement, or, to the best of its knowledge, the Loan Agreement, the Indenture or the Bonds, (ii) seeking to prevent the consummation of any of the transactions contemplated by the Purchase and Sale Agreement, or, to the best of its knowledge, the Loan Agreement, the Indenture or the Bonds or

(iii) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of the Purchase and Sale Agreement, or, to the best of its knowledge, the Loan Agreement, the Indenture or the Bonds. There are no initiatives pending that would affect the County's sale of the Sold County Tobacco Assets or its use of the Purchase Price.

(g) Prior to the sale of the Sold County Tobacco Assets to the Corporation, the County was the sole owner of the Sold County Tobacco Assets, and has such right, title and interest as provided in the MOU and the ARIMOU. From and after the conveyance of the Sold County Tobacco Assets by the County to Corporation on the Closing Date, the County shall have no interest in the Sold County Tobacco Assets.

(h) Except to the extent that the State has the right to reallocate moneys paid under the MOU and the ARIMOU, as provided in the MOU and the ARIMOU, prior to the sale of the Sold County Tobacco Assets to the Corporation, the County held title to the Sold County Tobacco Assets free and clear of all liens, pledges, charges, security interests or any other impediments of any nature on the Sold County Tobacco Assets. Except as set forth in the Purchase and Sale Agreement, the County has not sold, transferred, assigned, set over or otherwise conveyed any right, title or interest of any kind whatsoever in all or any portion of the Sold County Tobacco Assets, nor has the County created, or to its knowledge permitted the creation of, any lien thereon.

(i) The County acts solely through its authorized officers or agents.

(j) The County maintains records and books of account separate from both the Corporation and the Issuer.

(k) The financial statements and books and records of the County prepared after the Closing Date shall reflect the separate existence of the Corporation and the Issuer.

(l) The County maintains its respective assets separately from the assets of both the Corporation and the Issuer (including through the maintenance of separate bank accounts); and the County's funds and assets, and records relating thereto, have not been and are not commingled with those of the Corporation or the Issuer.

(m) The County's principal place of business and chief executive office is located at County Administrative Center, 4080 Lemon Street, Riverside, California 92501.

(n) The County shall treat the sale of the Sold County Tobacco Assets as a sale for tax reporting and accounting purposes, and title to the Sold County Tobacco Assets shall not be a part of the debtor's estate in the event of the filing of a bankruptcy petition by or against the County under any bankruptcy law.

(o) The County has received reasonably equivalent value for the Sold County Tobacco Assets.

(p) The County does not act as an agent of the Corporation or the Issuer in any capacity, but instead presents itself to the public as an entity separate from the Corporation and the Issuer.

(q) The County has not guaranteed and shall not guarantee the obligations of the Corporation or the Issuer, nor shall it hold itself out or permit itself to be held out as having agreed to pay or as being liable for the debts of the Corporation or the Issuer; and the County has not received nor shall the County accept, any credit or financing from any Person who is relying upon the availability of the assets of the Issuer or the Corporation to satisfy the claims of such creditor.

(r) All transactions between or among the County, on the one hand, and the Issuer or the Corporation on the other hand (including, without limitation, transactions governed by contracts for services and facilities, such as payroll, purchasing, accounting, legal and personnel services and office space) shall be on terms and conditions (including, without limitation, terms relating to amounts to be paid thereunder) which are believed by the County thereto to be both fair and reasonable and comparable to those available on an arms-length basis from Persons who are not affiliates.

Covenants of the County

The County shall not take any actions or omit to take any actions which adversely affect the interests of the Corporation in the Sold County Tobacco Assets and in the proceeds thereof. The County shall not take any action or omit to take any action that shall adversely affect the ability of the Corporation, and any assignee of the Corporation, to receive payments made under the MOU, the ARIMOU, the MSA and the Consent Decree with respect to the Sold County tobacco Assets; provided, however, that nothing in the Purchase and Sale Agreement shall be deemed to prohibit the County from undertaking any activities (including educational programs, regulatory actions, or any other activities) intended to reduce or eliminate smoking or the consumption or use of tobacco or tobacco related products.

The County shall not take any action or omit to take any action and shall use its reasonable efforts not to permit any action to be taken by others that would release any Person from any of such Person's covenants or obligations under the MSA, the MOU or the ARIMOU, or that would result in the amendment, hypothecation, subordination, termination or discharge of, or impair the validity or effectiveness of, the MSA, the MOU or the ARIMOU, nor, without the prior written consent of the Corporation or its assignee, amend, modify, terminate, waive or surrender, or agree to any amendment, modification, termination, waiver or surrender of, the terms of the MSA, the MOU or the ARIMOU, or waive timely performance or observance under such documents, in each case if the effect thereof would be materially adverse to the Bondholders. Nothing in the Purchase and Sale Agreement shall impose a duty on the County to seek to enforce the MSA or to seek enforcement thereof by others, or to prevent others from modifying, terminating, discharging or impairing the validity or effectiveness of the MSA.

Upon request of the Corporation or its assignee, the County shall execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes and intent of the Purchase and Sale Agreement. The County shall take all actions necessary to preserve, maintain and protect the title of the Corporation to the Sold County Tobacco Assets.

The County shall at all times do and perform all acts and things permitted by law and the Purchase and Sale Agreement which are necessary or desirable in order to assure that interest paid on Bonds, the interest on which is intended to be tax-exempt, will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the County agrees that it will comply with the provisions of the County Tax.

The County shall execute the County Tax Certificate containing all necessary and appropriate covenants, agreements, representations, statements of intention and reasonable expectations and certifications of fact for bond counsel to render its opinion that interest on Bonds, the interest on which is intended to be tax-exempt, is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Tax Code, including but not limited to matters relating to the use and investment of the proceeds of Bonds received by the County and any other moneys of the County, and the use of any and all property financed or refinanced with the proceeds of the Bonds received by the County as part of the Purchase Price.

On or before the Closing Date, the County shall send (or cause to be sent) an irrevocable instruction to the Attorney General of the State pursuant to Sections 4.B.(2)(i)(aa) and 4.B.(2)(i)(bb) of the ARIMOU, to cause the California Escrow Agent to disburse all of the 2008-2020 Sold Tobacco Assets, the 2021-2026 Sold Tobacco Assets and Post 2026 Sold Tobacco Assets from the California Escrow to the Indenture Trustee, together with notice of the sale of the Sold County Tobacco Assets to the Corporation and the assignment and grant of a security interest in such assets to the Issuer, and by the Issuer to the Indenture Trustee, and an acknowledgement that such instructions shall only be further modified with the countersignature of a designated representative of the Indenture Trustee until the Indenture Trustee gives notice to the Attorney General of the State that there are no longer any Bonds Outstanding under the Indenture, after which any further modification must be countersigned by a representative of the Corporation. The Corporation shall monitor and notify the County of any payment of Lump Sum Payments prior to January 1, 2027 and the amount thereof. In the event that a Lump Sum Payment is made prior to January 1, 2027 and received by the County, the County shall divide such Lump Sum Payment in accordance with the applicable percentage set forth in the definition of Pre 2027 Lump Sum Sold Tobacco Assets and transfer the Pre 2027 Lump Sum Sold Tobacco Assets to the Indenture Trustee clearly identifying such amounts as Pre 2027 Lump Sum Sold Tobacco Assets. The County by the Purchase and Sale Agreement relinquishes and waives any control over the Sold County Tobacco Assets, any authority to collect the Sold County Tobacco Assets, and any power to revoke or amend

the instructions to the Attorney General contemplated by this paragraph. The County shall not rescind, amend or modify the instruction described in the first sentence of this paragraph. The County shall cooperate with the Corporation or its assignee in giving instructions to the Attorney General if the Corporation or its assignee transfers the Sold County Tobacco Assets. In the event that the County receives any payments on the Sold County Tobacco Assets, the County shall hold the same in trust for the benefit of the Corporation, the Issuer and the Indenture Trustee as their interests may appear and shall promptly remit the same to the Indenture Trustee as assignee of the Corporation.

The County acknowledges that the proceeds of the Bonds received by the County as part of the Purchase Price pursuant to the Purchase and Sale Agreement continue to be proceeds of the Bonds in the hands of the County and agrees to invest such amounts in Eligible Investments and in the manner contemplated by the County Tax Certificate to the extent that such proceeds are subject to the investment limitation requirements of the County Tax Certificate.

The County by the Purchase and Sale Agreement covenants and agrees that it will not at any time institute against the Corporation, or join in instituting against the Corporation, any bankruptcy, reorganization, arrangement, insolvency, liquidation, or similar proceeding under any United States federal or state bankruptcy or similar law.

The County shall object in any relevant bankruptcy case to the consolation of the assets of the Corporation or the Issuer with those of the County.

Notices of Breach

Upon discovery by the County or the Corporation that the County has breached any of its covenants or that any of its representations or warranties are materially false or misleading, in a manner that materially and adversely affects the value of the County Tobacco Assets, the discovering party shall give prompt written notice thereof to the other party, the Indenture Trustee and each Rating Agency.

The County shall not be liable to the Corporation, the Issuer, the Indenture Trustee or the Bondholders for any loss, cost or expense resulting solely from the failure of the Indenture Trustee to promptly notify the County upon the discovery by an Authorized Officer of the Indenture Trustee of a breach of any covenant or any materially false or misleading representation or warranty contained in the Purchase and Sale Agreement.

Liability of County; Indemnification

The County shall be liable in accordance with the Purchase and Sale Agreement only to the extent of the obligations specifically undertaken by the County under the Purchase and Sale Agreement, as follows: the County shall indemnify, defend and hold harmless the Corporation, the Issuer and the Indenture Trustee and their respective officers, directors, employees and agents from and against any and all costs, expenses, losses, claims, damages and liabilities to the extent that such cost, expense, loss, claim, damage or liability arose out of, or was imposed upon any such Person by the County's breach of any of its covenants contained in the Purchase and Sale Agreement or any materially false or misleading representation or warranty of the County contained in the Purchase and Sale Agreement. The County shall indemnify, defend and hold harmless the Corporation, the Issuer and the Indenture Trustee and their respective officers, directors, employees and agents from and against any and all costs, expenses, losses, claims, damages and liabilities arising out of or incurred in connection with the County's obligations under the County Tax Certificate, including any rebate or other obligation to the United States Department of the Treasury, resulting from actions by or omissions of the County, including from the investment by the County of the proceeds of the Bonds received by the County and the use of any and all property financed or refinanced with the proceeds of such Bonds received by the County as part of the Purchase Price.

Limitation on Liability

The County and any officer or employee or agent of the County may rely in good faith on the advice of counsel, or on any document of any kind prima facie properly executed and submitted by any Person respecting any matters arising under the Purchase and Sale Agreement.

No officer or employee of the County shall have any liability for the representations, warranties, covenants, agreements or other obligations of the County under the Purchase and Sale Agreement or in any of the certificates,

notices or agreements delivered pursuant to the Purchase and Sale Agreement, as to all of which recourse shall be had solely to the assets of the County.

County's Acknowledgment

The County by the Purchase and Sale Agreement agrees and acknowledges that the Corporation intends to assign and grant a security interest in its rights under the Purchase and Sale Agreement and its rights to the County Tobacco Assets to the Issuer pursuant to the terms of the Loan Agreement, and that the Issuer intends to assign and grant a security interest in the same to the Indenture Trustee pursuant to the Indenture. The County further agrees and acknowledges that the Issuer, the Indenture Trustee and the Bondholders have relied and shall continue to rely upon each of the foregoing representations and warranties, and further agrees that such Persons are entitled so to rely thereon. Each of the above representations and warranties shall survive any assignment and grant of a security interest in the Purchase and Sale Agreement or the Sold County Tobacco Assets to the Issuer and by the Issuer to the Indenture Trustee, and shall continue in full force and effect, notwithstanding any subsequent termination of the Purchase and Sale Agreement and the other Basic Documents. The above representations and warranties shall inure to the benefit of Issuer and the Indenture Trustee.

Corporation's Acknowledgment

The Corporation by the Purchase and Sale Agreement agrees and acknowledges that the County is irrevocably transferring, granting, bargaining, selling, assigning, conveying, and delivering to the Corporation the Sold County Tobacco Assets without recourse, and, except as expressly set forth above, without representation or warranty of any kind or description.

Intent to Effect Irrevocable, Absolute Sale and Not a Transfer as Collateral or Security

The County and the Corporation by the Purchase and Sale Agreement confirm their intent and agree that the County is irrevocably transferring, granting, bargaining, selling, assigning, conveying and delivering to the Corporation the Sold County Tobacco Assets absolutely and not as collateral security.

Amendments

The Purchase and Sale Agreement may be amended by the County and the Corporation, with the consent of the Indenture Trustee: (a) to cure any ambiguity; (b) to correct or supplement any provisions in the Purchase and Sale Agreement; (c) to correct or amplify the description of the Sold County Tobacco Assets; (d) to add additional covenants for the benefit of the Corporation; or (e) for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions in the Purchase and Sale Agreement that shall not, as evidenced by a Rating Confirmation delivered to the Indenture Trustee, adversely affect in any material respect payment of the Bonds.

Promptly after the execution of any such amendment, the Corporation shall furnish written notification of the substance of such amendment to each Rating Agency.

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APPENDIX G

BOOK-ENTRY ONLY SYSTEM

The information in this Appendix G concerning The Depository Trust Company (“DTC”), New York, New York, and DTC’s book-entry system has been obtained from DTC and the Issuer, the Corporation, the County and the Underwriters take no responsibility for the completeness or accuracy thereof. The Issuer, the Corporation, the County and the Underwriters cannot and do not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of principal of and interest on the Series 2019 Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Series 2019 Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Series 2019 Bonds, or that they will do so on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix G. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Series 2019 Bonds. The Series 2019 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for the Series 2019 Bonds, in the aggregate principal amount of the Series 2019 Bonds, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC is rated “AA+” by Standard & Poor’s. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com; nothing contained in such website is incorporated into this Offering Circular.

Purchases of Series 2019 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2019 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2019 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2019 Bonds, except in the event that use of the book-entry system for the Series 2019 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2019 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2019 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge

of the actual Beneficial Owners of the Series 2019 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2019 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2019 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2019 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2019 Bond documents. For example, Beneficial Owners of Series 2019 Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2019 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2019 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of principal of, premium, if any, and interest on the Series 2019 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer, the County or the Indenture Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Indenture Trustee, the County or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal of, premium, if any, and interest on the Series 2019 Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the County or the Indenture Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

NONE OF THE ISSUER, THE CORPORATION, THE COUNTY, THE UNDERWRITERS OR THE INDENTURE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS WITH RESPECT TO THE PAYMENTS OR THE PROVIDING OF NOTICE TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS OR THE SELECTION OF SERIES 2019 BONDS FOR PREPAYMENT OR REDEMPTION.

DTC may discontinue providing its services as depository with respect to the Series 2019 Bonds at any time by giving reasonable notice to the Issuer or the Indenture Trustee. Under such circumstances, in the event that a successor depository is not obtained, Series 2019 Bond certificates are required to be printed and delivered. To the extent permitted by law, the Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered. In the event that the book-entry system is discontinued as described above, the requirements of the Indenture will apply.

APPENDIX H

FORM OF CONTINUING DISCLOSURE UNDERTAKING

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CONTINUING DISCLOSURE UNDERTAKING (SERIES 2019 BONDS)

This Continuing Disclosure Undertaking, dated as of May 1, 2019 (the “Undertaking”) is executed and delivered by the Inland Empire Tobacco Securitization Authority (the “Issuer”) and BLX Group LLC, as Dissemination Agent, pursuant to an Indenture, dated as of August 1, 2007 (as previously supplemented, and as supplemented by a Series 2019 Supplement, dated as of May 1, 2019 the “Indenture”), by and between the Issuer and Wells Fargo Bank, National Association (the “Indenture Trustee”), in connection with the issuance of \$100,000,000 aggregate principal amount of the Issuer’s Tobacco Settlement Asset-Backed Refunding Bonds (Inland Empire Tobacco Securitization Corporation), Series 2019 Turbo Current Interest Bonds (Federally Taxable) (the “Series 2019 Bonds”). Capitalized terms used in this Undertaking which are not otherwise defined in Article IV hereof shall have the respective meanings specified in the Indenture.

ARTICLE I

The Undertaking

Section 1.1. Purpose. This Undertaking is being executed and delivered by the Issuer for the benefit of the Beneficial Owners and Owners of the Series 2019 Bonds and in order to assist the Underwriters in complying with subsection (b)(5) of the Rule.

Section 1.2. Annual Financial Information. (a) The Issuer shall provide, or cause the Dissemination Agent to provide, Annual Financial Information with respect to each fiscal year of the Issuer, commencing with fiscal year 2018-19, by no later than 285 days after the end of such fiscal year, to the MSRB. Not later than fifteen (15) Business Days prior to said date, the Issuer shall provide the Annual Financial Information to the Dissemination Agent (if other than the Issuer).

(b) The Issuer shall provide in a timely manner, notice of any failure of the Issuer to provide Annual Financial Information by the date specified in subsection (a) above to the MSRB.

Section 1.3. Audited Financial Statements. If not provided as part of Annual Financial Information by the date required by Section 1.2(a) hereof because it is not available, the Issuer shall provide Audited Financial Statements of the Issuer, when and if available, to the MSRB.

Section 1.4. Listed Event Notices. (a) If a Listed Event occurs, the Issuer shall provide, or cause to be provided, in a timely manner not in excess of ten (10) business days after the occurrence of such Listed Event, notice of such Listed Event to the MSRB.

(b) Any such notice of a defeasance of Series 2019 Bonds shall state whether the Series 2019 Bonds have been escrowed to maturity or to an earlier redemption date and the timing of such maturity or redemption.

Section 1.5. Additional Information. Nothing in this Undertaking shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Undertaking or any other means of communication, or including any other information in any Annual Financial Information or notice of Listed Event hereunder, in addition to that which is required by this Undertaking. If the Issuer chooses to include any information in any Annual Financial Information or Listed Event notice in addition to that which is specifically required by this Undertaking, the Issuer shall have no obligation under this Undertaking to update such additional information or include it in any future Annual Financial Information or notice of a Listed Event hereunder.

Section 1.6. Additional Disclosure Obligations. The Issuer acknowledges and understands that other state and federal laws, including but not limited to the Securities Act of 1933 and Rule 10b 5 promulgated under the Securities Exchange Act of 1934, may apply to the Issuer and that, under some circumstances, compliance with this Agreement without additional disclosures or other action may not fully discharge all duties and obligations of the Issuer under such laws.

Section 1.7. No Previous Non Compliance. The Issuer represents that in the five years previous it has not failed to comply in all material respects with any previous undertaking in a written contract or agreement specified in paragraph (b)(5)(i) of the Rule.

ARTICLE II

Operating Rules

Section 2.1. Reference to Other Documents. It shall be sufficient for purposes of Section 1.2 hereof if the Issuer provides Annual Financial Information by specific reference to documents (i) available to the public on EMMA or (ii) filed with the SEC. The provisions of this Section shall not apply to notices of Listed Events pursuant to Section 1.4 hereof.

Section 2.2. Submission of Information. Annual Financial Information may be provided in one document or multiple documents, and at one time or in part from time to time.

Section 2.3. CUSIP Numbers in Listed Event Notices. Each Listed Event Notice relating to the Series 2019 Bonds shall include the CUSIP numbers of the Series 2019 Bonds to which such Listed Event notice relates or, if the Listed Event notice relates to all bond issues of the Issuer including the Series 2019 Bonds, such Listed Event Notice need only include the CUSIP number of the Issuer.

Section 2.4. Filing with Certain Dissemination Agents. The Issuer may from time to time designate an agent to act as Dissemination Agent on its behalf in providing or filing notices, documents and information as required of the Issuer under this Agreement, and revoke or modify any such designation.

Section 2.5. Transmission of Notices, Documents and Information. (a) Unless otherwise required by the MSRB, all notices, documents and information provided to the MSRB shall be provided to EMMA.

(b) All notices, documents and information provided to the MSRB shall be provided in an electronic format as prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

Section 2.6. Fiscal Year. (a) The Issuer's fiscal year begins July 1 and ends on the next succeeding June 30. The Issuer shall promptly notify the MSRB of each change in its fiscal year.

(b) Annual Financial Information shall be provided at least annually notwithstanding any fiscal year longer than 12 calendar months.

ARTICLE III

Effective Date, Termination, Amendment and Enforcement

Section 3.1. Effective Date; Termination. (a) This Undertaking shall be effective upon the issuance of the Series 2019 Bonds.

(b) The Issuer's obligations under this Undertaking shall terminate upon a legal defeasance, prior redemption or payment in full of all of the Series 2019 Bonds. If such termination occurs prior to the final maturity of the Series 2019 Bonds, the Issuer shall give notice of such termination in the same manner provided in Section 1.4.

(c) This Undertaking, or any provision hereof, shall be null and void in the event that the Issuer (1) delivers to the Indenture Trustee an opinion of Counsel, addressed to the Issuer and the Indenture Trustee, to the effect that those portions of the Rule which require this Undertaking, or such provision, as the case may be, do not or no longer apply to the Series 2019 Bonds, whether because such portions of the Rule are invalid, have been repealed, or otherwise, as shall be specified in such opinion, and (2) delivers copies of such opinion to the MSRB.

Section 3.2. Amendment. (a) This Undertaking may be amended, by written agreement of the parties, without the consent of the Owners (except to the extent required under clause (4)(ii) below), if all of the following conditions are satisfied: (1) such amendment is made in connection with a change in circumstances that arises from a change in legal (including regulatory) requirements, a change in law (including rules or regulations) or in interpretations thereof, or a change in the identity, nature or status of the Issuer or the type of business conducted thereby, (2) this Undertaking as so amended would have complied with the requirements of the Rule as of the date of this Undertaking, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances, (3) the Issuer shall have delivered to the Indenture Trustee an opinion of Counsel, addressed to the Issuer and the Indenture Trustee, to the same effect as set forth in clause (2) above, (4) either (i) the Issuer shall have delivered to the Indenture Trustee an opinion of Counsel or a determination by a person, in each case unaffiliated with the Issuer (such as bond counsel or the Indenture Trustee) and acceptable to the Issuer, addressed to the Issuer and the Indenture Trustee, to the effect that the amendment does not materially impair the interests of the Owners or (ii) the Owners consent to the amendment to this Undertaking pursuant to the same procedures as are required for amendments to the Indenture with consent of Owners pursuant to Section 901 of the Indenture as in effect at the time of the amendment, and (5) the Issuer shall have delivered copies of such opinion(s) and amendment to the MSRB.

(b) This Undertaking may be amended, by written agreement of the parties, without the consent of the Owners, if all of the following conditions are satisfied: (1) an amendment to the Rule is adopted, or a new or modified official interpretation of the Rule is issued, after the effective date of this Undertaking which is applicable to this Undertaking, (2) the Issuer shall have delivered to the Indenture Trustee an opinion of Counsel, addressed to the Issuer and the Indenture Trustee, to the effect that performance by the Issuer and Indenture Trustee under this Undertaking as so amended will not result in a violation of the Rule and (3) the Issuer shall have delivered copies of such opinion and amendment to the MSRB.

(c) To the extent any amendment to this Undertaking results in a change in the type of core financial information or operating data provided pursuant to this Undertaking, the first Annual Financial Information provided thereafter shall include a narrative explanation of the reasons for the

amendment and the impact of the change in the type of operating data or core financial information being provided.

(d) If an amendment is made pursuant to Section 3.2(a) hereof to the accounting principles to be followed by the Issuer in preparing its financial statements, the Annual Financial Information for the fiscal year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. Such comparison shall include a qualitative and, to the extent reasonably feasible, quantitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the core financial information.

Section 3.3. Benefit; Third-Party Beneficiaries; Enforcement. (a) The provisions of this Undertaking shall constitute a contract with and inure solely to the benefit of the Owners, except that beneficial owners of Series 2019 Bonds shall be third-party beneficiaries of this Undertaking. The provisions of this Undertaking shall create no rights in any person or entity except as provided in this subsection (a) and subsection (b) of this Section.

(b) The obligations of the Issuer to comply with the provisions of this Undertaking shall be enforceable (i) in the case of enforcement of obligations to provide financial statements, core financial information, operating data and notices, by any Owner, or by the Indenture Trustee on behalf of the Owners of Outstanding Bonds, or (ii) in the case of challenges to the adequacy of the financial statements, core financial information and operating data so provided, by the Indenture Trustee on behalf of the Owners of Outstanding Bonds; provided, however, that the Indenture Trustee shall not be required to take any enforcement action except at the direction of the Owners of not less than 25% of aggregate principal amount of the Series 2019 Bonds at the time Outstanding who shall have provided the Indenture Trustee with adequate security and indemnity. The Owners' and Indenture Trustee's rights to enforce the provisions of this Undertaking shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the Issuer's obligations under this Undertaking. In consideration of the third-party beneficiary status of beneficial owners of Series 2019 Bonds pursuant to subsection (a) of this Section, beneficial owners shall be deemed to be Owners for purposes of this subsection (b).

(c) Any failure by the Issuer or the Dissemination Agent to perform in accordance with this Undertaking shall not constitute a default or an Event of Default under the Indenture, and the rights and remedies provided by the Indenture upon the occurrence of a default or an Event of Default shall not apply to any such failure.

(d) This Undertaking shall be construed and interpreted in accordance with the laws of the State, and any suits and actions arising out of this Undertaking shall be instituted in a court of competent jurisdiction in the State; provided, however, that to the extent this Undertaking addresses matters of federal securities laws, including the Rule, this Undertaking shall be construed in accordance with such federal securities laws and official interpretations thereof.

ARTICLE IV

Definitions

Section 4.1. Definitions. The following terms used in this Undertaking shall have the following respective meanings:

- (1) "Annual Financial Information" means:

- (i) the Issuer's core financial information and operating data for the Issuer's prior fiscal year, consisting of its Audited Financial Statements, prepared in accordance with GAAP;
- (ii) an update of the operating data for the preceding fiscal year set forth under the column titled "Total Sold County Tobacco Assets" in the table captioned "Projection of Sold County Tobacco Assets to be Received by the Indenture Trustee" in "SOLD COUNTY TOBACCO ASSETS PROJECTION METHODOLOGY AND BOND STRUCTURING ASSUMPTIONS" in the Offering Circular; and
- (iii) the information regarding amendments, if any, to this Undertaking pursuant to Sections 3.2(d) and (e) of this Undertaking.

Annual Financial Information shall include Audited Financial Statements, if available, or Unaudited Financial Statements.

Any Annual Financial Information containing modified core financial information or operating data shall explain, in narrative form, the reasons for the modification and the impact of the modification on the type of core financial information or operating data being provided.

(2) "Audited Financial Statements" means the annual financial statements, if any, of the Issuer audited by such auditor as shall then be required or permitted by State law or the Indenture. Audited Financial Statements shall be prepared in accordance with GAAP; provided, however, that pursuant to Section 3.2(a) and (d) hereof, the Issuer may from time to time, if required by federal or State legal requirements, modify the accounting principles to be followed in preparing its financial statements. The notice of any such modification required by Section 3.2(a) hereof shall include a reference to the specific federal or State law a regulation describing such accounting principles, or other description thereof.

(3) "Beneficial Owners" means any person having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2019 Bonds, including persons holding Series 2019 Bonds through nominees or depositories.

(4) "Counsel" means a nationally recognized bond counsel or counsel expert in federal securities laws.

(5) "Dissemination Agent" means BLX Group LLC, or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer and Indenture Trustee a written acceptance of such designation or, in the event of the resignation or discharge of BLX Group LLC and the absence of such successor designation, the term Dissemination Agent shall mean the Issuer.

(6) "EMMA" means the MSRB's Electronic Municipal Markets Access system, the current Internet Web address of which is www.emma.msrb.org.

(7) "Financial Obligation" means "financial obligation" as such term is defined in the Rule.

(8) "GAAP" means generally accepted accounting principles as prescribed from time to time for governmental units by the Governmental Accounting Standards Board, the Financial Accounting Standards Board, or any successor to the duties and responsibilities of either of them.

(9) “Listed Event” means any of the following events with respect to the Series 2019 Bonds, whether relating to the Issuer or otherwise:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Bondholders, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the Issuer;

Note to clause (xii): For the purposes of the event identified in clause (xii) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Issuer in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or government authority has assumed jurisdiction over substantially all of the assets or business of the Issuer, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Issuer;

- (xiii) the consummation of a merger, consolidation, or acquisition involving the Issuer or the sale of all or substantially all of the assets of the Issuer, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (xv) incurrence of a Financial Obligation of the Issuer, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Issuer, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Issuer, any of which reflect financial difficulties.

(10) “MSRB” means the Municipal Securities Rulemaking Board established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, as amended.

(11) “Offering Circular” means the Offering Circular, dated May 21, 2019 of the Issuer relating to the Series 2019 Bonds.

(12) “Rule” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934 (17 CFR Part 240, §240.15c2-12), as in effect on the date of this Undertaking, including any official interpretations thereof issued either before or after the effective date of this Undertaking which are applicable to this Undertaking.

(13) “SEC” means the United States Securities and Exchange Commission.

(14) “Unaudited Financial Statements” means the same as Audited Financial Statements, except that they shall not have been audited.

(15) “Underwriter” means the original underwriters of the Series 2019 Bonds required to comply with the Rule in connection with the offering of the Series 2019 Bonds.

ARTICLE V

Miscellaneous

Section 5.1. Duties of Dissemination Agent. The Dissemination Agent shall file a notice with the Issuer and the Indenture Trustee (if the Indenture Trustee is not the Dissemination Agent) certifying that the Annual Financial Information has been provided pursuant to this Undertaking, stating the date it was provided.

Section 5.2. Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties under this Undertaking as are specifically set forth herein, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent’s negligence or willful misconduct in the performance of its duties hereunder. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Series 2019 Bonds. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Undertaking.

Section 5.3. Removal, Replacement or Resignation of Dissemination Agent. The Issuer may from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Undertaking, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign by providing 30 days written notice to the Issuer and the Indenture Trustee.

Section 5.4. Notices. Any notices or communications to or among any of the parties to this Certificate may be given as follows:

To the Issuer: Inland Empire Tobacco Securitization Authority
c/o County of Riverside
County Administrative Center
4080 Lemon Street
Riverside, California 92501
Attention: Chief Financial Officer
Fax: (951) 955-1105
Telephone: (951) 955-1110

To the Dissemination Agent: BLX Group LLC
Attention: Jeffrey R. Higgins, Managing Director
777 South Figueroa Street, Suite 3200
Los Angeles, CA 90017-5855
E-mail: jhiggins@blxgroup.com
Tel: 213.612.2209
Fax: 213.612.2499

To the Indenture Trustee: Wells Fargo Bank, National Association
707 Wilshire Blvd., 17th Floor
Los Angeles, California 90017
Attention: Corporate Trust Office
Fax: (213) 614-3355
Telephone: (213) 614-3325

Any person may, by written notice to the other persons listed above, designate a different address, telephone number or email address to which subsequent notices or communications should be sent.

Section 5.5. Counterparts. This Undertaking may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Issuer has caused this Undertaking to be executed by a duly authorized representative as of the date first above written.

INLAND EMPIRE TOBACCO
SECURITIZATION AUTHORITY, as Issuer

By: _____
An Authorized Representative

BLX GROUP LLC, as Dissemination Agent

By: _____
An Authorized Representative

[Signature Page to Continuing Disclosure Undertaking]

Acknowledged by:

WELLS FARGO BANK, NATIONAL
ASSOCIATION, as Indenture Trustee

By: _____
An Authorized Representative

[Signature Page to Continuing Disclosure Undertaking]

APPENDIX I
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